

Birmingham City Council

Planning Committee

17 August 2023

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 – Subject to 106 Legal Agreement	6	2022/09354/PA Western extent of the City Hospital Site, bordered by Dudley Road to the South, Landsdowne Street to the West, and the Birmingham Canal Old Line to the North Winson Green Birmingham B18 7QH Outline planning consent, with all matters reserved, except for Access (via Norman Street, Aberdeen Street and Western Road) for the demolition of existing buildings at City Hospital West, in order to allow for the erection of up to 750 dwellings (Class C3) and up to 750 sqm of commercial/ community space (Class E and Class F1); together with public open space, car parking, landscaping and other associated works
Approve – Conditions	7	2023/03804/PA 2 Fowey Close Sutton Coldfield Birmingham B76 1YP Change of use from a dwelling house (Use Class C3) to a residential children's care home (Use Class C2) for up to 3 children, alterations, and installation of windows to garage front

Committee Date:	17/08/2023	Application Number:	2022/09354/PA
Accepted:	19/12/2022	Application Type:	Outline
Target Date:	06/10/2023		
Ward:	Soho & Jewellery Quarter		

Western extent of the City Hospital Site, bordered by Dudley Road to the South, Landsdowne Street to the West, and the Birmingham Canal Old Line to the North, Winson Green, Birmingham, B18 7QH

Outline planning consent, with all matters reserved, except for Access (via Norman Street, Aberdeen Street and Western Road) for the demolition of existing buildings at City Hospital West, in order to allow for the erection of up to 750 dwellings (Class C3) and up to 750 sqm of commercial/ community space (Class E and Class F1); together with public open space, car parking, landscaping and other associated works

Applicant: Homes and Communities Agency (trading as Homes England)
C/o Agent
Agent: Avison Young
3 Brindley Place, Birmingham, B1 2JB

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal:

- 1.1 Outline Planning Consent, with all Matters Reserved, with the exception of Access is sought for the demolition of existing buildings and associated structures at the City Hospital West site, in order to allow for its redevelopment. This would comprise the erection of up to 750no. dwellings (Use Class C3), with an additional 750sqm of ancillary Commercial/Community floor-space (Use Class E and F1); together with associated areas of Public Open Space, car parking, landscaping, and all other associated works.
- 1.2 While the vast majority of the existing buildings/structures on the site are detailed to be demolished and removed, as set out above. The existing former Infirmary Building frontage block, which fronts onto Dudley Road, to the southern end of the site, would be retained and converted to form residential accommodation as part of the proposals. Matters relating to: Layout, Scale, Appearance and Landscaping for the proposed development are reserved, for subsequent reserved matters applications.
- 1.3 The application has been submitted by Homes England who aim to create a new sustainable community on site, with a mixture of new family sized dwellings and apartments. New site access points would be created from Norman Street, Aberdeen Street and Western Road, with the existing access off Crabtree Road retained. The proposals would also see the construction of a wide network of new areas of Public Open Space, coming in at circa 3.07 hectares in size, to form a green corridor centrally through the site in a north-south fashion, with a large public park proposed opposite the canal to the northern most end of the site. Significant work is also

proposed to the site's northern and southern frontages, as well as western boundaries, where accessibility is to be increased and existing walls/landscaping is to be reviewed.

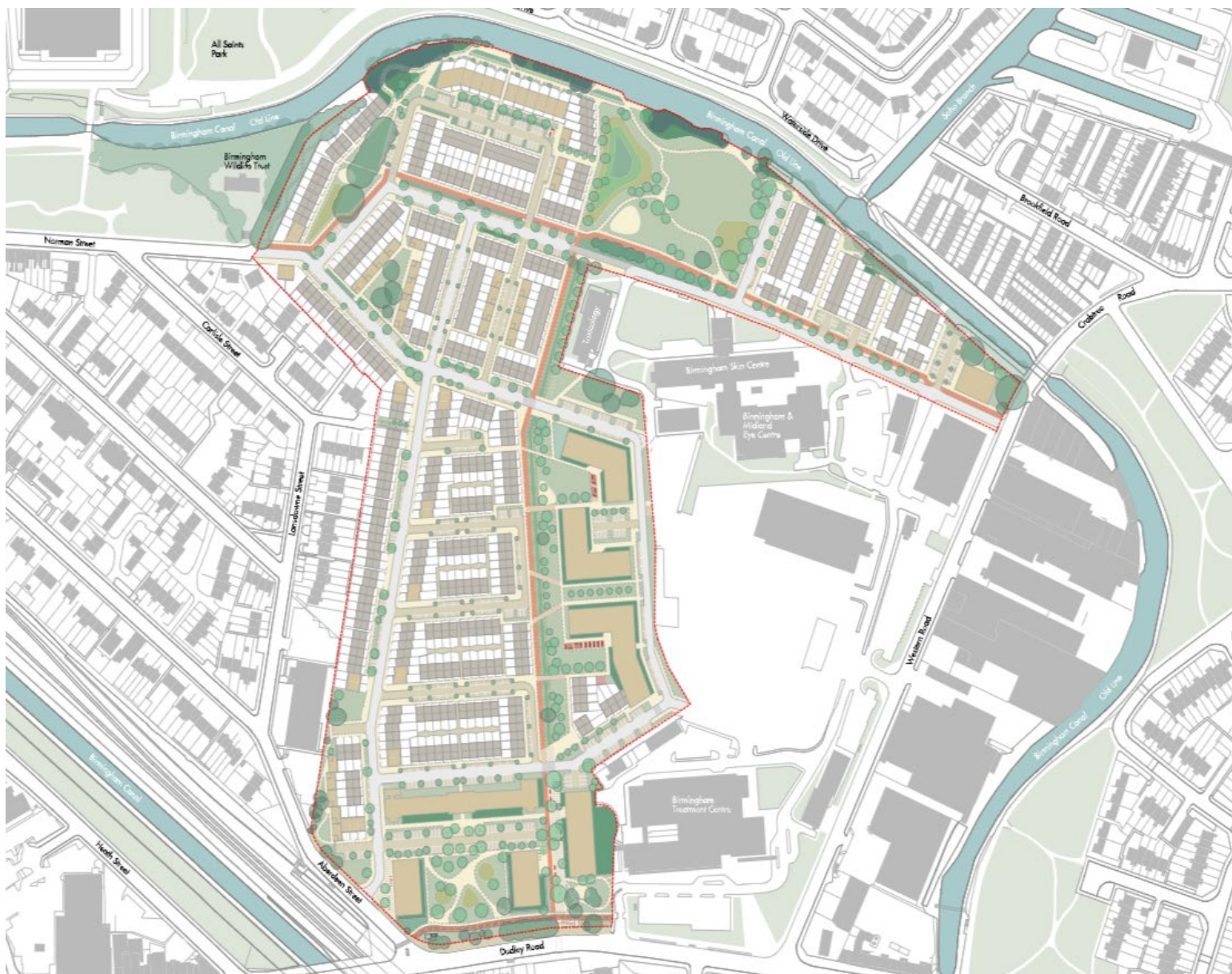


Image 1 – Illustrative Masterplan for the proposed development.

Retained Infirmary frontage block

- 1.4. The submitted material doesn't detail the exact number of apartments the retained section of the building would accommodate, given that such details would form part of a future reserved matters application. However, the submitted planning statement estimates that this number could be around 49no. apartments within the upper two floors of the building, with the ground floor retained for commercial use.

New Build Dwellings

15. The site would see the erection of a significant number of new family housing and apartment buildings, which would be erected in a variety of housing typologies and forms and the applicants have submitted a Design Code, alongside a Design and Access Statement in this regard. The applicants have also anticipated the scale for

these new dwellings to be 2-3 storeys, with 4 storey's proposed at certain locations and 6 storeys would be the maximum scale for the proposed new apartments blocks. The following maximum height parameter plan details this further:

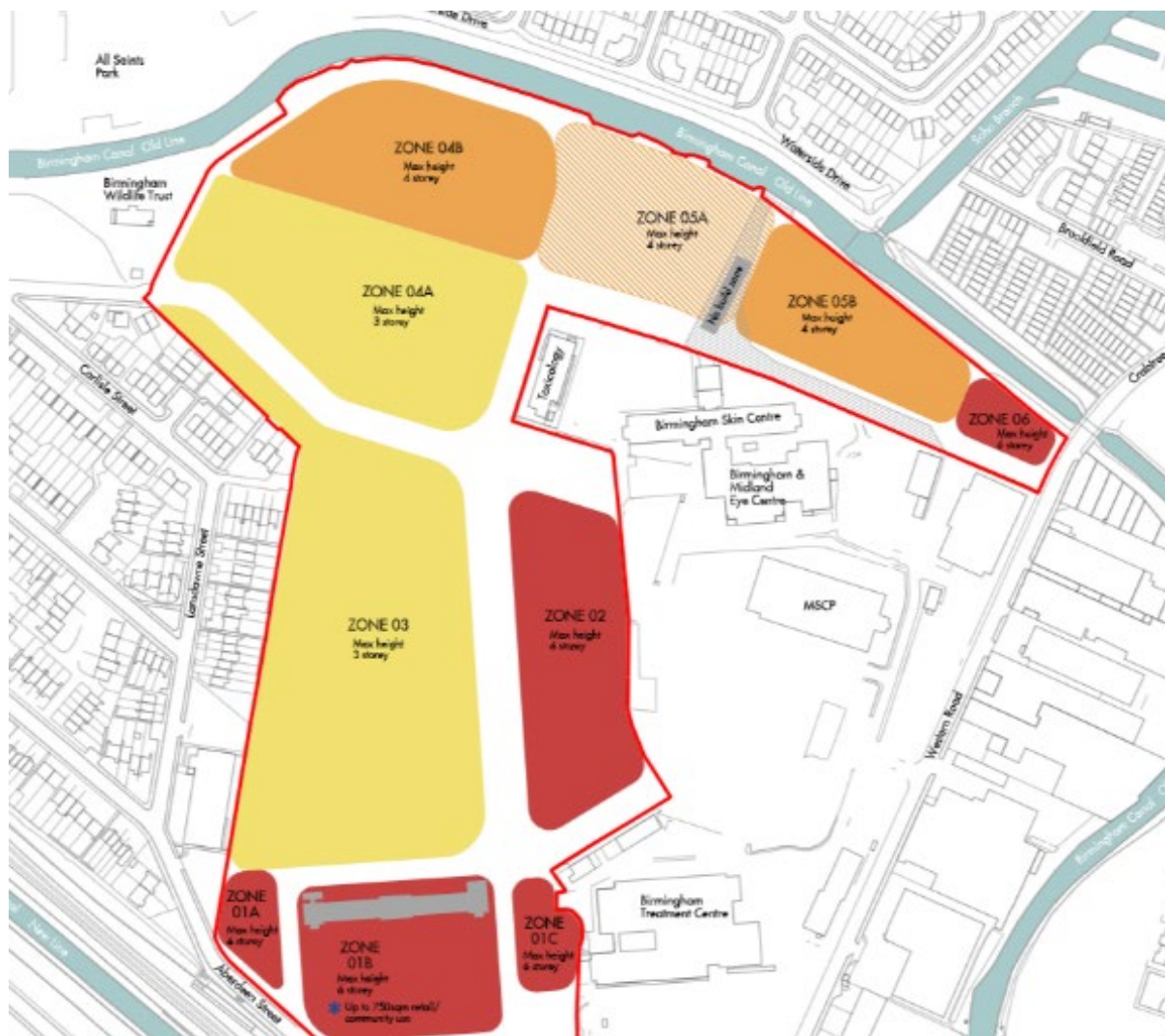


Image 2 – Parameter plan with storey heights added (indicative).

Dwelling mix

- 1.6. Given this is an outline application, final dwellings numbers, typologies and the housing mix will be determined by future Reserved Matters applications. For the purposes of this application however, indicative details for the proposed housing mix have been provided. These show the site could accommodate the following percentage mix:

Table 2. Indicative Accommodation Mix

Flats	Mix
Total	42%
1B 2P	33%
2B 4P	67%
Total Flats	100%
Houses	Mix
Total	58%
2B 4P	25%
3B 5P	55%
4B 6P	15%
5B 8P	5%
Total Houses	100%

Ancillary floor space

- 1.7. As set out above, 750sqm of ancillary commercial floor space is proposed, to form the ground floor of the retained Infirmary Building/ future apartment blocks. It is anticipated this space would be used to accommodate a range of retail and leisure type uses, within Use Class E or within Use Class F, with the finer details to be finalised as part of future reserved matter applications.
- 1.8. An Illustrative Masterplan, Design and Access Statement and Design Code have been submitted in support of the application and these detail key principles of how the site is to be developed in the future. These principles would ultimately be conditioned as part of any subsequent Outline consent.
- 1.9. The Illustrative Masterplan suggests a layout consisting of 4no. key character areas for the redevelopment of the site and these can be summarised as follows:



Image 3 – Character areas plan.

Dudley Road Frontage

- 1.10. This would be the narrowest part of the site and would be centred around the retained Infirmary Building. A large setback from Dudley Road itself is proposed, in order to allow for the forthcoming Dudley Road Improvement scheme and to allow for the retention of an existing landscaped buffer, comprising a number of TPO protected mature trees, which are to be retained. A vehicle access is proposed here off Aberdeen Street and this area of the site is likely to feature apartment buildings to its east, to form a buffer with the retained Birmingham Treatment centre, to the site's east and would also feature apartments to the Dudley Road frontage, to remain in keeping with the high-density Soho Wharf development sited opposite the site. A large area of landscaping is proposed in front of the retained Infirmary, this space would have a north-south and east-west connection, allowing permeability on this otherwise built-up area of the city and as such would be pedestrian friendly. To the west, along the rear of Aberdeen Street, 2-3 storey housing is

proposed, which would tie in with the lower level scaled residential developments, which adjoin the site to the west.

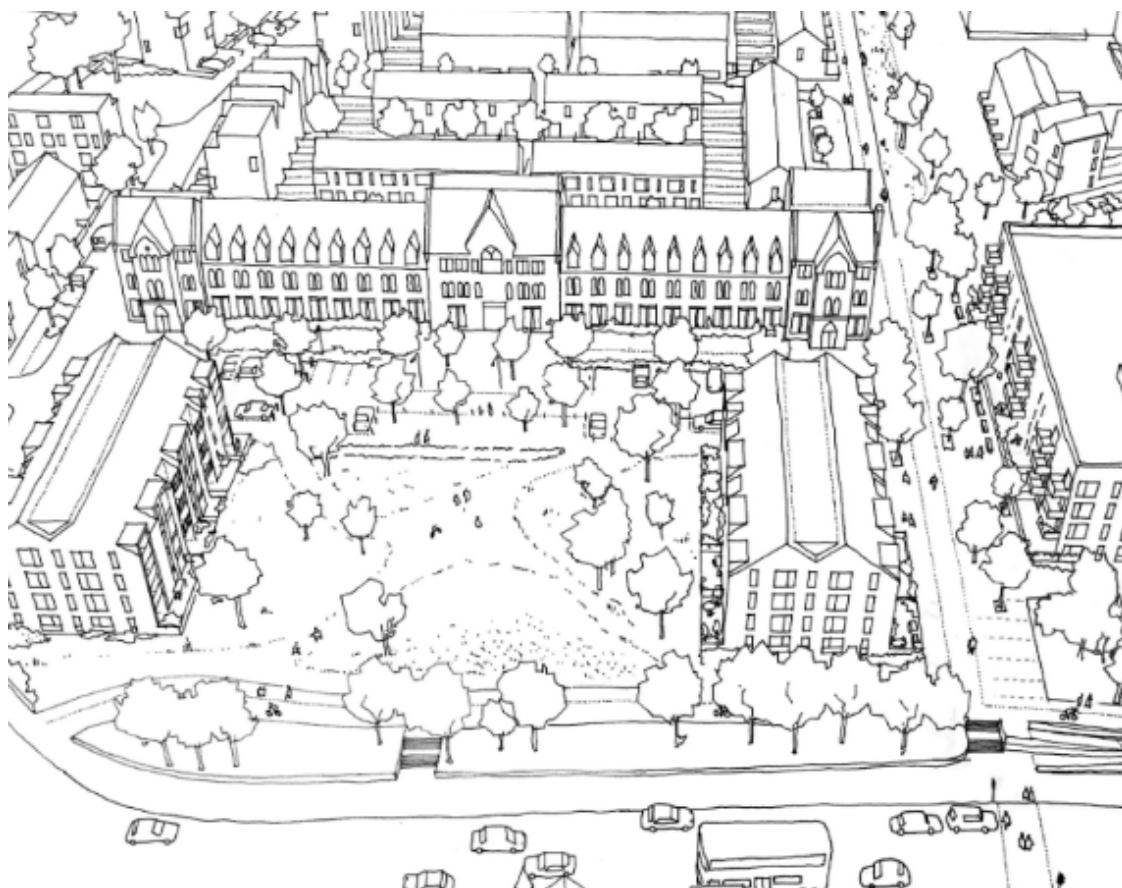


Image 4 – indicative illustration to show retained Infirmary Front Range and new apartments to south and east of this and dwellings to the north and west.

NHS Boundary

- 1.11. As with the Dudley Road frontage, to the far east of the site, a higher scale of development is proposed. Although this area of the neighbouring NHS site to the east, is currently vacant, comprising areas of surface level car parking, it is understood this area is likely to be redeveloped at scale in the future and as such, in order to future proof the development a similar scale of development is proposed. The Illustrative Masterplan proposes a number of large L-shaped blocks to help create a physical buffer with the neighbouring NHS site. The apartments would be centred around landscaped courtyards and a small number of lower-level density housing is proposed to this area's south-east, to tie in with the central area lying to its west, where similar scaled housing is proposed. To the west of the proposed apartment blocks a green spine is proposed, which would form a north-south landscaped connection of parkland and a network of open spaces for the use of residents and locals across the site.

Central Block

- 1.12. The proposed central block would have an existing large continuous brick wall which bounds this area of the site to its far west from the existing residential dwellings. Within this area of the site, a large number of family dwellings are proposed, these would be at a lower scale of 2-3 storeys, potentially reaching 4 storeys at junctions.

Housing is proposed in traditional grid style blocks centrally, with lines of terrace housing proposed further west, backing onto existing housing. The central block would be bound by the linear park to the east, which would provide an appropriate buffer to the higher density apartments proposed further east, as part of the NHS boundary, as set out above. The family housing would have a mixture of on-street, garage, and driveway parking, with the apartment blocks having designated parking courtyards in close proximity.



Image 5 – Indicative Illustration of Central Block Area.

Canalside Walk

- 1.13. Canalside Walk forms the largest and northern most section of the application site. This area is bound to the north by the Birmingham Old Canal and by the existing NHS site to its south-east. The north-western section of this area would form a continuation of the Central Block, in terms of delivering family dwellings at a lower scale, together with a mixture of pocket parks, and green spaces, to help break up the built form. Apartments at a lower density are proposed to its northern most end, forming a buffer with the canal. Centrally, a large central park is proposed, this would form a link from the centrally sited green spine, linking from the Dudley Road Frontage to the top end of the site. The park is proposed to be significant in size/scale and would act a natural break within this part of the site. To the east of the

park additional family housing is proposed, bound by an apartment block to the site's eastern edge onto Crabtree Road. An east-west access would be created off Crabtree Road to connect back up with Norman Street, however this would be pedestrianised, to stop through-flow traffic.

Affordable Housing

- 1.14. The application seeks to deliver a policy compliant level of 35% affordable housing on site. This would be delivered in a variety of different house types and typologies, reflective of the wider offer across the site. The affordable units would be delivered in a mixture of affordable rent, social rent, and market discount/first homes. Full details with regards to the final mix would again be determined by future reserved matters applications, however, the requirement for 35% of all forthcoming units on the site to be affordable would be secured through a s106 attached to any subsequent outline approval.

Public Open Space

- 1.15. Although the quantum of public open space and the details for its arrangements would also be determined at reserved matters stage, the applicants have submitted an Illustrative Masterplan which details a network of Public Open Spaces across the site, which form a natural north-south running spine, within the development, from the Dudley Road frontage up to the canal to the north of the site. An area of 3.07 hectares of Public Open Space is shown to be delivered on the site, equating to 93% of the target figure in line with BDP Policy. The remaining shortfall is to be delivered through improvements to All Saints Park which sits to the north of the site, alongside Asylum Bridge and the existing area of POS on Norman Street, which links the site to the park and residents to the north of the canal loop. In this regard an off-site contribution of £227,500 is proposed for these improvement works, in order to create a better environment for future users and to increase usage of the existing bridge/existing areas of POS. Together, these two elements would deliver a policy compliant level of Public Open Space for existing and future residents within the area, as well as wider benefits through the improvement works.
- 1.16. The application has been submitted with a series of parameter plans, alongside the following accompanying statements:
- Air Quality Assessment;
 - Arboricultural Survey (and Arboricultural Impact Assessment);
 - Archaeological Desk-Based Assessment;
 - Biodiversity Net Gain Assessment;
 - Design and Access Statement;
 - Design Codes;
 - Drainage and SuDS Assessment;
 - Ecological Mitigation Strategy;
 - Flood Risk Assessment;
 - Heritage Impact Assessment;
 - Heritage Statement of Significance;
 - Noise and Vibration Assessment;
 - Outline Demolition Method Statement;
 - Phase 1 Preliminary Geotechnical and Contamination Assessment Report;
 - Phase 2 Factual and Interpretive Geo-Environmental Report;
 - Planning Statement;
 - Pre-construction Waste Management and Servicing Strategy;
 - Preliminary Contamination Investigation Report;

- Preliminary Remediation Strategy;
- Statement of Community Involvement;
- Sustainable Construction and Energy Statement;
- Transport Assessment;
- Travel Plan; and
- Utilities Assessment.

1.17. [Link to Documents](#)

2. **Site & Surroundings:**

- 2.1. The application site occupies an area of circa 13.23 hectares to the north of Dudley Road Birmingham. The site is located some 2.5km northwest of Birmingham City Centre, with the nearest train station being the Jewellery Quarter.
- 2.2. The site has its main frontage facing onto Dudley Road (A457) to the south, this is the narrowest part of the site and is sited opposite the Soho Wharf Development by Galliard Homes, which comprises 650no. apartments and 102no. Town houses, with occupancy expected later this year, built to a maximum storey height of 14 storeys.
- 2.3. To the site's west lie existing family dwellings, at a low density of 2-3 storeys, with the backs of housing on Aberdeen Street, Lansdowne Street, Carlisle Street and Norman Street abutting the western boundary of the site. Also, to the far north-west of the site lies the Birmingham and Black Country Wildlife Trust building, sited opposite the canal Old Line.
- 2.4. The Birmingham Canal Old Line forms the site's northern boundary, with part of this directly adjacent to the water's edge and the remaining part separated by land owned by the Canal and Rivers Trust. Further north lies All Saints Park, which can be accessed by a small pedestrian bridge, which is located to the site's north-west, through an area of public open space sited to the north of Norman Street. The existing bridge leads to the western most end of All Saints Park with the Winson Green Prison sited to it's north-west. Further north lie low scale residential developments at 2-3 storeys.
- 2.5. The site's eastern boundary is formed by the retained NHS estate which extends to 6.5 hectares and comprises the Birmingham Treatment Centre, alongside the recently erected NHS multi-storey car-park. To the far east lie industrial units, fronting onto Western Road. The wider area to the north, west and south is primary residential, with the odd mix of industry at a lower scale.
- 2.6. The site is typical of most Hospital sites, with this featuring a range of Hospital buildings, at all scales and densities, alongside surface level car parking, plant equipment and other ancillary structures. Most notably to the southern end lies the old Infirmary Building, which has a number of later extensions erected.



Image 6 – Red Line Boundary superimposed on Ariel shot of application site.

3. **Planning History:**

Application site:

- 3.1. 2017/01081/PA - Hybrid Planning Application: Outline planning consent for the demolition of existing buildings, save for the frontage part of the Infirmary Building, and phased re-development of the land for up to 700 dwellings (Use Class C3) and ground floor commercial/community use (up to 230sqm gross) (Use Classes A1/A2/A3/A4/A5/D2), proposed in a building to the west of the Dudley Road access, with all matters except for access reserved. Associated provision of car parking, internal roads, footpaths and cycle ways, a pedestrian/cycle bridge over Birmingham Canal Old Line, public open space, landscaping and green infrastructure and sustainable urban drainage systems. Full planning consent for the change of use of the Infirmary Building (Use Class D1) to 49no. residential apartments (Use Class C3), associated external alterations and improvements to the existing site access at Dudley Road and the addition of new access points at Western Road, Norman Street and Aberdeen Street – Disposed 2019.
- 3.2. 2019/02562/PA - Erection of single and two storey modular extension with associated external works – approved with conditions – 13/06/2019.

Retained neighbouring Hospital Site:

- 3.3. 2019/09844/PA - Erection of a multi-storey car park, alongside the reconfiguration of existing surface parking spaces, with associated access alterations and other associated works; following the demolition of existing SCaT building – approved with conditions – 09/04/2020.

Soho Wharf (Opposite Site to Dudley Road southern frontage):

- 3.4. 2018/10294/PA - Demolition of existing buildings and the development of a residential led mixed use scheme containing 650 apartments and 102 townhouses (Use Class C3), ground floor retail units (Use Class A1), public and private amenity space, site access and highway works, associated car parking, cycle parking, hard and soft landscaping and other works including the provision of a pedestrian/cycle bridge over the Birmingham Canal Old Line – approved with conditions – 03/09/2020.

4. **Consultation Responses:**

- 4.1. Lead Local Flood Authority – raise no objections to the development proposals subject to conditions which require: The prior submission of a sustainable drainage scheme and the prior submission of a Sustainable Drainage Operation and Maintenance Plan.
- 4.2. Leisure services: Raise no objections to the development proposals.
- 4.3. Severn Trent Water: Raise no objections subject to the following conditions regarding the disposal of foul and surface water being attached to any subsequent consent.
- 4.4. Canal and Rivers Trust: Raise no objections subject to the following conditions regarding surface water drainage system, construction environmental management plan, statement for impact upon canal infrastructure.
- 4.5. Regulatory Services: Raise no objections to the development proposals, subject the addition of several safeguarding conditions, these are summarised as per the below:
- Demolition Management Plan
 - Construction Management Plan
 - Contaminated Land Assessment
 - Contaminated Land Remediation Strategy
 - Contaminated Land Verification Report
 - Submission of Air Quality Assessment for each Phase
 - Hours of Operation
 - Noise Insulation Scheme - Residential
 - Residential Amenity Space Design specifications
 - Noise Insulation - Commercial
 - Noise Levels for Plant and Machinery
 - Commercial Uses – further details regards to use.
- 4.6. Birmingham Civic Society: generally support the proposals, however object to the demolition of a large amount of historic buildings on site which are not going to be reused. Raise further concerns around a lack of a centre for the development, no priority given to cyclists/pedestrians and raise concerns with regards to some of the landscaping proposals in their current form.
- 4.7. West Midlands Police: Raise no objections and make several security related recommendations.

- 4.8. Employment Access Team: Raise no objections to development proposals, subject to conditions relating to employment being attached by way of condition or through the future s106.
- 4.9. Sport England object to the proposals as no provision is being made to go towards playing pitch strategy funding.
- 4.10. Environment Agency: Raise no objections subject to the following conditions: contaminated land investigations, land contamination verification report, piling works and surface water drainage.
- 4.11. Early Years & Childcare Service – raise no objection.

Third Party Responses:

- 4.12. Press and site notices posted. MP, Councillors, Residents' Associations, and neighbouring occupiers were notified of the proposals. 8no. letters have been received in response of the above consultation; these raise the following areas of concern:
 - Loss of historical buildings/structures;
 - Few buildings being retained and converted;
 - Unsustainable to demolish so many existing structures;
 - Call for more social housing;
 - Loss of privacy and overlooking;
 - Loss of light and overshadowing;
 - Increase in height for apartments not appropriate for lower scale; residential areas neighbouring the site;
 - Inadequate parking provision;
 - Impact on local wildlife;
 - 6 story apartments would block light/outlook to existing housing;
 - 6 storey apartments would overshadow existing housing;
 - Increase in rats from digging works; and
 - Proposed design is out of keeping with existing character of area.
- 4.13. Victorian Society: Object to the proposals on the basis that the historic hospital buildings on the site hold both historical and architectural significance and as such a greater number of these should be retained.
- 4.14. Brook Area Residents & Shop Keepers Group raise the following areas of concern:
 - Loss of privacy and impact upon amenity for existing residents;
 - Overshadowing and loss of light;
 - Unacceptable height and massing of proposals;
 - Design out of keeping with site context;
 - Inadequate car parking provision;
 - Impact upon local wildlife; and
 - Noise and disruption from building works.
- 4.15. Transport for West Midlands have commented on the application and raise concerns within the following areas:
 - The active travel proposals as shown in the Design and Access Statement, the Development Principles Plans and the Design Codes are all indicative only, allowing flexibility for future developers;

- The site access drawings are vague and do not provide a good quality of provision for walking and cycling;
- The accesses onto Western Road and Aberdeen Street have 6 metre radii which are overly generous and do not comply with Manual for Streets guidance;
- The existing accesses into the hospital consist of a continuous footway and therefore these designs will reduce this level of provision for pedestrians with no justification for this downgrading given;
- The 'Active Travel' route through the centre of the site is welcomed but there is no clarity of its quality;
- The design code contains no requirement for the footpath and cycle track to be constructed in different materials and colours;
- The shown routes do not have priority over minor streets which cross it and no details are given for the East-West cycle track through the site, and nor is it given priority over a small car park access;
- The indicative proposals for the internal streets are also lacking detail;
- The requirement for 1.5m shared space footpaths (an oxymoron) will make this street type unnecessarily wide;
- There is a missed opportunity to create a direct route from the development across the canal, as required in the recent (Feb 2022) Smethwick to Birmingham Canal Corridor Framework document;
- Financial contributions to enhance cycling and walking links beyond the development to wider cycling networks and key public transport nodes should also be sought;
- The development should also be subject to a 20mph speed limit throughout;
- Inclusion of the West Midlands Cycle Hire scheme including adequate docking stations and bikes within the site should be agreed;
- There should further be opportunity (through developer funding) to contribute to any upgrade requirements in the form of bus shelter provisions along the Dudley Road / Aberdeen Street (in the immediate vicinity of access roads); and
- Opportunities for exploring mobility credits to residents on site, as incentives to reducing car usage and increasing active and sustainable transport options.

4.16. Birmingham and Black Country Wildlife Trust raise numerous concerns with regards to the submission and these have been summarised below:

- Recommend that at least 80% of the tree provision on site should be of UK Native species;
- Detail numerous errors within various reports and statements submitted by the applicant;
- Advise that surveys pertaining to roosting bats should be updated, in line with best practice guidelines;
- Seek further clarity on the selection of Key Ecological Receptors in the context of this Mitigation Strategy;
- Advise that non-integrated wildlife boxes should be minimised as far as possible;
- Most of the plant species pictured in Figure 114 are non-native and this should be amended to include a greater proportion of UK native species;
- Table 3.1 should be amended to include provision for the replacement of any SuDS or Rain Garden planting that fails within the first 5 years;
- The Drainage Strategy figure in Appendix A of the document should be amended so that the key better reflects the subject matter;
- higher ratio of retained to removed trees should be sought;

- green roofs have been dismissed;
- design of the greenspace on site is sub-optimal and should be improved;
- More details required for Dividing Wall Modifications;
- Overlooking the existing building from proposed apartments;
- Concerns about availability of parking along Norman Street;
- No other types of public transport available in a short distance and therefore development density should be reduced;
- The proposed housing density (750 dwellings on a roughly 12 ha site) is nearly double the minimum required by planning policy;
- Opportunities for the development to add value to Centre of the Earth as a recourse for the new and existing local community should be sought; and
- Increase in semi-natural greenspace within or alongside the boundary of the site should be sought.

5. **Relevant National & Local Policy Context:**

5.1. National Planning Policy Framework (Relevant Sections):

- Section 8, Promoting Healthy and Safe Communities, Paragraphs 92, 93, 98, 99;
- Section 9, Promoting Sustainable Transport, Paragraphs 110, 111, 113;
- Section 11, Making Effective Use of Land, Paragraph 120;
- Section 12, Achieving Well-Designed Places, Paragraphs 126 – 135;
- Section 15, Conserving and Enhancing the Natural Environment, Paragraph 174;
- Section 15, Conserving and Enhancing the Historic Environment, Paragraphs 194-208.

5.2. *Planning (Listed Buildings and Conservation Areas) Act 1990*

- Section 66 (Development to a listed building or in its setting)

5.3. Birmingham Development Plan 2017 (Relevant Policies):

- Policy PG3 (Place Making);
- Policy GA2 (Greater Icknield);
- Policy TP3 (Sustainable Construction);
- Policy TP6 (Management of Flood Risk and Water Resources);
- Policy TP9 (Open Space, Playing Fields and Allotments);
- Policy TP37 (Health);
- Policy TP38 (A Sustainable Transport Network);
- Policy TP44 (Traffic and Congestion Management).

5.4. Development Management DPD (Relevant Policies):

- Policy DM1 (Air Quality);
- Policy DM2 (Amenity);
- Policy DM3 (Land Affected by Contamination, Instability and Hazardous Substances);
- Policy DM4 (Landscaping and Trees);
- Policy DM14 (Transport Access and Safety);
- Policy DM15 (Parking and Servicing).

5.5. Birmingham Design Guide – SPD.

5.6. Car parking Guidelines: SPD.

- 5.7. Greater Ickneild Masterplan.
- 5.8. Smethwick to Birmingham corridor framework SPD.

6. **Planning Considerations:**

Principle

- 6.1. The outline application is for the demolition of existing buildings at City Hospital West, in order to allow for the erection of up to 750 dwellings (Class C3) and up to 750 sqm of commercial/community space (Class E and Class F1); together with public open space, car parking, landscaping and other associated works. The functions of the hospital within the buildings to be demolished will be transferred to the new Midland Metropolitan Hospital about one mile away, sited within the Sandwell Boundary.
- 6.2. The application site is identified in Growth Area GA2 from the BDP and is also identified as a housing site within the Greater Ickneild Masterplan (2016), the Smethwick to Birmingham Corridor Framework (2022) and the latest HELAA.
- 6.3. Policy TP27 from the BDP further requires that new housing within the city contribute towards making sustainable places, including providing a range in dwelling sizes and tenures, being within a range of amenities and creating a strong sense of place. This further discusses the provision of adequate amenity space with effective management. Policy TP28 further sets out specific policies with reference to the location of new housing, and this is followed by Policy TP30 which establishes the size and density requirements of new development.
- 6.4. In this case, it is considered that the proposal would be in compliance with the various policies as set out above within the BDP. The application site is identified as one of several development sites in the Greater Ickneild Masterplan. This sets out that the area in which the site is set, together with the Port Loop site, occupy an important location, and are identified as the key areas of transformation. This further sets out that the Dudley Road/Spring Hill frontage would be appropriate for mixed uses, whereas housing can be supported elsewhere on-site.
- 6.5. This application further accords with these policies by providing a residential scheme on a brownfield site. The Greater Ickneild masterplan envisages that the focus of development will mainly be on providing family homes to complement the accommodation available within the City Centre, though there is no requirement for the development site's within Greater Ickneild to solely provide family accommodation. The approved scheme at Ickneild Port Loop will provide predominantly family houses, and other site's in the Greater Ickneild area also lend themselves to delivering family homes. The proposal in this case, is to provide a large number of family dwellings, alongside apartments at a medium density, suitable for starter homes for small to medium sized families and as such these proposals are considered to be acceptable, as they will assist in providing a choice for different housing types in the area which will encourage the establishment of a balanced community.
- 6.6. The Smethwick to Birmingham Corridor Framework sets out a series of design principles covering connections, open space, frontages, views, and massing. The outline application contains detailed work on the design and layout of the proposal and follows the principles outlined in the Framework. Detailed Design Codes have also been devised for the proposal which follow these principles. The Corridor Framework also states that the Local Planning Authority wishes to see the Gothic Infirmary frontage building facing Dudley Road, which is a local landmark with strong

local historic value, retained, clearing away later additions. Retention and conversion will be subject to technical feasibility and financial viability. In the case of this application, the proposed design codes contain provisions to retain this building as part of the mixed-use element of the scheme fronting onto Dudley Road.

- 6.7. As such, it is considered that the proposed development seeks to rationalise the application site through the creation of up to 750no. residential units, in a range of dwelling sizes. The proposals further incorporate a number of public open spaces, which as well as providing vital areas of public amenity also allow greater access to the canal network. The proposal is therefore considered to be in line with the above policies and is further considered to help towards the Greater Icknield Master Plan target, which aims for 3000 homes within this area. I therefore conclude that the proposal accords with the relevant policies in the BDP and the Greater Icknield Masterplan, alongside the Smethwick to Birmingham Corridor Framework. In principle, the proposed development is acceptable, subject to consideration of wider policies from the BDP.

Non-residential / commercial uses

- 6.8. The applicant has included an element of non-residential/commercial floor space to allow for up to 750sqm of commercial/community space to be provided within Use Class E and F, along the Dudley Road frontage of the scheme. The site itself is on the edge of, but outside the Dudley Road Local Centre. As stated in the Planning Statement (para 6.14), the total floorspace is below 2,500 sqm. However, a sequential test is still considered necessary for applications outside of local centres identified in Policy TP21 of the BDP in accordance with paragraph 87 of the NPPF.
- 6.9. At outline stage, the applicant has yet to establish the end users for the space, so is unable to carry out a sequential assessment. However, any reserved matters application for the site can be conditioned to ensure adequate justification for any main town centre uses within the development are provided. As such, subject to appropriate safeguarding conditions, this element of the scheme is considered acceptable and conditions in this regard are attached.

Housing Mix

- 6.10. Although the current application is not detailing the future housing mix of the site, from the submitted Illustrative masterplan and the submitted material it is clear that the site would be able to accommodate a good volume of family housing, which is the current need of the city, in line with the latest HEDNA. Undoubtedly, in addition to this, given the site context, particularly the existing hospital use to its east and the Dudley Road frontage, there is also a need for a higher scale of development, where apartment units would be well suited. It is deemed that the current indicative mix with a high volume of housing, coming in at around 58% would be acceptable within any future reserved matters application, given that these would range between 2 and 5 bed housing, suitable for between 4-8 persons. The apartments would also cater to a need, and these would be 1bed 2-person to 4-person units, suitable for families and couples. As such, I am satisfied that an acceptable mix of housing can be catered for in future reserved matters applications.

Energy Efficiency and Sustainable construction

- 6.11. The application is supported by a Sustainable Construction and Energy Statement which shows how the construction and energy efficiency measures will meet Policies TP3 and TP4 of the BDP with more detailed analysis to be provided at Reserved Matters stage. This will be through a strategy that utilises a combination of a centralised ASHP network for apartments and a localised ASHP system for houses

to give a percentage reduction in energy use of 61% below the Building Regulations baseline and more details are to be provided at Reserved Matters Stage. This element of the scheme is also thereby considered acceptable subject to a condition to ensure that the recommendations and levels proposed within the Statement are met as a minimum in the final construction of the scheme to be determined at reserved matters stage. An appropriate condition has been attached.

Access:

- 6.12. The application site would utilise its location on a major arterial route from Smethwick into the city centre on Dudley Road, as well as allowing for access onto Dudley Road from Crabtree Road to its west. The applicants are now seeking an additional access point from Aberdeen Street, which runs off Dudley Road to the south, the new access would be sited to the site's south-west and would allow access to the retained Infirmary Block as well as the western parts of the site, running north. A second access is to be created via Norman Street to the site's north-west, which would terminate halfway into the site, as not to allow an east-west vehicular route through the site. By doing this, these new site accesses are likely only to be used by future occupants of the site or visitors and would therefore remove any potential throughfare traffic, considered acceptable.
- 6.13. The eastern wing of the development would be accessed via an existing access point off Crabtree Road, this would allow access to the houses built to the east of the site, abutting the canal to the north, as well as the existing access points for the retained hospital to the south. The development is thereby considered to be well designed, utilising the site's assessable location. The development proposals have further been designed as not to shift traffic away from Dudley Road into the development and as such are supported in this regard. The new access points are further considered proportionate and reasonable and are seen to be both carefully and appropriately located.
- 6.14. Although the Illustrative Masterplan is indicative, with the final design of the scheme open to Reserved Matters applications, it is noted that there is ample opportunity for several pedestrian/cycling access points throughout the site, making the development highly permeable. Residents and other site users would be able to walk along the canal Old Line to the north of the site and enter the site via the park proposed to its northern end. This would allow access through the site, via a network of parks and open spaces running from north to south and by removing part of the high existing boundary wall to the west of the site, fronting Norman Street, better access would be created for pedestrians. There would also be a number of opportunities for users to access the retained hospital site to the east, as well as Dudley Road to the south, where a dedicated Cycle Path is also proposed as part of the DRIS (Dudley Road Improvement Scheme). As such, in terms of access the proposals are considered to be acceptable.

Design, Layout, Scale and Landscaping:

- 6.15. The current Outline application has all matters reserved, with the exception of Access. As such the final design, scale, layout, and landscaping provisions of the site cannot be assessed, nor do these form part of this current application. However, I feel that suitable supporting information has been submitted to allow the Council certainty over the quality of any future reserved matters application regarding these aspects.
- 6.16. The submitted Illustrative Masterplan, which is wholly indicative, shows one possible way the site could be laid out, delivering 724no. homes, with ancillary commercial

space, on the ground floor of the apartment blocks/retained infirmary building to the ground floor.

- 6.17. The Design and Access Statement explains the development proposals and further discusses the underlying thinking of the Illustrative Masterplan and the proposed layout in the manner which has been proposed and shown.
- 6.18. The submitted Design Principal Plan's aim to demonstrate Homes England's commitment to developing a high-quality scheme and establish the basis for future design work in terms of general use, height, layout, access, open spaces, tree and building retention. The Design Codes translate the principles into specific requirements for the future development of the site and will be used to inform future Reserved Matters applications. These include (but are not limited to): Frontages, Typologies, Prominent building corners, Entrances, Windows/ Openings, Balconies, Appearance, Internal Layouts, Public Realm, Refuse and Servicing, Parking. Homes England further requires any development to comply with Building for a Healthy Life.
- 6.19. In terms of the proposals in detail, the Illustrative Masterplan includes a variety of housing typologies: 2 – 3 storeys terraced houses towards the centre of the site (with potential for 4 storeys to mark corners); 2-storey mews houses with private first floor terraces; 2 – 3 storey groves houses in the northeast of the site, with access via pedestrian paths; blocks of up to 4 storeys fronting the canal in the northwest; apartments in the converted Infirmary building; and new apartment blocks along Dudley Road, adjacent to retained NHS estate and at the entrance from Western Road.
- 6.20. The illustrative masterplan assumes that these blocks are 4 storeys linked to contemporary market information, but the Development Principle allows for future flexibility for these to be erected up to a height of 6 storeys, considered acceptable and proportionate when considering the neighbouring NHS site and the Dudley frontage in the context of the Soho Wharf development.
- 6.21. The Design Code sits alongside the Design and Access Statement (and has the same structure) to enable the requirements to be understood independently and to allow conditions to be attached to planning applications in accordance with the Codes, rather than to condition the DAS as a whole. Design Codes are to be read in parallel with the Development Principle Plans. The Code covers the following aspects of development, setting out what **must**, **should** and **could** be delivered:

3	BUILT FORM	
3.3	Block Structure	14
3.4	Building Height & Density	14
3.5	Building Lines	16
3.6	Types and Forms	18
3.7	Apartment Design	22
4	USES & DEVELOPMENT	
4.1	Land Uses	26
4.2	Mix and Illustrative Layout	26
4.3	Active Frontages	30
4.4	Demolition and Retained Buildings	34
5	MOVEMENT	
5.1	Street Network & Hierarchy	38
5.2	Active Travel	46
5.3	Parking	48
5.4	Junctions	52
5.5	Services and Utilities	54
6	IDENTITY & BUILDING APPEARANCE	
6.2	Key Areas & Frontages	58
6.3	Materials	68
6.4	Architectural Features	70
6.5	Interface with Public Realm	76
7	PUBLIC SPACES	
7.1	Key Public Spaces	84
7.2	Hard Landscape Design	96
8	NATURE	
8.4	Play Areas	104
8.6	Sustainable Drainage	106
8.7	Biodiversity & Urban Greening	107
8.8	Trees	108
8.9	Soft Landscape Character	112
9	DEVELOPMENT PRINCIPLE PLANS	
9.1	Development Principle Plans	118
10	APPENDICES	
10.1	'Must' Design Codes	124
10.2	Glossary of Terms	125

Image 7 – Contents page from Design Code document.

6.22. The Design Code approach, document structure and content are considered acceptable and are supported. City Design Officers have given their approval for the supporting information and feel that these will be suitable to secure a good quality of development as part of any future reserved matters applications for the site, whether these be on a phase by phase, or single-phase basis. Officers however recommended that suitable conditions in this regard be attached to any subsequent consent, and these would cover:

- Retention of the Infirmary Front Range as shown on the Buildings and Structures Retention Plan Design Principle drawing 21076_06_002 rev P1;
- Development is in accordance with Design Code;
- Development is in accordance with the Design Principle drawings; and
- Development is in accordance with the aims of the Design and Access Statement.

6.23. These conditions have been considered and it is deemed appropriate to condition the retention of the Infirmary building, as set out within the heritage section below, and

appropriate conditions are attached in this regard. Further the conditioning of the design code and design and access statement are further seen to be important to ensure design quality going forward and appropriately worded conditions are again attached in this regard. However, given that the design principal drawings are indicative and for information purposes only, these have not been conditioned in this instance. Subject to the addition of these conditions and on the basis of reviewing the supporting information submitted alongside the application, I consider the scheme to be acceptable in this regard and wholly compliant with both local and national policy in regard to place making and ensuring a high quality and well-designed development.

Conservation and Built Heritage

- 6.24. The buildings that comprise the current hospital are chiefly of the former workhouse Infirmary and range from circa 1887-89. It is important to note that none of the buildings within the site are Listed Locally or Nationally, and also no part of the site is within or adjacent to a Conservation Area. That being said however, a small number of these historic buildings can be seen to be non-designated heritage assets. The first of which is the original Infirmary Frontage Building, this follows a pavilion plan with nine 'T-shaped' wards leading off circa a quarter of a mile to its rear, with its main front block facing Dudley Road. To the rear of the site are several other buildings, most notably the Victorian Nurses' Home with inter-war additions and the post-war Sisters Home. A Heritage Impact Assessment has been included with the application that analyses the significance of the historic buildings on site and makes the applicant's case for demolition or retention and conversion.
- 6.25. Para 203 of the NPPF states that: *"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."*

The infirmary

- 6.26. The Infirmary Front Range Building has been highlighted by both the applicant and the City's Conservation Officer as being a non-designated heritage asset. The remainder of building, the corridor and ward blocks are also considered to be non-designated heritage assets, as highlighted within the submitted heritage statement. The applicant also identifies other buildings on site, as non-designated heritage assets including: the former Nurses Home, although these are not detailed for retention, as is The Sisters Home which dates from circa 1950. Other similar buildings include: the Testing House, the Workhouse Boys School and Brookfield House. These buildings however, alongside the corridor and ward blocks to the rear of the Infirmary frontage building are detailed to be demolished and removed as part of the proposals.
- 6.27. While the City's Conservation Officer supports the retention of the frontage block, the Officer raises concerns as to the loss of the corridor and ward pavilions behind, as well as the loss of the remainder of the buildings as highlighted above, which would be harmful to the site's heritage and historic value.
- 6.28. In this regard, while a case for the retention of these designated heritage assets to the applicant has been made as part of the redevelopment of the scheme, the applicants make a case to retain only the most important and architecturally rich part of the Infirmary building, which is the front range, citing a number of reasons as to

why the remainder of the buildings and the rear ward blocks cannot be retained and converted as part of the proposals.

- 6.29. The applicants argue that while the Infirmary frontage block can easily be converted to form apartments, the wards to the rear, which span a quarter of a mile, would add significant cost in terms of their conversion and their retention would bring further challenges in terms of place making and viability, and would add significant costs to the redevelopment of the site, while also reducing the number of units the site could overall support. The wider buildings identified in their view would bring similar challenges and as such only the Infirmary Front Range is proposed to be retained as part of the proposals.
- 6.30. I thereby note that the demolition of a number of non-designated heritage assets as part of the proposal would result in harm to the application site and its wider setting, and while this is regrettable and due weight to their retention is given, the applicants make a case that this harm is suitably outweighed by the benefits of the scheme. The scheme in this case, through its redevelopment, will allow for a number of public benefits for the city, these include:
- A 35% on-site affordable housing offer;
 - Over 3 hectares of new public open space;
 - A £227,500 off-site contribution towards improvement works at Norman Street, Asylum Bridge and All Saints Park;
 - Increased permeability for existing and future users;
 - Up to 750no. new residential units for the city;
 - 109% uplift in the site's Biodiversity Net Gain figure; and
 - Allow for access to the canal network through significant works to the north of the site.
- 6.31. I thereby consider that the loss of these non-designated heritage assets would result in harm to the application site, however, in this case, I deem this to be sufficiently outweighed by the public benefits of the scheme and further consider that the harm derived from their loss would not form reasonable grounds to refuse the current scheme, given the public benefits this would bring. It is also noted that the Infirmary front range, arguably the most architecturally interesting part of the site is being retained and converted. Based upon this, I deem the scheme acceptable.
- 6.32. Although the Conservation Officer raises concerns about the volume of demolition on site, with regard to the loss of the non-designated heritage assets, he raises no formal objection and recommends a number of safeguarding conditions, these include the provision of:
- A suitable strategy for building recording to be submitted and approved by the LPA; and
 - A suitable strategy for repair work to the historic fabric of the infirmary building to be submitted and approved by the LPA.

St Patrick's Church

- 6.33. St Patrick's Church dates from circa 1894 and is located opposite the Infirmary on Dudley Road. This is a Grade II Listed Building and along with the presbytery and the Windmill public house, these are the last historic buildings along this stretch of Dudley Road, as the rest of the pubs and factories in the area have been demolished for housing. The entrance block of the retained Infirmary once faced the church. The original entrance block has been lost and the surviving frontage block of the Infirmary is now hidden behind the 1960s replacement block, as such, the two historic buildings are no longer intervisible. The only element of the historic setting that

survives is the band of landscaping. At present the hospital site is considered to make a negligible contribution to the setting of the church, however the restoration of the landscaping and boundary treatment, along with a more sympathetic replacement for the 1960s block, potentially with a visual link between the historic buildings, has the potential to enhance the setting of the listed church and as such on this basis, the scheme is considered acceptable. I therefore consider that the scheme would have a neutral impact upon the setting of this nearby designated heritage asset and as such is supported in this regard.

Amenity of future occupiers

Noise and nuisance

- 6.34. The application is supported by a Noise and Vibration Impact Assessment. The report includes details of monitoring at various locations around the site and additional spot monitoring in order to carry out an assessment of noise sources. The report confirms that the majority of the site is affected primarily by road traffic noise, however there are commercial noise impacts relating to activities at the retained hospital estate.
- 6.35. Environmental Health Officers have concluded that although the road traffic noise sources can be appropriately mitigated and are at broadly acceptable levels, they do have concerns around the noise arising from commercial activities from the existing hospital site and the impact that this would have upon nearby apartment buildings, which are shown on the Illustrative layout.
- 6.36. However, as this is an outline application, it is difficult to gauge the full impact, without knowing the internal layout of the blocks or the exact location of these within the site. As such, officers have recommended safeguarding conditions be attached onto any subsequent planning consent, which would look to safeguard the amenity of future occupiers of the site, by way of the applicants submitting an appropriate noise insulation scheme, and further design and layout details for any external amenity space for the proposed apartments, alongside details of what the maximum noise levels within these areas could be. Appropriate conditions in this regard have been attached and are felt necessary and proportionate to safeguard the amenity of any future occupiers of the site. Subject to these conditions, I am satisfied that the development would be able to create an acceptable level of amenity for future occupiers with regards to noise and nuisance.

Commercial Uses

- 6.37. Officers also note that the development proposes 750sqm of ancillary commercial or non-residential floor space. However, as this is an outline application their potential for noise and disturbance of nearby residential occupiers cannot be judged. However, as such noise can be appropriately mitigated, Officers raise no objection subject to appropriate safeguarding conditions which would include:
- A noise insulation scheme between the commercial and residential premises;
 - A maximum noise levels of any plant and machinery; and
 - Full disclosure of additional noise related information for any F1 Use or for similar uses.

These conditions are considered to be appropriate in this case, as they will allow any future occupiers of the site to be safeguarded against commercial noise arising from this ancillary floor space, which would likely be on the ground floors of the proposed apartment buildings. Subject to their inclusion I deem the application to be acceptable in this regard.

Amenity space for future occupiers – internal/external

- 6.38. As this is an outline application, with appearance, layout and design reserved, it is not possible to fully gauge the standard of accommodation for future occupiers. That being said, the indicative Illustrative Masterplan shows the potential for the proposed apartment blocks being sited across the site to allow for a good level of light and outlook for all future occupiers. The applicants are also aware that these units would need to be in line with the Nationally Prescribed Space Standards for 1, 2 and 3 bed apartments and houses. The proposed residential dwellings are also shown to have a similar layout and I thereby don't see any reason as to why forthcoming reserved matters applications cannot be designed to ensure a good level of internal and external amenity for future occupiers of the site.
- 6.39. The Councils adopted Design Guide requires various amounts of private amenity space to be provided per apartment and per individual dwelling. The applicant is proposing all of the proposed dwellings to have private gardens and both public and private amenity space for the proposed apartments is also shown. As such I do not consider that the development would have any issues in delivering acceptable levels of outdoor amenity space for future residents, as part of any future reserved matter applications.

Overlooking

- 6.40. As this is an outline application, the Illustrative Masterplan shows an indicative potential layout only and this layout is not being approved as part of any subsequent consent. As such, although neighbours have raised concerns regarding overlooking, as this application only seeks outline consent for the access points as shown on the submitted access plans, these wider concerns, although noted, are not material to the consideration of this scheme. I further deem that the site is large enough in order to accommodate the volume of accommodation as proposed, without impacting upon the amenity of nearby residents. The City Design Code has specified suitable separation distances in this regard, and these will be suitably applied within any future reserved matters applications and as such, the council would have full control over the development in this regard.

Trees

- 6.41. The application is supported by an Arboricultural Survey, this highlights from the 101no. individual trees on site and the 51no. groups of trees, 17no. individual trees and 14no. groups for removal. This equates to a percentage of 16.8% and 27.4% respectively. The trees outlined for removal are mainly sited centrally within the site, with those on the peripheries, especially those fronting the canal to the north and Dudley Road to the south, shown as being retained, as part of the development proposals.
- 6.42. Given that this is an outline application, which seeks to establish the principle of development as well as the site access, rather than any particular layout, any observations regarding trees do not represent an explicit agreement to the indicative layout or to some of the reasons for removals given in the submitted supporting technical report. In general, the existing tree stock within the site is formed from a mixture of species, occurring both as individuals and groups across the site. There is an intention to leave the trees in Tree Preservation Order 1644, fronting Dudley Road untouched, this is formed from a parade of statuesque Lime Trees fronting Dudley Road. The Councils Tree Officer has reviewed the submitted information and raises no objection to the proposals in principle, however, notes that further existing trees should be retained where possible, as part of any future Reserved Matters

Applications. However, the Officer notes that there is a need for place making and as such the loss of trees in certain areas is unavoidable and adequate and suitable replacement planting across the site, will be needed within these areas. The officer has thereby recommended conditions relating to future tree surveys, tree pruning and no dig specifications, which have been attached accordingly and, on their basis, I have no concerns with regards to this aspect of the scheme and deem it acceptable.

Ecology

- 6.43. A Canal side park and canal sidewalk, a north-south linear park, open space on the Dudley Road site frontage and a number of pocket parks and neighbourhood spaces are proposed as part of the current scheme. Other green infrastructure is shown to include private and communal amenity spaces and SuDS (swales, rain gardens, attenuation basin) across the site, although it is noted, that these details are wholly indicative. The Design and Access Statement also advises opportunities for green and biodiverse roofs should be explored at the detailed design stage for the proposed apartment buildings, in addition to the above and it can be seen that in total, 2.21ha of green infrastructure is proposed as part of the indicative scheme.
- 6.44. A 10m landscaped buffer to the canal is also proposed, which will include retention of existing woodland (barring a few tree removals, as shown on the Tree Retention Plan) and new tree and scrub planting. The City Ecologist notes a lack of new planting proposed along the northern edge of the development area and advises that a lighting strategy condition be attached for this area, in order to minimise light spillage onto the canal corridor in order to avoid/mitigate disturbance caused to bats and other nocturnal wildlife. A condition to this regard is attached.
- 6.45. The Ecological Mitigation Statement identifies the key ecological receptors impacted by the proposed development and details mitigation measures that would be implemented to minimise adverse impacts and ensure compliance with legal provisions. Key receptors include the SLINC-designated canal corridor and woodland priority habitat, mature trees and protected/notable species including bats (roosting, foraging and commuting), otter, water vole and nesting birds. The mitigation measures are acceptable, and conditions are recommended to secure further details of the measures identified, and their implementation. Site clearance and construction-phase control measures are also to be conditioned through a site-wide Construction Environmental Management Plan.
- 6.46. Updated bat surveys will also be required, to inform a bat mitigation strategy and Natural England licence application required where appropriate. Pre-work checks for other protected/notable species of: otter, water vole, badger, nesting birds (if site clearance takes place during the breeding season) will also be required and appropriate conditions are attached in this regard.
- 6.47. In line with NPPF (paras 174d, 180a and 180d) and BDP policy TP8, the proposed development should demonstrate adherence to the mitigation hierarchy and should deliver a net gain for biodiversity. Using Biodiversity Metric 3.1, the Biodiversity Net Gain (BNG) assessment calculates the outline proposals will deliver a 108.19% biodiversity gain (baseline biodiversity units value of 9.70; post-development biodiversity units value of 20.19). As the proposals are in outline only at this stage, the calculated BNG provision can only be indicative, and an updated assessment will be required at reserved matters stage as the detailed design is confirmed. As the scheme's indicative BNG delivery is considerably above the forthcoming 10% mandatory BNG requirement (for this scheme, 10% BNG would be 0.97 biodiversity units, in total a post-development biodiversity units value of 10.67, the applicant proposes to "bank" the surplus 9.52 biodiversity units to use as a contribution towards other Homes England development schemes in Birmingham. The City

Ecologist raises no objection to this approach, however, the extent of the habitat bank biodiversity units available will need to be calculated when the BNG delivery for this scheme is confirmed at reserved matters stage. As such, subject to appropriate safeguarding conditions/resolution wording, the scheme is considered acceptable in this regard.

Transport and Parking

- 6.48. A transport assessment has been submitted in support of this application. This has also considered on-going works around the site, including the Dudley Road Improvement Scheme (DRIS). This proposes improvements to public transport along the Dudley Road corridor including improvements for walking and cycling, as well as public transport. The works have been set out in full below, as these are deemed important in the site context:

DRIS

- 6.49. The DRIS will see a range of works carried out at the site frontage including the addition of zebra and cycle crossing, across Aberdeen Street, which links with a segregated cycle route with its associated footways and public realm which run across the site frontage, and along the NHS retained estate, and on towards the City Centre. A new signalised pedestrian crossing is to also be provided on Dudley Road and a dedicated bus lane on both sides of the carriageway along Dudley Road will also be added as part of these works.
- 6.50. It is therefore considered these works will no doubt help to improve journey times and the reliability of public transport along the corridor into and out from Birmingham City Centre. It should also be noted that works in the vicinity of the site have already been carried out, including improvements to the Dudley Road/Western Road junction and the widening of the road corridor to accommodate improved bus services have also begun. All of these works will no doubt help future occupiers of the site have a more seamless travel corridor into the city centre and beyond and allow greater access to sustainable modes of transport including the Bus as well as cycling/walking.
- 6.51. The Illustrative Masterplan has further highlighted the area of land to the southern end of the site, fronting Dudley Road to be retained as open, in order to facilitate the works and it is considered that such earmarking for this area of land be secured by way of any future s106 agreement, between the applicant and the Council, to ensure that the development has no implications upon the safe delivery of the DRIS going forward. Transportation colleagues from within the Council have reviewed the masterplan and the details of the scheme and raise no objection, subject to this land being secured by any subsequent s106 agreement and this approach is deemed necessary and as such is included within the recommendation of this report.

Vehicle access

- 6.52. As stated within the access section above, vehicle access into the site will be introduced from Aberdeen Street, Norman Street, Western Road and Crabtree Road. There would be no vehicle access from Dudley Road, and it is anticipated that there would be numerous pedestrian and cycle routes accessing the site from this major road running along the site's southern boundary, as well as from the west of the site. As such it is considered that these works would make the site much more permeable allowing local residents greater access to the DRIS, the retained Hospital site and beyond, as well as the various areas of Open Space within the site, which are seen as a great benefit to the scheme, when viewed in its current context, where limited permeability is available for local residents.

Improvements to Asylum Bridge

- 6.53. The applicants are not proposing the erection of a new pedestrian bridge over the canal to the north of the site, to access neighbourhoods to the north of the application site, as well as to provide access to All Saints Park. Although not a formal policy requirement, the Smethwick-Birmingham, corridor framework sets out that this should be explored as a potential option. The applicants have concluded that there is no evidence to suggest that the bridge would make a material difference to journey times and accessibility given the existing bridge link which lies to the site's north-west, beyond the site boundary, Asylum Bridge. Homes England have further concluded that to erect a new bridge would further marginalise the use of this existing bridge and as such improvement works are proposed to help promote greater use of the existing bridge and to help create a safer and more pleasurable route from the site to the bridge and then onto All Saints Park, where further improvement are also proposed, further discussed below. In terms of works to the bridge these will include improved way finding, paths, signage, and lighting, as well as other appropriate works, the full scope of which will be determined at reserved matters stage.
- 6.54. I thereby consider that subject to these works taking place, the site will become highly accessible and permeable and provide increased accessibility for neighbouring residents and help create a more sustainable route of getting from these areas into the city centre and beyond. I further note that the erection of the new bridge, although desirable, would no doubt have a knock-on effect on the usage of this existing bridge and also take vital funds away from the site's redevelopment, which are being used to provide the policy compliant levels of Public Open Space and Affordable Housing, further discussed below. As such, on the basis of these detailed improvement works being included within any forthcoming s106 agreement between the applicant and the Council, I deem this element of the works to be acceptable.

Car Parking

- 6.55. In relation to parking the Illustrative Masterplan assumes this being delivered at a level of 0.83 spaces per residential unit. Parking ratio of spaces per dwelling is 1.0 for houses and 0.5 for apartments, and overall is 0.8 based on the indicative mix. Whilst this results in fewer spaces than the maximum provision as stated within the adopted Car Parking Standards SPD (2021). The applicants deem this to be considered acceptable having regard to the site's location in Zone B close to the City Centre and the availability of high-quality public transport and walking/cycling links associated with the DRIS. Transport Officers have reviewed the application on this basis and have raised no objection in principle and have stated it will be important to reassess this approach further at reserved matters stage where full unit numbers and parking spaces are detailed, and Officers will thereby be able to issue a more balanced judgment in this regard. As such, on this basis, I deem the current approach acceptable subject to further details for the proposed car parking level being submitted to the LPA for approval at reserved matters stage.

Air Quality

- 6.56. A Transport assessment has been submitted in support of the application. This highlights the fact that although a vehicular access to the site is proposed to Norman Street and Aberdeen Street there will be no through route between Norman Street and Western Road. The Transport Assessment concludes that the local highway network is already congested, and the removal of traffic associated with the current hospital use of the site improves the overall performance of the network within the vicinity of the hospital site. The report further concludes that the additional residential traffic would not have a negative impact on the operation of the junctions in the vicinity and the overall impacts associated with the proposed development are not

severe.

6.57. A further air quality assessment considers the strategic air quality of the development and construction/demolition phase impacts. The report concludes that there are no predicted exceedances of air quality action levels as a result of the development and that this would not introduce any new receptors into an area of air quality exceedance. This conclusion is accepted by regulatory service officers, who have raised no objection to the development proposals, subject to the inclusion of the following safeguarding conditions:

- Demolition management plan;
- Construction management plan; and
- Submission of an air quality assessment for each phase.

6.58. These conclusions are accepted and supported and appropriately worded conditions have been attached accordingly. Subject to their addition to any subsequent planning consent, I have no concerns with regards to Air Quality related issues arising from the development, during its construction or operational phase.

Contaminated land

6.59. The application is supported by a Phase 1 desk study, a preliminary site investigation and a Factual & Interpretive Geo-Environmental Report, alongside a Preliminary Remediation Strategy. These have been reviewed and assessed by the Councils Regulatory Services Team. The reports conclude that further site investigation work would be required to determine the extent of the significantly elevated metal concentrations following demolition works. Officers have raised concerns about the prospect of demolition taking place on site, which could result in the release of trapped gas under slab level. As such, officers have recommended a series of safeguarding conditions which include:

- Contaminated Land Assessment;
- Contaminated Land Remediation Strategy; and
- Contaminated Land Verification Report.

6.60. These conclusions are again accepted and supported and appropriately worded conditions have been attached accordingly. I thereby conclude that subject their addition to any subsequent planning consent, I have no concerns with regards to possible ground contamination being mitigated against safely as part of the site's redevelopment and as such the scheme is considered acceptable in this regard.

Flood risk and site wide drainage

6.61. The application is supported by a Flood Risk Assessment, this details the entire site is located within Flood Zone 1 and as such has a very Low Risk, in terms of surface level flooding. The Surface Water Flood Map by the EA further shows that the majority of the site is predicted to be at 'very low' risk of surface water flooding. The LLFA have reviewed the submitted material and agree with its findings and as such raise no objections to the development proposals, subject to the addition of safeguarding conditions. These look to secure the prior submission of a sustainable drainage scheme and the prior submission of a Sustainable Drainage Operation and Maintenance Plan. I agree with these findings and deem the addition of these conditions both appropriate and necessary in order to ensure the site is safe from any localised flooding in the medium to long term. Appropriately worded conditions have thereby been attached.

Severn Trent Water

- 6.62. Severn Trent Water raise no objections, subject to a condition being attached to any subsequent consent regarding the disposal of foul and surface water. An appropriate condition in this regard is attached.

Environment Agency

- 6.63. The Environment Agency raise no objections subject to the following conditions: contaminated land investigations, land contamination verification report, piling works and surface water drainage. Appropriate conditions are attached with reference to piling works and water drainage however, matters relating to land contamination are covered by conditions recommended by colleagues in Regulatory Services and as such these conditions have not been duplicated.

Employment Access Team

- 6.64. The employment access team raise no objections to development proposals, subject to conditions relating to employment being attached by way of condition or through a future s106. In this regard appropriate wording within the s106 has been added.

West Midlands Police

- 6.65. West Midlands Police raise no objections and make several security related recommendations. These have been passed onto the applicant for reference.

The Canal and Rivers Trust

- 6.66. The Canal and Rivers Trust raise no objections subject to the following conditions being attached onto any subsequent consent. These relate to a surface water drainage system, construction environmental management plan, statement for impact upon canal infrastructure. Appropriate conditions have been recommended. The Trust also make note for the need of a financial contribution to increase the usage of Asylum Bridge and for improvement works within the vicinity, these have been secured and will form part of the s106 offer.

Planning Obligations

- 6.67. Given the nature of the application proposals, Public Open Space and Affordable Housing would be required in accordance with policies TP9 and TP31, unless it can be demonstrated this would compromise the viability and deliverability of the scheme.
- 6.68. A financial appraisal has not been submitted in support of this planning application, as the applicants propose to deliver a policy compliant level of Affordable Housing and Public Open Space as part of the future development of the site. However, the applicant has successfully demonstrated that should the City Council wish to see the delivery of a new pedestrian/cycle bridge as part of these proposals, then this would have a considerable impact upon the s106 offer, particularly the level of affordable housing the scheme would offer. I consider this element in greater detail below.

Open Space provision

- 6.69. The site lies within the Soho and Jewellery Quarter ward which has an open space provision of 0.89 hectares per 1000 population according to recent survey figures. This is well below the current BDP target of 2 hectares per 1000 population. The applicant has carried out its own open space assessment which confirms this position of a general lack of local open space relative to the application site. The assessment looks at the three levels of expected provision listed within Policy TP9 of the BDP in

relation to 400 metre, 1km and 3km radii. Whilst there is deemed to be sufficient provision at 1km and 3km, the site is lacking in provision within a 400-metre radius.

- 6.70. Policy TP9 sets out a quantitative requirement for the provision of new public open space for development. This is around 2 hectares of new open space per every 1,000 population. The applicants have used this figure as a baseline and calculated that using the existing indicative mix of housing proposed as part of this application this would generate a requirement of between 3.3 and 3.42 hectares of POS on site, depending on the final housing figures. A figure of 3.07 hectares of POS is shown on the submitted illustrative masterplan, thereby reaching 89% or 93% of the requirements of this policy. The Planning Statement goes on to suggest that the applicants propose to improve adjacent public open space in order to compensate for the small shortfall of the proposed on-site levels of provision; and this approach is considered acceptable and in line Policy TP9 of the BDP.
- 6.71. The applicants have identified: Norman Street and All Saints Park to be the focus of the proposed improvement works. A financial contribution of £227,500 has been requested by the Councils Leisure Services department in this regard and the funds will be used to increase usage of the area. The proposed works would be in the form of: better street lighting, signage, and wayfinding as well as wider light touch improvements. This would be in addition to improvement works to the existing pedestrian/cycle bridge, which is located to the west of the site, Asylum Bridge, which would allow accessibility for future residents to All Saints Park from the site and vice versa, through the Norman Street area of POS. The bridge has a tired and dated appearance and setting and the applicants wish to increase usage through improved pathways, lighting, signage, and security measures, which are all considered to be important in order to improve usage/accessibility and will no doubt allow greater usage of All Saints Park for both future and existing residents.
- 6.72. The applicants would also be adding an area of Junior Play within the proposed on-site POS. This is detailed to have at least 9no. pieces of apparatus for use of future occupiers, with at least 2no. of these being suitable for all users. Leisure Services have further given the applicant the option to erect 2no. smaller play areas, however, have stipulated at least one of these should cater to Juniors. These details will be secured by way of any future s106 and condition. As such, subject to these wider improvement works, alongside the wider provision, which is being proposed on site, I deem this element of the scheme to be acceptable and in line with both local and national policy.

Affordable Housing

- 6.73. The applicants have set out within their supporting statements that they would be delivering a policy compliant level of affordable housing, at 35%, as stipulated within the BDP. All of the proposed units would further be delivered on site, and this would be reflective of the final mix of house types, unit sizes and also vary in tenure. These details will need to be agreed with the council at the point of future reserved matters applications, where this level of detail would come forward. However, indicatively, based on recent examples within this part of the city, the applicants envisage the typical mix of affordable units to constitute:
- 4% Social Rented Units;
 - 6% Affordable Rented Units;
 - 16.3% Shared Ownership Units; and
 - 8.7% First Home Units.
- 6.74. As seen within the recent HEDNA, there is a substantial gap between the City's Affordable Housing needs and on-site delivery. The HEDNA also sets out that the

greatest need for the city is large family sized affordable units, which this site would no doubt be delivering, given the scale of family homes likely to come forward on the site, but also for smaller apartments, at Social and Affordable Rent, which this site will also be delivering. As such on the basis, I deem the proposals acceptable and wholly policy complaint.

Impact of a Bridge Link

- 6.75. The applicants within their supporting statement have set out their reasoning as to why they feel a new bridge link, within this location is not required. In addition to this the applicants have also put forward the potential impacts such a bridge would have upon the design of the scheme as currently proposed, as well as the s106 offer. The applicants note that there is an existing bridge, Asylum Bridge, which helps link the area to the north of the application site, across the Canal Old Line, with the southern area of the city, a short walk away from the application site. In this respect, the applicants have further submitted evidence to show that through the erection of a new bridge within the application site, leading across to All Saints Park, would only result in minor benefits for existing residents, having only a marginal difference in terms of journey times and travel distances, when compared to the existing situation with Asylum Bridge. The applicants further argue where developments within the area required the erection of a new bridge to create such linkages, such as the case with Soho Wharf and Port Loop. In this case, such infrastructure already exists, and this is thereby not seen to be crucial in terms of improving connectivity for existing and future communities within the area, who are already able to access services in nearby locations.
- 6.76. The applicants further set out that a new Bridge within this location would:
- Result in loss of mature trees on the canal frontage;
 - Impact upon the Canal SLINC area and the ecology of this corridor both during and after construction;
 - Reduce the Biodiversity net gain of the site as illustrated within the above section; and
 - Reduce usage of the existing bridge further.
- 6.77. The erection of the bridge would further come with a cost implication, and it has been evidenced that such costs would result in a 10-15% reduction in the affordable housing offer, that the applicants would be able to offer for the site. As such officers have sought to work with the applicant to find an alternative approach, whereby the existing provision would be improved, and the level of affordable housing would be safeguarded moving forward.
- 6.78. In response to this, the applicants have proposed to carry out works to upgrade Asylum Bridge, in order to increase its usage, as well as carry out works within its vicinity, along with All Saints Park as discussed above, in order to ensure that a north-south link across the canal is maintained and to further ensure that an increased footfall is attracted to this area as a result of the development.
- 6.79. On the basis of these works, and in the interest of securing a policy complaint level of affordable housing for the city, I deem this approach as proportionate and justified and subject to a scope of such works being agreed between the applicants and the council, to be carried out prior to occupation of the development hereby proposed, I deem the loss of a new bridge acceptable, for the wider gains for the city and the surrounding population through the improvement works proposed, alongside the affordable housing offer as set out above.
- 6.80. As such, I consider the scheme to be wholly policy complaint within this regard and consider this to be an achievement for the City in securing a high volume of

affordable housing within an area of the city where there is clear demand for such housing both in the short, medium, and longer term. I further deem the indicative mix wholly proportionate and in line with the City's needs and aspirations and have recommended appropriate wording to be added within any future s106 agreements, to ensure this is carried through and delivered as part of future reserved matters applications. Subject to such an agreement I deem this element of the proposals as acceptable.

Other matters

- 6.81. I note the comments from Transport for West Midlands, and their reference to the indicative nature of the proposed plans, however, the LPA will retain full control over the design proposals at reserved matters stage and active travel, will be a material consideration in the determination of any such application/s. It will also be at this point where full and detailed design proposals will be submitted for the LPA's consideration. In addition, I should add that these applications will further need to show details such as cycle tracks and hard/soft landscaping materials, which are also to be secured by way of condition.
- 6.82. I also note that details such as junction arrangements and footpath sizes etc. again will be assessed and considered as part of future applications and these details will also be secured by way of condition. Further the comments around the new direct bridge link are noted, however the impact of this link has been assessed and concluded within my assessment above. I have also noted that the applicant is unable to offer any further financial contributions beyond what is proposed and as such the request for further funding for cycling and walking infrastructure beyond the application site are noted however cannot be secured by way of this application and I do not deem that such funding is A) vital for approving the current scheme and; B) that the lack of such funding forms sufficient ground for refusal of this scheme.
- 6.83. And finally details such as a cycle hire scheme, mobility and upgrading infrastructure along Dudley Road have been passed onto the applicant for reference however, again such details are not a material consideration within the determination of this planning application and such matters, should they be suitable, such as the conservation for an on-site cycle/car club, will be explored and considered as part of future reserved matters applications.
- 6.84. I also note that the application has received an objection from Sports England based on no provision being made towards the playing pitch strategy and its associated funding. However, I note the scheme is offering a compliant level of POS and Affordable Housing and I deem this to be the priority in terms of the focus from any contributions coming forward as a result of this scheme. I further do not consider the lack of any funding towards the playing pitch strategy reasonable grounds to refuse the application and would consider that a loss in affordable housing or POS would be more detrimental for city in this regard. As such I consider the scheme acceptable, albeit the lack of funding being put forward in this area and note that given the levels of affordable housing and POS being put forward, the applicant would not be able to make any additional contribution in this regard.
- 6.85. Comments have been received in reference to the lack of social housing on offer as part of the proposals. However, the amount of social housing on the site will be determined by way of reserved matters applications and such details are not for determination as part of this application. Further, the s106 looks to secure at least 35% affordable housing across the site, with the final makeup to be decided by the Council.
- 6.86. Comments have also been made around the lack of car parking; however, the level

of parking is not being approved as part of this application and is to be determined at reserved matter stage.

- 6.87. It should be noted that details regarding speed limits and cycle hire are not material considerations in the case of this application. And that details relating to tree planting are also to be covered by future reserved matters applications.
- 6.88. Comments have also been made about the quality of the submitted materials. In this regard, I note that all of the submitted information has been taken on face value and colleagues have deemed this to be acceptable when commenting on various aspects of the scheme.

Planning balance

- 6.89. The current application presents a unique opportunity to redevelop this soon to be vacant site, which is situated within a predominantly residential area, into a medium density scheme, which would see a mixture of traditional family housing and apartments. The site is uniquely situated just outside of the ring road with good transport links into the city centre, making the site highly sustainable and desirable for a future residential use. The site also has very unique challenges, which are a resultant of its wider context, in terms of the adjacent hospital use, the canal corridor to its rear north and Dudley Road, which is undergoing improvement works itself through the Dudley Road Improvement Scheme and is undergoing transformation with high density development erected opposite the site on Soho Wharf.
- 6.90. I consider that the addition of circa 750no. new residential units, within a growth area, would be a welcomed step for the city and as stated within the report, a large number of these would be suitable for larger families, an offer of which the city is currently lacking. The site also offers smaller units for small families, couples and older residents, making this a mixed and balance community.
- 6.91. The application would further deliver in excess of 3 hectares of public open space and provide funding for improvement works to existing open space within the area, which will increase its usage and quality. The scheme further offers the delivery of a policy compliant level of affordable housing, this would be within a wide range of housing types, with the tenure and housing mix to be determined at reserved matters stage. The proposals are also seen to create new links across the development, through the site and onto the canal network to its north and beyond, through funding for improvement works to Asylum Bridge and by allocating land for the DRIS These improvement works, in turn, will help in the wider area's permeability, and allow for future connections through to nearby developments such as, Soho Wharf, Port Loop, the Edgbaston Reservoir and beyond, which would act as a major public benefit for existing and future occupiers, and this would further promote sustainable modes of transport and connectivity.
- 6.92. It also noted that the applicants have not proposed a new bridge link, which would arguably be better used, if it was placed within the site. However, I deem the current proposals as an acceptable approach at ensuring that permeability and improved accessibility comes about as a result of the scheme, without compromising the schemes viability and ability to deliver the quantum of affordable housing and POS as described above.
- 6.93. I also note that the City's Conservation Officer has raised concerns as to the proposal on the grounds of the loss of historic buildings within the site. However, in this case, given that the scheme offers a wide range of public benefits, I deem the proposals to substantially outweigh the level of harm which the proposals would result to, through the demolition of the site's former hospital buildings, a number of

which are non-designated heritage assets, with the exception of the Infirmary frontage which is being retained.

- 6.94. As such, it is thereby considered that the scheme should be granted approval, subject to the various conditions proposed, alongside the necessary S106 Resolutions as set out below.

7. Conclusion

- 7.1. The application proposals are considered, acceptable and would comprise an appropriate form of residential development for this large to be vacant brownfield site. Whilst it is regrettable that the development would not be able to deliver a new bridge link or retain a greater number of historic buildings, the proposed contributions towards off-site POS and the quantum of on-site POS and Affordable housing, alongside the retention of the Infirmary front block are considered to outweigh the harm identified and would deliver significant benefits for the city. The development would further deliver a high quality, mixed community with a large percentage of family homes in an area of growth identified as sustainable just outside of the city core. As such, subject to the below safeguarding conditions and s106 resolution the scheme is recommended to be approved.

8. Recommendation

- 8.1. That application 2022/09354/pa be APPROVED subject to the prior completion of a Section 106 Legal Agreement to secure the following:

- I. 35% affordable housing to be provided across the development, with the proposed location, mix and tenure to be agreed in writing with the LPA at reserved matters stage;
- II. A financial contribution of £227,500 to fund improvements to: Asylum Bridge, Norman Street and All Saints Park.
- III. The provision of a minimum of 3.07Ha of Public Open Space (POS) within the application site, unless otherwise agreed with the LPA and £5,000 to cover a Landscape Clerk of Works fee for overseeing the implementation of the POS/Green infrastructure/play elements/cycle route to ensure these are constructed to BCC standards and quality, subject to further details of location, phasing and specification of such works within each development phase;
- IV. The delivery of a junior play area comprising a minimum of 9 pieces of active play equipment with ancillary landscape elements and site furniture, with the option to spread this across two separate play facilities serving toddlers and juniors. The junior play area however shall provide natural play facilities and must provide swings, slides, climbing, spinning and rocking activities. The equipment shall be robust and include at least two items of fully accessible inclusive play. Timing of laying out and bringing into use the POS and junior play area shall be agreed with the LPA.
- V. A commitment to engage with the City Council and other agencies to enter into a local training and employment scheme for construction of the development to target the employment of local people;
- VI. To dedicate the required parcel of land for the delivery of the Dudley Road Improvement Scheme;
- VII. To allow for the use of any on-site surplus Biodiversity Net Gain credits to be transferred to other sites or the Environment Bank.; and
- VIII. Payment of a monitoring and administration fee associated with the legal agreement subject to a maximum contribution of £10,000.

8.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the 29th of January 2024 or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reason: -

- *In the absence of any suitable planning obligations to secure affordable housing, a financial contribution towards off-site public open space, a financial contribution towards provision of children's play equipment and local employment provision, that the proposed development conflicts with relevant policies from the Birmingham Development Plan and NPPF.*

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

1	Implement within 5 years (outline)
2	Requires the submission of reserved matter details following an outline approval
3	Requires the scheme to be in accordance with the listed approved plans
4	Requires the prior submission of a sustainable drainage scheme
5	Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan
6	Demolition Management Plan
7	Construction Management Plan
8	Contaminated Land Assessment
9	Contaminated Land Remediation Strategy
10	Requires the submission of a contaminated land verification report
11	Submission of Air Quality Assessment for each Phase
12	Limits the hours of use
13	Noise Insulation Scheme - Residential
14	Residential Amenity Space
15	Limits the noise levels for Plant and Machinery
16	Tree Survey and Arboricultural Implication Assessment Submission Required
17	Requires tree pruning protection
18	Requires the implementation of tree protection
19	Arboricultural Method Statement - Submission Required
20	Requires the prior submission of a scheme relating to the provision of on-site vehicle charging points
21	Prior submission of piling details

-
- 22 Controlled waters risk
 - 23 Requires the scheme to be in accordance design and access statement
 - 24 Requires the scheme to be in accordance design code.
 - 25 Requires the prior submission of a phasing plan
 - 26 Limits the maximum number of dwellings
 - 27 Limits the maximum number of storeys
 - 28 Requires the submission of hard and/or soft landscape details
 - 29 Requires the submission of hard surfacing materials
 - 30 Requires the prior submission of earthworks details for each phase of the development
 - 31 Requires the submission of boundary treatment details for each phase of the development
 - 32 Requires the submission of a landscape management plan
 - 33 Requires the submission of a lighting scheme in a phased manner
 - 34 Requires the submission of sample materials in a phased manner
 - 35 Requires the prior submission level details on a phased manner
 - 36 Requires prior submission of housing mix.
 - 37 Requires the submission of play area details
 - 38 Minimum quantum of development for Public Open Space
 - 39 Requires the prior submission of a construction employment plan.
 - 40 Requires the submission of details of refuse storage
 - 41 Requires the submission of details of parking
 - 42 Requires the submission of a residential travel plan
 - 43 Requires the submission of cycle storage details in a phased manner
 - 44 Requires the submission of detailed sustainable construction and energy statements for each phase of development
 - 45 To ensure information on the proposed low/zero carbon energy technology is submitted on a phased basis
 - 46 Requires the submission of pedestrian and cycle route details
 - 47 Infirmary Front Range retention
-

-
- 48 Retained infirmary front range - external details/repair work schedule.
 - 49 Timing for Infirmary Front Range completion
 - 50 Prior submission of details for conversion of Infirmary Front Range
 - 51 The Infirmary Front Range building - demolition of linked structures
 - 52 Requires the prior submission of Structural Recording
 - 53 Requires the prior submission of an additional bat survey
 - 54 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
 - 55 Prior submission of an ecological management plan
 - 56 Prior submission of a site wide Landscape and Ecology Management Plan
 - 57 Submission of a site wide lighting strategy - Ecology
 - 58 Biodiversity Net Gain Details to be submitted prior submission.
 - 59 Prior submission of Foul and surface water details
 - 60 Prior submission of a sequential test
 - 61 Prior submission of a Canal demolition method statement
 - 62 Prior submission of a Construction environmental management plan
 - 63 Prior submission of surface water drainage system details
 - 64 Requires the submission of a parking management strategy
 - 65 Requires the submission of entry and exit sign details
 - 66 Requires the submission and completion of works for the S278/TRO Agreement
-

Case Officer: Idris Gulfraz

Photo(s)

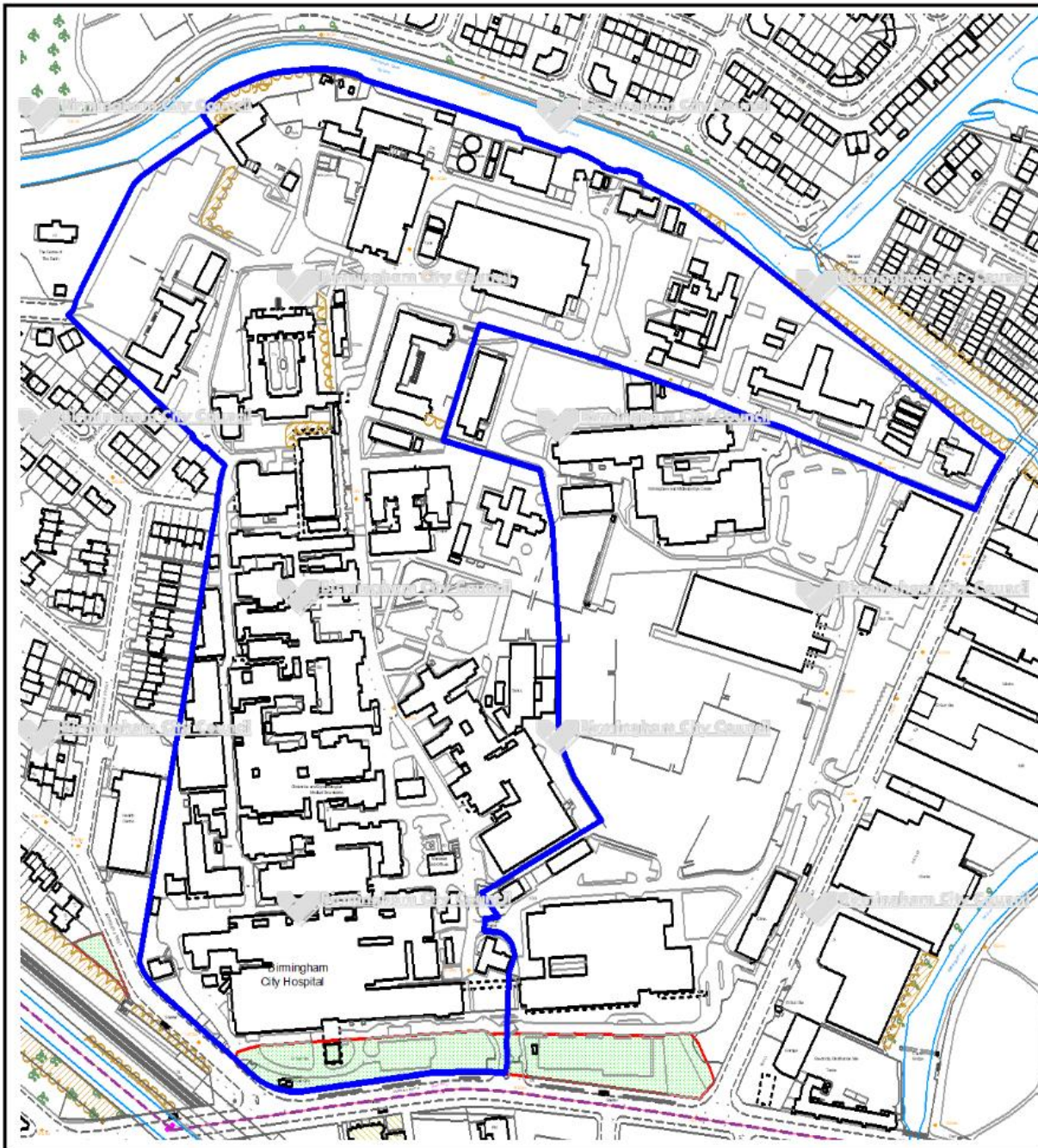


Photo 1 – City Hospital West from Junction at Aberdeen Street and Dudley Road, facing south-east.



Photo 2 – City Hospital West from Dudley Road looking into retained adjoining Hospital site.

Location Plan



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Committee Date:	17/08/2023	Application Number:	2023/03804/PA
Accepted:	07/06/2023	Application Type:	Full Planning
Target Date:	02/08/2023		
Ward:	Sutton Walmley & Minworth		

2 Fowey Close, Sutton Coldfield, Birmingham, B76 1YP

Change of use from a dwelling house (Use Class C3) to a residential children's care home (Use Class C2) for up to 3 children, alterations, and installation of windows to garage front

Applicant:	C/o MADE Architecture 2 Fowey Close, Sutton Coldfield, Birmingham, B76 1YP
Agent:	MADE Architecture Limited Dominion Court, 43 Station Road, Solihull, West Midlands, B91 3RT

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1. This application proposes a change of use of a two storey detached dwelling (Use Class C3) into children's care home (Use Class C2), for a maximum of 3 children from 8 to 17 years of age.
- 1.2. The proposed ground floor would consist of an entrance porch, a kitchen, a dining room, a lounge, a conservatory, a wc and a staff room with an en-suite.
- 1.3. The proposed first floor would consist of 3 bedrooms approximately 12.3m², 10.7m² and 7.9m²), a bathroom and an office.
- 1.4. The existing garage door would be replaced with a window and the internal space of that garage would be used as a staff room with an en-suite.
- 1.5. Existing rear amenity space of approximately 166m² would remain.
- 1.6. 2 car parking spaces on the front driveway would remain.
- 1.7. A management plan regarding how the care home would operate has been submitted by Serenity Specialist Care Ltd and is summarised as follows:
 - Ofsted will regulate the use.
 - Serenity Specialist Care Ltd operate 2 children's homes within Birmingham.
 - The children are transitioned successfully into independence, semi-independence or back to their families.
 - Serenity Specialist Care Ltd works with Birmingham Children's Trust and other local authorities within the West Midlands.
 - Serenity Specialist Care Ltd is one of the preferred providers for around 15 local authorities within the West Midlands and are on the tender framework for chosen Children's Residential Homes Providers.

- The children and young people would receive the right care packages and staff supervision during the settling in period and on-going thereafter.
 - The young people would have community risk assessments and be supervised.
 - A full induction and integration programme into the location would be implemented, reviewed and monitored.
 - Birmingham Children's Trust have sent a letter out to established providers advising of a shortage of children's residential care homes.
 - Birmingham also released a Sufficiency Strategy which contains information regarding their intention to source more local placements within Birmingham to sustain a child's network, education and therapeutic interventions.
 - Priority will be given to placements from Birmingham for this home.
 - The children and young people in this property would require some form of care and would not have any physical disabilities but mild learning disabilities or challenging behaviour.
 - The care that would be provided would be administering medicine if required and would involve the usual household chores such as washing, cleaning, and cooking.
 - The idea is that the staff and children would be residing as a collective family.
 - As with any family home, there would be some visitors who may include parents or families of the young people and social workers. These will be very occasional and planned way in advance to ensure visitors are limited to the home.
 - The young people would attend school during the week.
 - After reaching a certain age the young people would generally move to either 16 plus or adult services. Some high functioning children would move on to semi-independent or independent accommodations.
 - The property would be registered with Ofsted as a children's care home and would monitor the service.
 - 2 fully qualified carers would be on shift during the day and 2 carers (one awake and one asleep) during the night. During the weekend, there would be only 2 staff.
 - A manager would be on site 9am to 5pm Monday to Friday.
 - The staff have regular training, a well detailed induction and ongoing reviews and appraisals.
 - The Senior Management Team carry out weekly visits to the home and complete detailed audits to ensure that the home is monitored.
 - If any incidents or any concerns arise, these must be reported to the placing local authorities, other external governing bodies and professionals promptly.
 - There is a duty of care to work in partnership with the different professionals and ensure that we follow our policy and procedures.
- 1.8. An application for the proposed change of use from a dwelling house (Use Class C3) to a residential children's care home (Use Class C2) for up to 3 children, alterations and installation of windows to garage front at 7 Fowey Close (Ref. 2023/03808/PA) was submitted at the same time as this application and has since been formally withdrawn.

[Link to Documents](#)

2. **Site & Surroundings:**

- 2.1. The application site refers to a two storey, detached residential dwelling which is located in a cul-de-sac with nine residential dwellings. The existing dwelling has 4 bedrooms, a front driveway and rear garden amenity space. The surrounding area is predominantly residential in character.
- 2.2. [Link to Google Street View](#)

3. **Planning History:**

3.1. No planning history on application site.

4. **Consultation Responses:**

4.1. Neighbours, local Councillor and residential amenity groups consulted and a site notice has been displayed.

4.2. Transportation Development raise no objection subject to conditions being imposed to restrict the number of children to a maximum of 3 and installation of secure and covered cycle storage provision.

4.3. Tree Officer raises no objection.

4.4. West Midlands Police raise no objection and refer the applicant to the 'secure by design' document.

4.5. Children's Commission/Birmingham Children Trust support the proposal and highlight the following:

- This provider has worked closely with Birmingham Children's Trust to understand the needs of Birmingham children in care in line with Birmingham Children's Trust Sufficiency Statement.
- The provider has been operating children's homes since 2014 with two homes currently operational in Birmingham and Birmingham Children's Trust currently has three young people placed with this provider. The provider aims to establish a similar ethos and staff teams as in their existing homes, with a focus on meeting the needs of the young people and providing therapeutic care.
- Birmingham Children's Trust aims to place children within Birmingham, where it is safe and in the young person's best interests.
- The provider is committed to supporting Birmingham Children's Trust to make local placements to sustain a child's social and professional support networks and maintain access to education and health services.
- The provider has engaged with Birmingham Children's Trust Commissioners regarding their plans for the home and will continue to work with Commissioners as the home develops and to ensure suitable planning for young people to move into the home.
- The proposed site for this new home is a suitable location, affording good transport links and access to local schools and amenities and does not stand out from other homes in the area.
- The layout of the home is suitable for its purpose and there is adequate space for the young people.
- There is off-road parking to accommodate staff and visitors.
- The provider would work closely with the neighbourhood policing team to understand any local risks that may impact upon the young people and what actions they can take to mitigate such risks. They will also work closely with the neighbours to ensure that the home is an integral part of the community, in the same way as they have done with their other homes.
- Ofsted will inspect the home and its policies and interview the Home Manager before they will consider registering the home.
- The home will only be registered once Ofsted are satisfied that everything is in place. Once registered, Ofsted will regularly inspect the operation of the home, the care provided to the young people, the progress being made by the young people and the management of the home.
- The provider is committed to the West Midlands Flexible Contracting

Arrangement which is a regional residential framework contract. They have therefore undergone a level of due diligence and quality checks to be accepted onto this arrangement and to make their homes available to Local Authorities within the West Midlands.

- Birmingham Children's Trust will always prioritise placements with approved providers through the framework contract. The home may accept placements from other Local Authorities outside of West Midlands and each LA is responsible for undertaking its own due diligence checks.
- There are three other children's homes currently registered with Ofsted within B76 post code. The nearest home is located nearly two miles away.
- The provider is intending to open two homes in the same Close under dual registration with Ofsted. Birmingham Children's Trust would caution against operating two adjacent homes in this location due to the potential issues of matching six children and the impact upon the community. One home would be able to successfully operate as part of the community and would be consistent with the running of a family dwelling.

5. **Third Party Responses:**

5.1. 30 objections in total have been received from neighbouring occupiers (including objections from Councillor Barrie, Councillor Wood and Sutton Coldfield Town Council) which are summarised below:

- There are 9 residential dwellings in this cul-de-sac and planning permission is currently sought to change the use of two of these into care homes (2 Fowey Close and 7 Fowey Close).
- The introduction of a commercial business in this location would be out of character within this residential setting.
- Increased noise and disturbance.
- Pollution from additional vehicles
- Inadequate parking provision and inconsiderate parking.
- This proposal would introduce a transient population.
- This would be a breach of the properties mortgage terms and conditions.
- De-valuation of dwellings.
- The operating company has a poor Ofsted Report.
- Loss of a family home.
- Fear of crime and antisocial behaviour.
- This proposal could raise safeguarding issues for children who attend Walmley Junior and Infant School.
- Loss of a community spirit and a sense of belonging for existing residents.
- Insufficient public consultation from the Council regarding the proposal.
- There are currently 9 residential dwellings within this cul-de-sac and if number 2 and 7 Fowey Close are changed to children's care homes, this would mean that 22% of the properties within this cul-de-sac would be used for commercial/business purposes.
- Detrimental impact on the character of this residential area.
- Loss of privacy into back garden.

6. **Relevant National & Local Policy Context:**

6.1. National Planning Policy Framework: Paragraph 130.

6.2. Birmingham Development Plan 2017: PG3 (place making), TP5 (low carbon economy), TP27 (sustainable neighbourhoods), TP44 (traffic and congestion management), TP45 (accessibility standards for new development).

- 6.3. Development Management in Birmingham (DPD): DM2 (amenity), DM12 (residential conversions and specialist accommodation), DM14 (transport access and safety), DM15 (parking and servicing).
- 6.4. Supplementary Planning Documents & Guidance: Birmingham Design Guide (SPD) and Car Parking Guidelines (SPD).

7. **Planning Considerations:**

- 7.1. The main considerations in the determination of this application are the principle of the proposed use as a care home, standard of accommodation and quality of the living environment for future occupiers, visual amenity, impact on residential amenity, parking/highway safety and crime and anti-social behaviour.

Principle of the development

- 7.2. Policy DM12 of the DPD states that residential conversions and specialist accommodation will be supported where:
- It would not lead to an unacceptable adverse impact on the amenity, character, appearance, parking, public and highway safety of the area, taking into account the cumulative effects of similar uses in the area;
 - The accommodation and facilities, including outdoor amenity space and provision for safety and security, is suitable for the intended occupiers;
 - It is accessible to local shops, services, public transport and facilities appropriate to meet the needs of its intended occupiers;
 - The scale and intensity of the proposed use is appropriate to the size of the building;
 - It would not result in the loss of an existing use that makes an important contribution to the Council's objectives, strategies and policies.
- 7.3. The property is a two storey detached dwelling and it is considered that the proposed children's care home would be located within a sufficiently sized plot. The proposed use and location is considered acceptable in principle, given that it would become a 3 bedroom property, with an adequate amount of external amenity space. There would be entrance porch, a kitchen, a dining room, a lounge, a conservatory, a wc and a staff room with an en-suite on the ground floor and 3 bedrooms approximately (12.3m², 10.7m² and 7.9m²), a bathroom and an office on the first floor. A condition limiting the number of children to a maximum of 3 shall be imposed.
- 7.4. It is considered that activities associated with the property would be similar to that of a family dwelling and as such the proposal would not cause any undue noise and disturbance to adjoining occupiers, over and above what would be expected from the existing residential dwelling house use.
- 7.5. Whilst it is noted that this cul-de-sac would consist of 9 dwellings, in terms of the cumulative effect, there are no identified HMO's or supported exempt accommodation within a 100 metres radius of the application property and is acceptable in this respect, complaint with relevant policy. Furthermore, as noted above, a second application for a similar use at 7 Fowey Close (Ref. 2023/03808/PA), which was submitted at the same time as this application, has since been formally withdrawn by the applicant. As such, through the approval of this scheme, there would only be one such use within the cul-de-sac, with any future such uses requiring further consent. The Council would thereby have full control over any future development in this respect.
- 7.6. The Children's Commission/Birmingham Children's Trust are supportive of the

proposal, noting that the provider operates 2 other children's homes within Birmingham. They conclude by saying that the new home is a suitable location, affording good transport links and access to local schools and amenities. No similar C2 care homes have been identified within 100 metre radius and as such, it is considered that the introduction of the proposed children's care home would not result in an overconcentration of intensive residential uses to the detriment on the residential character of the surrounding area.

7.7. Concerns have been raised that the proposal would lead to a loss of a family dwelling. Policy TP35 of the BDP states that the loss of residential accommodation would only be permitted if there are good planning justifications or an identified social need. A supporting statement has been provided identifying staff rotas and safety precautions being taken. whilst the premises would operate as a residential institution, it would not be entirely out of keeping in that it would share some characteristics of a residential C3 use albeit accommodation for a specific group of individuals. It is considered that there are social and planning justifications for the proposed use and the proposal would not conflict with Policy TP35 of the BDP.

7.8. Given the above, it is considered that the principle of change of use from residential dwellinghouse (Use Class C3) to a children's care home (Use Class C2) is acceptable (subject to other material planning considerations) for the following reasons in summary:

- It would meet an evidenced need for a vulnerable group.
- The proposal is supported by Birmingham Children's Trust/Children's Commission.
- It would be regulated by Ofsted.
- The duties of the support workers would be the same duties as a single family unit, operating as a house and providing a home for the children.
- The management and operation of the home would be comparable to the activities to a single residential family unit and therefore, would not have any detrimental impact on the amenities of neighbouring occupiers.
- The site is in a suitable location with good transport links, access to schools and local amenities.
- It does not conflict with number of HMOs in a set area and would not set an undesirable precedent.

Standard of accommodation

7.9. The Birmingham Design Guide does not set internal space standards for care homes and the Nationally Described Space Standards provide a useful benchmark to judge the quality of accommodation and living environments for this type of development. The bedrooms sizes for the three children would exceed the minimum standards for a single bedroom, providing adequately sized rooms. The proposed internal layout is considered practical and functional for the intended number of occupiers and the rear garden amenity space is acceptable.

Impact on design and visual amenity

7.10. The proposed garage door would be removed and replaced with a window on the front elevation and the inside of the garage would be converted into a staff room with an en-suite. The proposed alterations would not cause any harm to the design or visual appearance of the existing building or surrounding amenity and is supported in principle.

Impact on Residential Amenity

7.11. The objection concerning a loss of privacy is noted. In response to this, the

application property is a two storey residential detached dwelling within a residential area and no additional first floor windows are proposed. Fundamentally, there would be no greater impact in terms of any overlooking or loss of privacy issues in comparison to the existing use. As previously noted, the activities associated with the proposal i.e., visits from staff, professionals and relatives are unlikely to negatively impact on the residential amenity of neighbouring occupiers due to the comings and goings not being significantly different from a family dwelling. Conditions have been attached to restrict the number of children living at the property to a maximum of 3 and to restrict the use of to a children's care home only and for no other use within the Use Class C2.

Impact on Highway Safety and Parking

- 7.12. Two existing car parking spaces on the front driveway would be retained and BCC current parking guidelines specify typical parking provision of 2 spaces per residential dwelling with 3+ bedrooms and 1 space per two staff plus visitor parking of 1 space per 8 residents for care home within zone C. Therefore, as per guidelines, there may be a slight increase in parking demand. However, taking this into consideration and noting the objections raised, Transportation Development have commented that this slight increase in parking demand is unlikely to have any significant impact on the surrounding highway. Furthermore, apart from junction radii, waiting is unrestricted on Fowey Close and Dovey Drive and on-street parking provision is available. The site is also served by good public transport links, with bus services being accessible from Walmley Ash Rd. Conditions have been imposed to restrict the maximum number of children to 3 and that secure covered cycle parking to be provided/maintained in line with BCC current guidelines at appropriate location. For the reasons given, this proposal is not expected to prejudice highway and public safety and is acceptable in this respect.

Crime and anti-social behaviour

- 7.13. Crime and the fear of crime are material planning considerations and the objections raised are noted. However, the nature and type of people to occupy a premises is not a material planning consideration. West Midlands Police have raised no objection, referring the applicant to the 'Secure by Design' document. The security of the building is a matter for the applicant to consider and no planning conditions are required in this instance. It is evident that this proposal would be regulated by the correct governing bodies with frequent inspections. The provider and governing bodies will no doubt be in contact with the local neighbourhood policing team to understand the local risks that may impact upon the young people and what actions they can take to mitigate any risks. For this reason, it is not considered that this proposal would give rise to anti-social behaviour and crime.

Other matters

- 7.14. The objections raised have been noted and all salient material planning matters have been taken into consideration in the assessment of this application, most of which have been addressed within this report. However, concern has been raised regarding a lack of public consultation. In response to this, it has been confirmed that all relevant neighbouring occupiers have been consulted in accordance with the Council's adopted Statement of Community Involvement and a site notice has been displayed.
- 7.15. Comments have also been raised regarding de-valuation of properties and opinions have been made regarding the service provider for the children's home and mortgage lender on the application site. In response this, none of the issues raised are material planning considerations and therefore carry no weight in the

determination of this application.

8. **Conclusion**

- 8.1. Subject to conditions being imposed, this proposal would comply with local and national planning policy and approval is recommended.

9. **Recommendation:**

Approve subject to conditions.

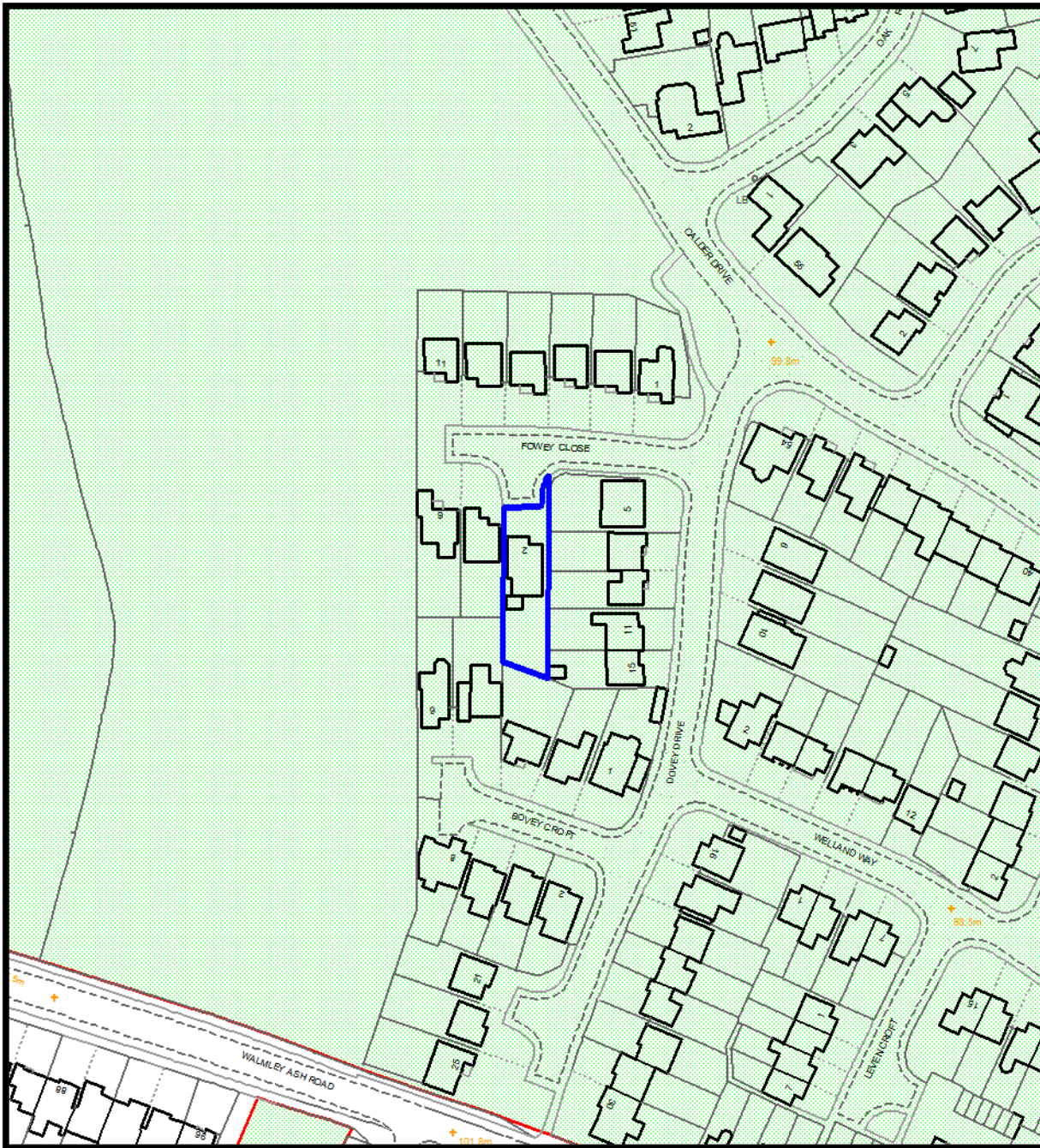
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|---|--|
| 1 | Implement within 3 years (Full) |
| 2 | Restricts the number of children living in the property to a maximum of 3. |
| 3 | Prevents the use from changing within the use class |
| 4 | Requires the submission of cycle storage details |
| 5 | Requires the scheme to be in accordance with the listed approved plans |
-

Case Officer: Daniel Ilott

Photo(s)



Location Plan



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Birmingham City Council

Planning Committee

17 August 2023

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 – Subject to 106 Legal Agreement	8	2022/00252/PA Land at Bournbrook Recreation Ground George Road Selly Oak Birmingham B29 6AH Erection of 10no. new dwelling houses for affordable rent (4 x maisonettes & 6 x houses) with associated parking, landscaping and drainage works
Approve – Conditions	9	2023/03044/PA Our Lady of Fatima RC Parish School Winchfield Drive Harborne Birmingham B17 8TR Erection of 2400mm high paladin mesh with sections of timber slat infills boundary fencing, playground alterations including new steps and handrails, retaining walls and 1200mm high bow top railings.

Committee Date:	17/08/2023	Application Number:	2022/00252/PA
Accepted:	27/01/2022	Application Type:	Full Planning
Target Date:	22/09/2023		
Ward:	Bournbrook & Selly Park		

Land at Bournbrook Recreation Ground, George Road, Selly Oak, Birmingham, B29 6AH

Erection of 10no. new dwelling houses for affordable rent (4 x maisonettes & 6 x houses) with associated parking, landscaping and drainage works

Applicant:	Selly Oak Community Development Trust Ltd Rokesley House, Bristol Road, Selly Oak, Birmingham, B29 6QF
Agent:	GreenSquareAccord 178 Birmingham Road, West Bromwich, B70 6QG

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. **Proposal:**

- 1.1 Full approval is sought for 10 dwellings on part of Bournbrook Recreation Ground. The site would be accessed via George Road.
- 1.2 A mix of semi-detached, terraced and maisonettes are proposed, all of which would be for affordable rent. The properties are constructed of fibre cement cladding board with pitched tiled roofs. The number of bedrooms proposed in each property are:
 - 4 x 1 bed;
 - 2 x 2 bed; and
 - 4 x 3 bed
- 1.3 Each dwelling is provided with a single car parking space. Private gardens are provided at the rear with a communal area provided for the occupiers of the maisonettes. A community garden is also proposed at the southern end of the site which also includes an access to the remaining area of Bournbrook Recreation Ground, currently utilised as a skateboard park.



Image 1: Proposed site layout in context

- 1.4 The proposed plans show a new larger Aldi that has been re-orientated which is outside the red line site. These proposals have gained through a separate planning application (2022/04934/PA) but work has not commenced.

- 1.5 A Design and Access Statement, Planning Statement, Tree Survey, Ecological Appraisal, Noise Assessment, Sustainable Construction Statement and Drainage Assessment have been submitted in support of this application.

- 1.6 Site Area: 0.47ha; Density 21dph

2 Site & Surroundings:

- 2.1 The site forms part of Bournbrook recreation ground that incorporates 2 basketball courts and a local play area which is now in a state of disrepair. A replacement Aldi store has been approved on part of the site under reference 2022/04934/PA but development has not yet commenced.

- 2.2 Student accommodation and terraced residential properties on George Road are located to the north with the Aldi store located to the east and a large substation which is Grade II listed is positioned to the south. The railway line and canal are provide the western boundary to the site.

- 2.3 The site is positioned adjacent to both the boundary of the primary shopping area and Selly Oak District Centre, as identified in the City's Shopping and Local Centres Supplementary Planning Document.

- 2.4 [Site Location Plan](#)

3 Planning History:

- 3.1 Adjacent site:
3.2 2022/04934/PA – Demolition of existing store and erection of a replacement food retail store (Class E(a) with associated access, car parking, servicing and landscaping. Approved on 20/01/2023.

4 Consultation Responses:

- 4.1 Severn Trent – No objection subject to drainage condition
- 4.2 Lead Local Flood Authority – No objection subject to conditions requiring sustainable drainage scheme and sustainable drainage operation and maintenance plan.
- 4.3 West Midlands Police – No objection subject conditions for lighting scheme and boundary treatment.
- 4.4 West Midlands Fire Service – No objection
- 4.5 Regulatory Services – Object due to noise levels from skate park.
- 4.6 Transportation – No objection subject to conditions requiring cycle storage and EVCP provision.
- 4.7 Leisure Services – No objection subject to payment of £383,305 to provide replacement MUGA's at Selly Oak Park.
- 4.8 Sport England – no objection
- 4.9 Network Rail – no objections subject to submission of method statement and risk assessment, fencing details, details of scaffolding within 10m of railway, risk assessment and method statement prior to any vibro-impact works, scheme of drainage and full details of grounds levels, earthworks and excavations near railway.
- 4.10 Canals & Rivers Trust – No objection should to conditions requiring ground works and foundation details and method statement, construction management plan and soft landscaping.

5 Third Party Responses:

- 5.1 Local occupiers, Ward Councillors, MP and resident associations were notified. Two site notices and a press notice have been displayed. 163 letters of objection have been received by members of the public raising the following matters:
 - Vital community green space would be lost;
 - Affordable housing could be built elsewhere on brownfield land;
 - Harmful to the neighbourhood;
 - Outdoor space is needed by local population;
 - Space for social interaction would be lost;
 - There are no other basketball courts nearby;
 - Skate park should be retained as it is a successful community project that has been recognised by Skateboard GB Olympics;
 - Loss of space will harm community spirit and undermine hard work of community;
 - Damage to health and well being of local population;
 - Harm to local businesses as trade lost;
 - Site for lawful graffiti would be lost;
 - No need for bigger Aldi;
 - Damage to wildlife;
 - Increased air pollution;
 - Development would undermine the hard work of the local community;
 - Additional traffic;
 - Unacceptable living environment created for proposed occupiers;
 - Application is motivated by money;
 - Apartments should be built instead;

- No car parking needed;
- Alternative sports provision should be provided elsewhere and funded by the developer; and
- Cycle parking should be provided in front of houses.

5.2 Letter of support received from Cllr Brigid Jones raising the following matters:

- There is an identified need for affordable housing;
- Proposal accords with Wider Selly Oak SPD;
- Site is of poor quality and residents feel unsafe on the site currently;
- Remaining space could be upgraded;
- Safer walking route through the site would be provided; and
- Those using the site currently could be relocated elsewhere

6 Relevant National & Local Policy Context:

6.1 National Planning Policy Framework

Chapter 2 – Achieving Sustainable Development
 Chapter 5 – Delivering a Sufficient Supply of Homes
 Chapter 7 – Ensuring the Vitality of Town Centres
 Chapter 8 – Promoting Healthy & safe Communities
 Chapter 9 – Promoting Sustainable Transport
 Chapter 11 – Making effective Use of Land
 Chapter 12 – Achieving Well Designed Places
 Chapter 15 - Conserving and Enhancing the Natural Environment
 Chapter 16 – Conserving and Enhancing the Historic Environment

6.2 Birmingham Development Plan 2017:

GA9 – Selly Oak and South Edgbaston
 TP3 – Sustainable Construction
 TP4 – Low and Zero Carbon Energy Generation
 TP9 – Open Space, Playing Fields and Allotments
 TP11 – Sports Facilities
 TP27 - Sustainable Neighbourhoods
 TP28 – Location of New Housing
 TP30 – The Type, Size and Density of New Housing
 TP31 – Affordable Housing

6.3 Development Management DPD:

DM2 – Amenity
 DM4 - Landscaping and trees
 DM6 - Noise and vibration
 DM10 - Standards for Residential Development
 DM14 - Transport access and safety
 DM15 - Parking and servicing

6.4 Supplementary Planning Documents & Guidance:

Birmingham Design Guide SPD
 Wider Selly Oak SPD
 Birmingham Parking SPD

7 Planning Considerations:

7.1 The key planning issues to be considered are: the principle of the new development, loss of sports pitches, the design and scale of the proposed development, the impact on residential amenity, the impacts on traffic and highway safety, the impact on ecology, and the impact on Landscape and Trees.

- 7.2 Housing Land Supply
- 7.3 The Birmingham Development Plan which was adopted more than five years ago the Local Housing Need figure must be applied when calculating the five year housing land supply.
- 7.4 The Council's estimate of deliverable sites is 28,144 dwellings for 2022- 2027 (including windfall allowance). The Local Housing Need (LHN) target over the same period is 37,464 dwellings (including a 5% buffer). This equates to a 3.99 years supply and represents a shortfall against the LHN requirement.
- 7.5 As a result, the Council cannot demonstrate a five year housing land supply which means that the presumption in favour of development applies in accordance with Para 11d of the NPPF. The consequences of this are that the 'tilted balance' will be engaged for decision taking. This means that the assessment shifts from a neutral balance where the consideration is whether the harm outweighs the benefits to a tilted balance, where the harm would have to significantly and demonstrably outweigh the benefits justify the refusal of residential development. This assessment will take place in the concluding section of this report where substantial weight will be placed on the delivery of 10 new dwellings.
- 7.6 Principle of Development
- 7.7 Policy GA9 of the BDP identifies a number of development sites to help promote major regeneration and investment in the Selly Oak and South Edgbaston area, one of which is Bournbrook Recreation Ground. The policy indicates that residential or student accommodation would be suitable on the site. A residential development on the site is therefore acceptable in principle.
- 7.8 Loss of Public Open Space
- 7.9 Paragraph 98 of the NPPF emphasises that access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and wellbeing of communities. Paragraph 98 states that existing sports facilities and open spaces should not be built on unless one of the following criteria can be met:
- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
 - b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
 - c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.
- 7.10 Policy TP9 of the BDP indicates that the development of open space would not normally be granted unless one of the following criteria could be met:
- There is a surplus of open space locally;
 - Replacement open space of similar size and quality will be provided;
 - The space is of poor quality and the remaining smaller parcel of open space is substantially enhanced; and
 - The development is for an alternative sport/recreational use and the benefits would outweigh the loss
- 7.11 There are currently 2 basketball courts, skate park and former children's play area on

Bournbrook Recreation Ground. The combination of this affordable housing scheme and the new Aldi store would result in just the area where the skate park is located being retained.

- 7.12 In this case Leisure Services have requested that £383,305 is required to enable the provision of 2 MUGAs at Selly Oak Park. The new Aldi store encroaches into the area where the MUGAs are located and Aldi agreed to provide the full sum through a S106 agreement prior to their consent being granted. This contribution ensures that there will be no net loss and the replacement facilities would be of a higher quality, providing that the replacement food store scheme is implemented. It is acknowledged that there is a small possibility that this housing scheme could be constructed before the payment for replacement MUGAs is received. However, the delivery of an 100% affordable scheme is a significant planning benefit that should not be restricted or delayed by the use of a Grampian condition that links to the food store approval. In any event, it would be completely unviable for the applicant to provide the sum of £383,305.
- 7.13 Furthermore, it is considered that the Bournbrook Recreation Ground is of limited quality with poor levels of natural surveillance which has led to issues of crime and disorder in the past. It is also important to note that now consent has been granted for the replacement Aldi store the remaining section of the park is an unusable parcel of land that has little purpose.
- 7.14 In summary, with the financial contribution already secured the proposal accords with Policy TP9 of the BDP.
- 7.15 Design and Layout
- 7.16 The layout forms a logical extension to George Road with all dwellings facing towards the Bristol Road. All properties are 2 storeys high and therefore complement the scale of adjacent residential dwellings. To create an attractive street scene substantial soft landscaping is proposed in front of each property and a community garden is also incorporated at the end of the cul de sac.



Image 2: Proposed street scene

- 7.17 The main facing materials for the dwellings are fibre cement cladding boards in red and cream with grey concrete tiles proposed for the roof. Grey UPVC windows are utilised on front elevations which helps bring a more contemporary design. The City Design Officer considers that the design would echo the character of the existing houses in Selly Oak without copying them, thereby grounding the scheme in its context.
- 7.18 In summary it is considered that the proposed layout, scale and appearance adequately addresses the urban design imperatives set out in the NPPF and BDP Policies PG3 and TP27.

7.19 Impact on Historic Environment

7.20 The electricity sub-station, 641 and 659 Bristol Road (known as the Park Keepers Lodges) located to the south of the application site and are all Grade II listed. It is therefore necessary to consider whether the proposal impacts on the setting of these heritage assets.

7.21 The surroundings of the Sub Station are an accretion of urban features with which it is well integrated, and the building provides a notable point of historic reference in the street scene. The Conservation Officer considers that the current contribution of the recreation ground to the setting of the Sub Station is considered to be neutral. With there being only limited inter-visibility between the asset and the development, and the modest scale of the dwellings it would not challenge the prominence of the building. Consequently, the Conservation Officer considers the proposed development would have no impact on the setting of the listed Sub Station.

7.22 The setting of the Lodges is considered to make a high contribution to their heritage importance with their positioning either side of the park entrance. The Conservation Officer considers that the degree of loss of open parkland space as a result of this development would change the character of the setting and result in a minor loss of a key element of setting which would reduce community use and understanding. This would have a minor adverse impact on the setting of the lodges as understanding and appreciation would be diminished. In NPPF terms a minor adverse impact would cause a degree of 'less than substantial harm'. In accordance with the NPPF it is necessary to assess whether there are any public benefits which outweigh the harm identified. The scheme would deliver 10 affordable rent units which are a mix of sizes and types. There is a significant unmet demand for affordable housing with rental properties in greatest need. In this case it is considered that the delivery of much needed affordable housing would outweigh the low level of harm identified in this instance.

7.23 Housing Mix

7.24 The redevelopment of the site would deliver much needed affordable housing and a condition will be attached to secure the scheme is delivered as 100% affordable rent. The proposed density at 21 dwellings per hectare is considered to be low but the site is heavily constrained by a high number of mature trees, buried high voltage cables and number of nearby noise sources. On this basis the low density is considered appropriate. The scheme provides a mix of 1, 2 and 3 bedroomed units which provides a good mix of property types overall for a scheme of this size.

7.25 Impact on Neighbouring Amenity

7.26 Residential development and purpose built student accommodation are located to the north of the application site. However, the nearest dwelling, No. 46 George is 22m from the side elevation of plot 1. 14.4m is retained between Jarratt Hall and the side elevation of plot 1. Taking into account the level of separation and the fact there are no habitable windows in the side elevation of plot 1 it is considered that the proposal would have no undue impact on the occupiers of existing properties.

7.27 The 6 dwellings have garden sizes that vary between 73sqm and 151sqm which exceed the minimum requirements of the Birmingham Design Guide SPD. 274sqm of communal garden is provided for the 4 maisonettes which comfortably exceeds the required figure of 5sqm per flat.

- 7.28 In summary, the scheme has no undue impact on nearby occupiers in accordance with Policy DM2 of the Development Management DPD and the Birmingham Design Guide SPD.
- 7.29 Quality of Accommodation Proposed
- 7.30 Policy DM2 of the Development Management DPD requires new residential development to meet the Nationally Described Space Standards to ensure that the accommodation is of sufficient space to provide a comfortable living environment for the intended occupiers. All of the proposed house types meet or exceed the relevant size standard for the overall habitable floor area. It is acknowledged that the 3rd bedroom on the 3 bed houses is 0.3sqm below the 7.5sqm standard for single rooms. It is considered that this minor shortfall would not materially impact on the quality of the living environment for occupiers.
- 7.31 There a number of noise generating sources surrounding the application site including the railway line, Aldi store, sub station, takeaway restaurant and skate park. The applicant has therefore undertaken a noise survey. This has been reviewed by Regulatory Services and they have raised concerns over noise arising from the skate park. The noise assessment indicates the use of mechanical ventilation in affected new properties, most notably the 4 maisonettes to ensure that an acceptable living environment is created. EPU guidance (PCGN1) does not support the closing of windows to mitigate noise other than noise without character, such as road traffic noise. It is important to that there is currently residential accommodation directly adjacent to the skate park, namely the flats above 639 and 641 Bristol Road and there is no record of noise complaints to Regulatory Services.
- 7.32 Regulatory Services have reached the conclusion skatepark is incompatible with the proposed housing as windows would have to shut to secure a satisfactory living environment and noise levels could be high when the occupiers of the nearest properties wish to use their garden. Officers also accept, that the close relationship with the skate park do not create an ideal living environment, although only the occupiers of the nearest maisonettes are most effected.
- 7.33 Considering all matters discussed, it is felt that on balance the scheme is acceptable from an amenity perspective and therefore accords with policy DM2 of the Development Management in Birmingham DPD.
- 7.34 Transportation
- 7.35 A single new access to the residential development is provided from George Road with a turning head provided at the end of the cul de sac. The Transportation Officer raises no objection to the location of the access. Transportation did raise some concerns over the detailed design of the access as the road would be adopted as public highway. However, following the submission of amended plans these issues have been overcome.
- 7.36 The Birmingham Parking SPD indicates that the site falls within Zone B where typically 1 car parking space is required for 1 and 2 bedroom properties and 1.5 spaces is provided for 3 bed properties. In addition a cycle storage space would need to be provided for each bedroom and an electric vehicle charging point (EVCP) would need to be installed into each parking space. 1 parking space is proposed for each property. This falls slightly short of the guidance but in relation to the proposed 3 bed dwellings but it is important remember that the figures are 'typical levels' rather than absolute parking targets. In light of this being a highly sustainable location with easy walking distance of regular bus services on the Bristol Road and Selly Oak

Station the level of parking is considered to be acceptable. Cycle parking is shown with the garden of each property and EVCP could be secured by condition.

7.37 Landscape, Trees and Ecology

7.38 There are 39 trees within the site, the majority of which are located on the western part of the site in close proximity to the canal and railway line. Of the 39 trees 2 are category A, 21 are category B, 14 are category C and 2 are category U. The scheme proposes the removal of 28 trees of which 1 is Category A, 17 are category B, 9 are category C and 1 are category U.

7.39 17 replacement trees are proposed on the site alongside a mix of shrubs and hedges. The Tree Officer accepts that this is the maximum of amount of replacement planting that could be reasonably be secured on this heavily constrained site but still results in a net loss of trees. This is not disputed by Officers.

7.40 A Preliminary Ecological Appraisal (PEA) of the site has been undertaken and the site assessed for protected or notable species and habitat features. The key natural habitats on site were amenity grassland, ruderal vegetation, scattered trees and a wooded section. The sites is located adjacent to Birmingham to Worcester Canal SLINC and the canal and railway line are also identified as wildlife corridors. The habitats on the western edge of the site are physically linked to the designated wildlife areas and consequently these habitats provide opportunity for nesting and foraging birds, the habitats and proximity of suitable bat roosting opportunities provide some forage value.

7.41 The site while limited in extent is well connected to the canal line, the PEA identified some mammal foraging but didn't determine if this was badgers or not. The Ecologist considers that badgers are likely to be using this site given the close proximity of known setts.

7.42 The proposal seeks to remove much of the parkland space and a significant number of trees. The remaining woodland habitat would still extend across the canal embankment but would be reduced in size. The Ecologist considers that the retained park space would have limited functionality being separated from the SLINC by the increased development.

7.43 The proposal does put forward a number of ecological enhancements such as artificial nest boxes, use of hedgehog gaps and planting of trees, shrubs and hedges. However, it is considered by the Ecologist that the cumulative impacts and restricted ability to effectively mitigate both the loss of habitat and the connectivity there would be an overall biodiversity loss.

7.44 It is considered that there is scope to deliver an overall biodiversity net gain through the delivery of enhancements in Selly Oak Park, which the Council's Ecologist is supportive of in principle. To achieve a 10% biodiversity net gain he considers that £132,000 is required to implement and maintain such enhancements, although it is important to highlight that the 10% net gain figure is not a policy requirement yet.

7.45 A contribution of this scale is completely unviable for an affordable housing provider. A figure of £30,000 has therefore been agreed with the applicant which is broadly similar to what has been agreed on other schemes in the City recently and will be secured through a S106. It is considered that this contribution would help ensure that there is no net loss of biodiversity in accordance with Policy TP8 of the BDP.

7.46 Sustainability

7.47 The application is accompanied by an Energy Statement and Sustainable Construction Statement in line with policies TP3 and TP4 of the BDP. The Energy statement recommends that, by adopting an electric only heating strategy and using Wonderwall technology combined with the use of photovoltaics, the proposal would achieve a 19% reduction in CO2 emissions. The Planning Policy Officer is therefore satisfied that the applicant has met the sustainability requirements of the BDP.

7.48 Planning Balance

7.49 Significant weight must be attached to the provision of 10 additional dwelling which would help boost supply and being affordable is the type of accommodation that is most needed in the City. It is acknowledged that the occupiers of plots 7-10 may have to accept a certain level of noise from the skate park when they utilise their garden or have windows open. However, in light of the housing supply shortfall and the demand for affordable housing it is not considered that harm identified would clearly outweigh the identified housing need.

7.50 Other issues

7.51 A number of representations have been made about the skate park which falls outside the application boundary. As part of this scheme there are no plans to alter or remove the skate park.

8 Conclusion

8.1 The proposed development would deliver much needed affordable housing and would have no undue impact on character or highways considerations. S106 payments would also ensure no net loss of biodiversity. In summary, the proposal would constitute a sustainable form of development that accords with the BDP, Development Management in Birmingham DPD and the NPPF.

9 Recommendation:

9.1 That the consideration of planning application 2022/00252/PA should be approved subject to the completion of a planning obligation agreement to secure the following:

a) A financial contribution £30,000 to deliver biodiversity enhancements within Selly Oak Park; and

b) Payment of a monitoring and administration fee associated with the legal agreement of £1,500.

9.2 In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 22nd September 2023 or such later date as may be authorised by officers under delegated powers the planning permission be refused for the following reason:

a) In the absence of any suitable legal agreement to secure the public realm enhancements the proposal would be contrary to policy TP33 of the Birmingham Development Plan and NPPF.

1 Requires the scheme to be in accordance with the listed approved plans

2 Implement within 3 years (Full)

3 Requires the submission and approval of external materials

-
- 4 Requires the prior submission of a contamination remediation scheme
 - 5 Requires the submission of a contaminated land verification report
 - 6 Requires the Implementation of recommendations within Planning Noise Report
 - 7 Energy and Sustainability in accordance with Energy statement
 - 8 Requires the prior submission of a sustainable drainage scheme
 - 9 Requires the submission prior to occupation of the properties of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan
 - 10 Arboricultural Method Statement - Submission Required
 - 11 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
 - 12 Requires the submission of hard and/or soft landscape details
 - 13 Requires the submission of hard surfacing materials
 - 14 Requires the submission of boundary treatment details
 - 15 Requires the submission of a landscape management plan
 - 16 Requires the submission of a lighting scheme
 - 17 Requires the prior submission of a construction method statement/management plan
 - 18 Requires the provision of cycle parking prior to occupation
 - 19 Requires pedestrian visibility splays to be provided
 - 20 Requires the provision of a vehicle charging point
 - 21 Ground Works & Foundation details & method statement
 - 22 Provision of 100% affordable scheme
 - 23 Implementation by applicant or other RSL only
 - 24 Submission of Method Statement and Risk Assessment
 - 25 Requires the submission and approval of building & site level details
 - 26 Submission of scaffolding works
-

Case Officer: Andrew Fulford

Photo(s)

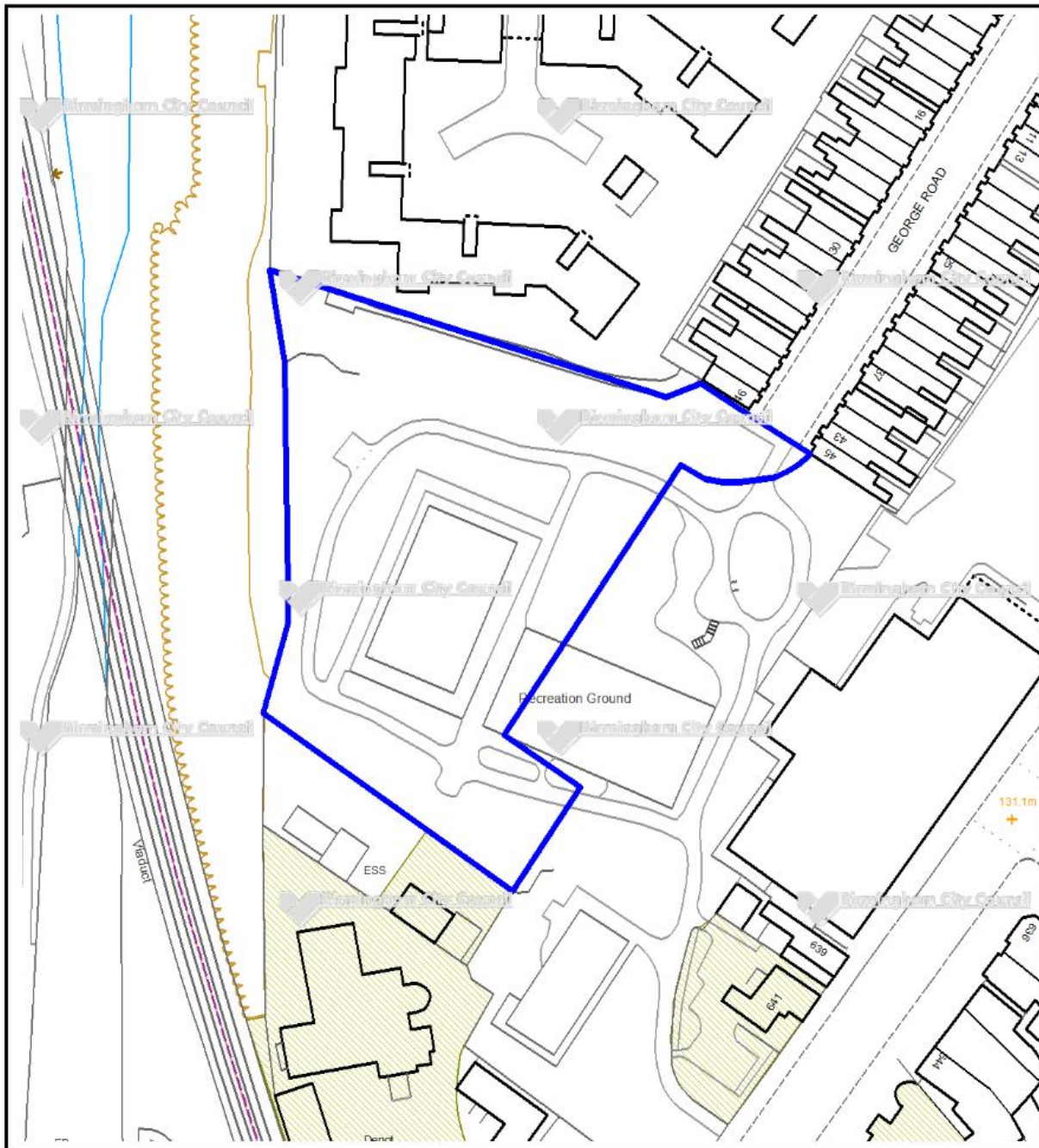


Photo 1: View north from within Recreation Ground towards basketball court



Photo 2: View from within Recreation Ground looking west towards the canal

Location Plan



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Committee Date:	17/08/2023	Application Number:	2023/03044/PA
Accepted:	10/05/2023	Application Type:	Full Planning
Target Date:	05/07/2023		
Ward:	Quinton		

Our Lady of Fatima RC Parish School, Winchfield Drive, Harborne, Birmingham, B17 8TR

Erection of 2400mm high paladin mesh with sections of timber slat infills boundary fencing, playground alterations including new steps and handrails, retaining walls and 1200mm high bow top railings.

Applicant:	The School Governors Our Lady of Fatima RC Parish School, Winchfield Drive, Harborne, Birmingham, B17 8TR
Agent:	Wood Goldstraw and Yorath LLP Churchill House, 47 Regent Road, Hanley, Stoke-on-Trent, ST1 3RH

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1 Planning permission is sought for the Erection of 2400mm high paladin mesh with sections of timber slat infills boundary fencing, playground alterations including new steps and handrails, retaining walls and 1200mm high bow top railings at Our Lady of Fatima RC Parish School, Harborne.



Image 1: Location Plan

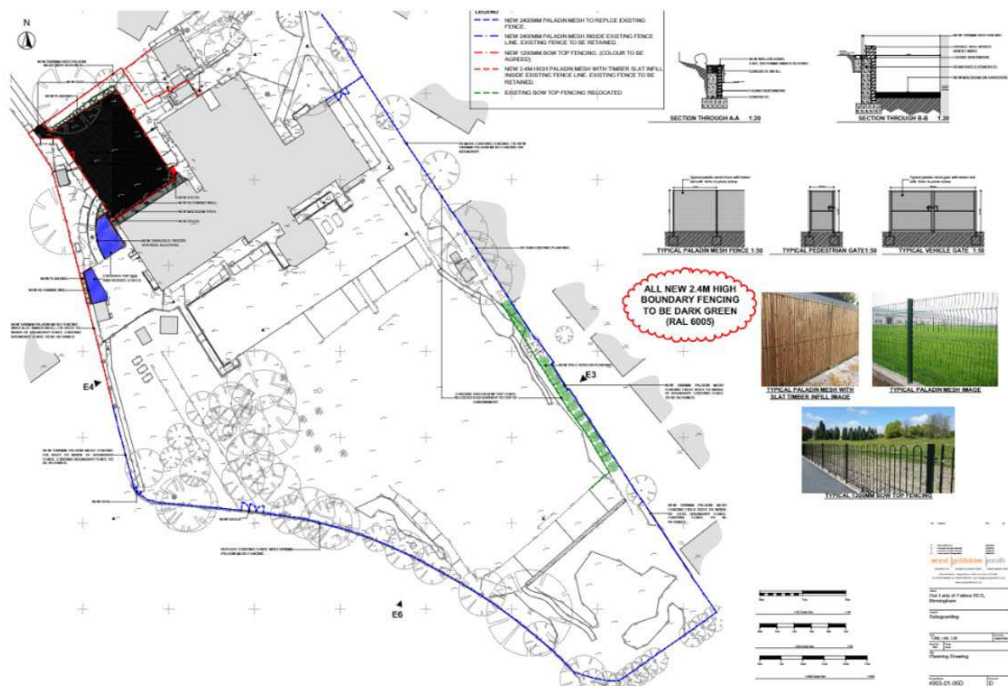


Image 2: Proposed Site Plan

- 1.2 A statement of requirement was submitted with the application which set out that the works were proposed to secure the schools boundaries and future proof the safety of the school for all for many years to come. Additional details in the form of a letter from the school were also provided by the applicant which stated that the Department for Education (DfE) set out the standard of school fences as 2.4m high. They also stated that *the perimeter fence in its current state poses as a safeguarding risk to our pupils and the DfE require all schools to ensure that pupils are safe and secure we must address these concerns.* The school set out that *in previous years we have had reports of people running across the school, outside of school hours, to neighbours houses, sheds and back gardens.* They noted that *the fencing along residential gardens is low and easy to vault adding that most wooden fencing around the perimeter is rotten, needs replacing and has holes in them.* The school set out that *they invited neighbours in to discuss their concerns and walk the site to try and agree on a compromise.* The letter submitted by the school concluded that *the planning consent to upgrade the fence to secure the site will enable the school to meet our statutory obligations and effectively safeguard and protect the local community in our care for the future.*
- 1.3 The school set out some of the issues they face on a daily basis including:
 - Holes in fences
 - Intruders on the school grounds
 - Risk of general public having conversations and passing things through the fences
 - On lookers having clear line of sight of the children
- 1.4 Amended plans were received which removed the sections of the timber slat infill along elevation 3 to the rear of Kenward Croft and Fakenham Croft, removed a section of the timber slat infill from elevation 4 leaving the timber slat infill only behind part of 31 and 33-43 Minley Avenue, removed the timber slat infill from elevation 6 along World Hill and Sir Richards Drive.

2. Site & Surroundings:

2.1. The application site relates to Our Lady of Fatima Catholic Primary School. The application site is situated in a predominantly residential area and is surrounded on all sides by residential properties. The existing vehicle entrance to the site is accessed off Winchfield Drive. There is a pedestrian access directly into the school site from Hagley Road West and further access to the rear from World Hill. There are a number of existing mature trees within the application site and along the boundary, particularly along the junction of World Hill and Sir Richards Drive. There is a small ground level change from between the hard surfaced playground and the school buildings, beyond the playground to the south are the school's playing fields.

2.2. There is an existing boundary treatment around the curtilage of the application site comprised of section of 1.8m high timber fencing and 1.6m high metal fencing painted green.

2.3. [Site Location Plan](#)

3. **Planning History:**

3.1. 1999/02105/PA- Winchfield Drive, Our Lady of Fatima RC School, Harborne, B17 8TR- Erection of 2.4m high paladin fencing and gates around perimeter of school- 11/05/1999- Decision 20/01/2000 REFUSE-

- The proposed development would adversely affect the amenities of occupiers of dwellings/premises in the vicinity by reason of height.
- The proposed development would adversely affect the amenities of occupiers of dwellings/premises in the vicinity by reason of appearance.
- The proposed development would be detrimental to the visual amenities of the area.
- The proposed development would be out of character with the area.

3.2. 2005/07181/PA- Winchfield Drive, Our Lady Of Fatima RC Parish School, Harborne, Birmingham, B17 8TR- Erection of 2.4m high security fence- 17/11/2005- Approve subject to conditions- 12/01/2006

4. **Consultation Responses:**

4.1. Transportation Development- No objection subject to the gates opening inwards

4.2. Tree Officer- No objection subject to a condition for the submission of an Arboricultural Method Statement

4.3. West Midlands Police- No objection

5. **Third Party Responses:**

5.1. Local councillors, neighbouring residents and Residents' Associations consulted, and a site notice displayed. A petition submitted by Councillor Sam Forsyth with 44 signatures and 20 letters of objection were received which raised the following concerns-

- Height of the fencing would impact on the amenity of neighbouring occupiers by loss of light and outlook. This would impact on the energy bills of residents and enjoyment of gardens/living spaces;

- Paladin mesh with timber slat infill fencing will adversely affect the visual amenity of the surrounding area as it would not be see through as the existing fencing. It would look industrial and not appropriate for the setting. Would appear as oppressive and would erode the openness of the street scene;
- Fencing would be a psychological and physical barrier between the school and adjoining neighbours;
- Residents unable to paint or treat the outer side of fencing in their gardens. Maintenance issues with the fencing;
- Other Primary Schools in Harborne do not have the same fencing;
- Would result in traffic problems at the school gate and encourage parking in areas that will become darker/less visible;
- Fencing would impact on larger wildlife whose routes have been within the school grounds, does not teach children to protect wildlife or support ecology;
- Would increase crime and fear of crime in the area, would not prevent existing anti-social behaviour occurring in the area;
- Would be a waste of money, schools funds should be better spent, use of the word 'safeguarding' is disingenuous;
- Existing gates not being used in accordance with previously approved plans as they are not just being used for emergency purposes;
- Litter and debris will accrue behind the fencing and be a fire of health hazard;
- The same application was rejected in 1999 and nothing has changed;
- Alternative solutions should be considered such as installation of CCTV;
- If fencing does go ahead, the school/council should take into consideration the introduction of residents only parking for times of the fay where there are no school drop offs/pick ups;
- De-value houses in the surrounding area

6. **Relevant National & Local Policy Context:**

a. **National Planning Policy Framework:**

- Chapter 2- Achieving Sustainable Development
- Chapter 8- Promoting Healthy and Safe Communities
- Chapter 12- Achieving Well Designed Places

b. **Birmingham Development Plan 2017:**

- PG3- Place Making
- TP36- Schools

c. **Development Management DPD:**

- DM2-Amenity
- DM4- Landscaping and Trees
- DM14- Highway Safety and Access

d. **Supplementary Planning Documents & Guidance:**

- Birmingham Parking SPD 2021
- Birmingham Design Guide SPD 2022

7. **Planning Considerations:**

- 7.1. This application has been assessed against the objectives of the policies as outlined above. The key consideration in the determination of this application is the impact of the proposal on visual amenity, residential amenity and highway safety.
- 7.2. The National Planning Policy Framework (2021) seeks a presumption in favour of sustainable development. Good design is a key aspect of sustainable development; it creates better places in which to live and work (Paragraph 126). Planning decisions should add to the overall quality of an area; be visually attractive; be sympathetic to local character; maintain a strong sense of place; accommodate an appropriate mix of development and create places that are safe, inclusive and accessible (Paragraph 130).
- 7.3. 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 local distinctiveness, with design that responds to site conditions and the local area context, including heritage assets and appropriate use of innovation in design.

Principle of Development

- 7.4. The information provided with the application sets out that sections of the existing timber slat boundary fence and internal low level timber fencing are in a poor state of disrepair. In addition, the Supporting Statement sets out that the proposed increase in height to 2.4m would future proof the safety of the school. I consider that the principle of the replacement of the existing boundary treatment around the perimeter of the application site could be acceptable. In addition, the proposed playground alterations would improve the outside provision at the site making a safer space.
- 7.5. It is noted that a similar scheme was refused in 2000 for the '*Erection of 2.4m high paladin fencing and gates around perimeter of school*' at the application site based on the impact that the proposed development would have on visual and residential amenity. A further application in 2005 for the '*Erection of 2.4m high security fence*' along World Hill and Sir Richards Drive was approved. An assessment of the current application in line with current policy is set out below.

Visual Amenity

- 7.6. The proposed development as amended would have an acceptable impact on the visual amenity of the surrounding area. Although the proposed boundary treatment would be of a substantial height at 2.4m, the paladin mesh fencing, as shown in Image 2 below, that would be used on sections adjacent to the public realm would be of a relatively open appearance, maintaining the views onto the school site from the public realm.



**TYPICAL PALADIN MESH WITH
SLAT TIMBER INFILL IMAGE**



TYPICAL PALADIN MESH IMAGE



TYPICAL 1200MM BOW TOP FENCING

Image 3: Example elevations of proposed fencing types

- 7.7. Concerns were raised through the public participation responses that the proposed paladin mesh fencing would appear as 'industrial' and out of context for a school setting within a residential area. However, I consider that paladin fencing is regularly used for school boundaries and given that it would be open in appearance, retaining the views in and out of the school grounds from the public realm, I do not consider that there would be any detrimental impact on the visual amenity of the application site or the surrounding street scene. It is also noted that the green colour would be similar in appearance to the green metal fencing currently in place around a section of the schools existing boundary treatment along World Hill and Sir Richards Drive. I do not consider that the height increase from 1.6m to 2.4m would result in any detrimental impact on the visual amenity of the street scene and the views in and out of the site would be maintained.

Residential Amenity

- 7.8. The proposed fencing would not have a harmful impact on the residential amenity of any nearby occupiers. A number of concerns were raised through the public participation responses that the proposed perimeter boundary treatment, by way of its height and design, would have a detrimental impact on the amenity of occupiers who adjoin the site by way of loss of light and outlook. Whilst I acknowledge that the proposed fencing would increase the height of the boundary treatment around the perimeter from 1.6m and 1.8m to 2.4m, I do not consider that this increase in height would result in any detrimental impact on residential amenity.
- 7.9. The section of fencing proposed adjacent to the rear of the properties along Kenward Croft and the apartment blocks on Winchfield Drive would be paladin mesh, therefore retaining the view onto the school site above the existing boundary fencing which would be retained where it is existing. The section of fencing along the western boundary which would adjoin the rear curtilage of 43-33 Minley Avenue and a section

of the rear curtilage of No.31 Minley Avenue would have timber infill slats behind the paladin mesh fencing at a height of 2.4m. This would replace the existing 1.8m high timber slat fencing which is currently in a state of disrepair. Although the proposed timber slat infill behind the paladin mesh would not allow any visibility through the boundary treatment, given the existing 1.8m high fencing and the presence of mature trees along the majority of the boundary, I do not consider that the fencing as proposed, by way of its height and design would result in any detrimental impact on the amenity of the occupiers of the properties along Minley Avenue. Between 43-33 Minley Avenue there would be separation distances ranging between 11.2-19.2m from the rear elevation of the properties to the boundary treatment. Given the separation distances achieved from the ground floor level to the proposed fencing and the existing boundary treatment and trees, I do not consider that the proposal would have a significantly detrimental impact on the amenity of the occupiers of properties along Minley Avenue. It is noted that a 2m high solid fence could be constructed under permitted development in the same location without the need for planning permission from the LPA. Given that the proposal would only be 0.4m higher than a structure that could be built under permitted development, I do not consider that it would be reasonable to recommend refusal on the grounds of the height of the proposed boundary treatment.

Highways Safety and Parking

- 7.10. The Transportation Officer raised no objection to the proposed development subject to the gates opening inwards. I consider it reasonable and necessary to attach a condition for the gates to open inwards to ensure that they do not open over the public highway.
- 7.11. The proposed development would not be harmful to the functioning of the local highway network. It would not compromise any public highways or rights of way, nor encroach upon visibility splays or parking.

Trees and Ecology

- 7.12. The Tree Officer raised some concerns over proposed subterranean footings of the paladin fence which suggests that excavation for a concrete block to stabilise the posts would be required. The Tree Officer stated that the method of fixing the proposed fencing could be damaging if a tree were to have more than one of the concrete blocks installed around and through its roots. The method of trenching and footing for a small supporting wall to form the base of paladin fencing could also result in damage to tree roots. To ensure that the proposed fencing would not have any detrimental impact on the existing trees along the site boundary, the Tree Officer requested that a condition be attached for the submission of an Arboricultural Method Statement (AMS) prior to works commencing on the boundary treatment. I concur with the views of the Tree Officer and consider that the submission of an AMS would be reasonable and necessary to ensure that the roots of the mature trees along the site boundary are not damaged by the proposed development. As this is a pre-commencement condition, the agent has been made aware and agreed to the condition being attached to the decision.
- 7.13. I note that a number of concerns were raised over the ecological impact of the proposed development. As the boundary treatment would replace or sit tightly behind the existing boundary treatment, I do not consider there would be any detrimental ecological impact as a result of the proposed development.

Other Issues

- 7.14. A number of concerns were raised through the public participation responses that the proposed development would result in increased crime rates by creating 'alleyways' and that it would not reduce or deter the crime that already takes place within the locality. West Midlands Police raised no objection to the proposed development. I consider that the amended plans which retain the openness of the existing fencing along Worlds Hill would ensure that the public realm remains open in character, reducing any fear of crime associated with using the area.
- 7.15. Concerns were raised through the public participation responses that the proposed development would de-value surrounding houses, as this is not a material planning concern, it has not been taken into account as part of the assessment of the application. Concerns were also raised over maintenance of the boundary treatment once it has been erected, as this would be a civil matter, it has not been taken into account as part of the assessment.

8. **Conclusion**

- 8.1. The proposal complies with the objectives of the policies outlined above and would not cause harm to the visual amenity of the surrounding area or the residential amenity of occupiers of the existing properties by way of loss of light or outlook. I therefore recommended approval subject to conditions.

9. **Recommendation:**

Approve subject to conditions

-
- | | |
|---|--|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Implement within 3 years (Full) |
| 3 | Arboricultural Method Statement - Submission Required |
| 4 | Inward opening gates |
-

Case Officer: Megan Stewart

Photo(s)



Photo 1: View from World Hill into the school grounds

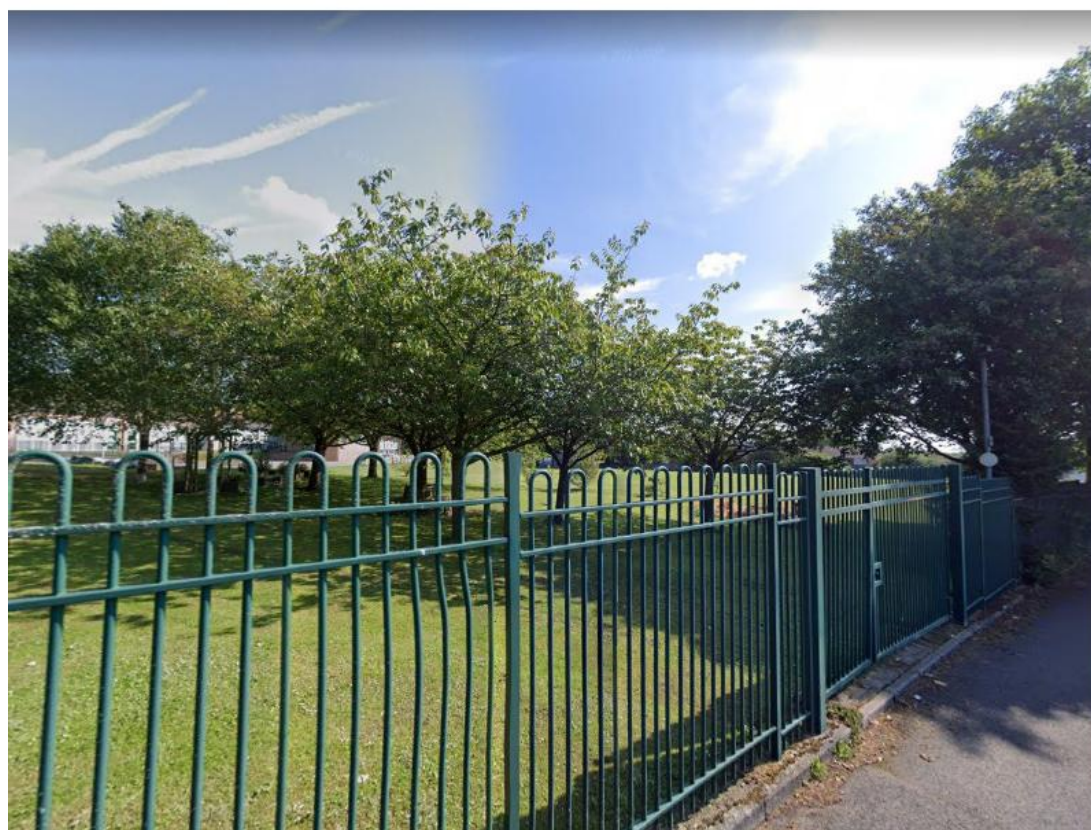


Photo 2: View of existing gates on World Hill



Photo 3: View from inside the school grounds onto Sir Richards Drive



Photo 4: View onto Winchfield drive from inside the school site



Photo 5: View onto rear of Minley Avenue from inside school site

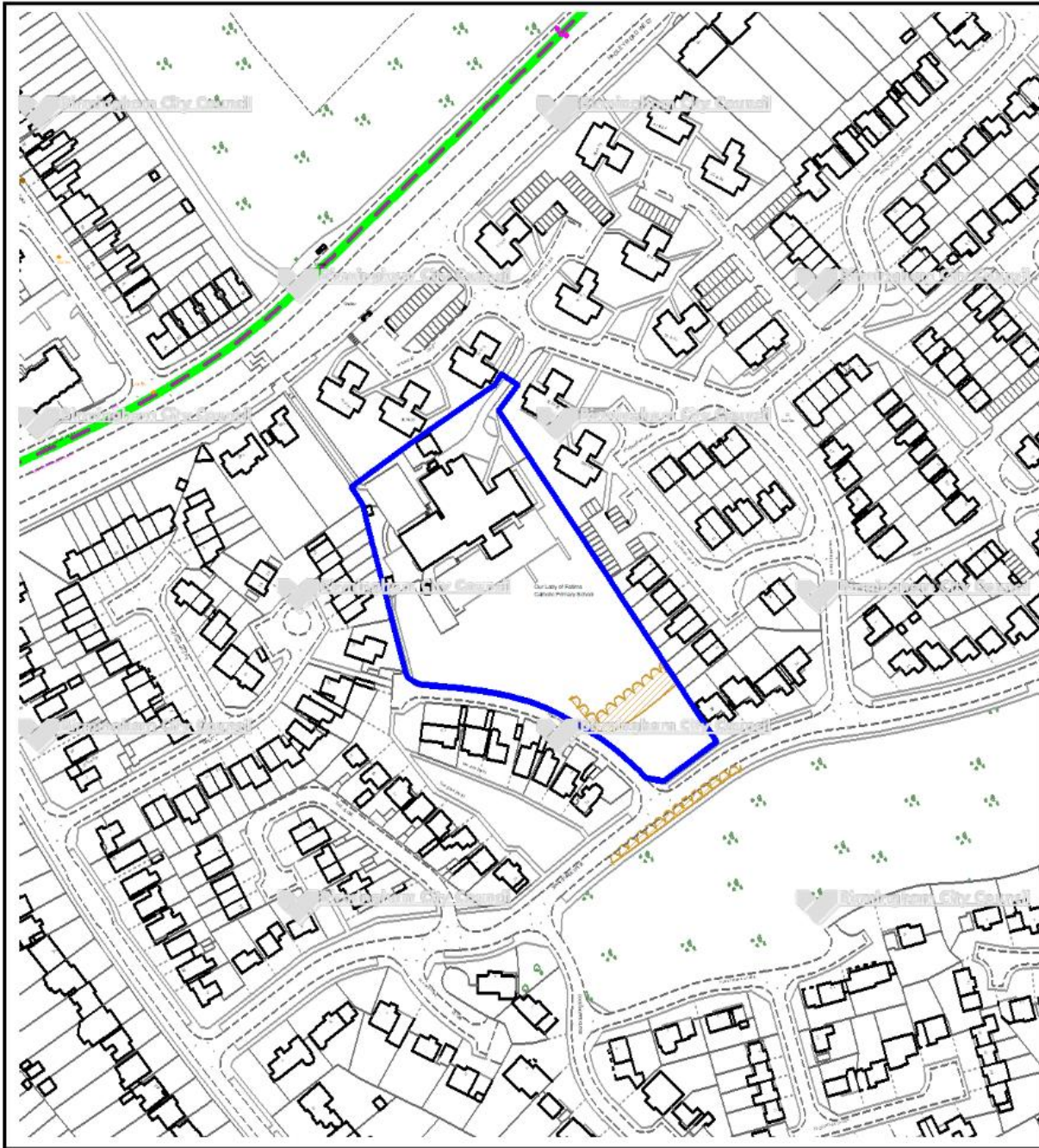


Photo 6: View of internal fencing to hard surfaced play area



Photo 7: View of play area looking onto the rear of Minley Avenue

Location Plan



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Birmingham City Council

Planning Committee

17 August 2023

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	10	2021/08880/PA 30-33 Sherborne Street Ladywood Birmingham B16 8DE Construction of a part five and part six storey building to provide 33 apartments
Approve – Subject to 106 Legal Agreement	11	2021/05811/PA Land bounded by Bradford Street, Moseley Street, Barford Street and Rea Street Digbeth Birmingham Demolition of existing buildings, erection of buildings of 7-23 storeys comprising 711 apartments (317 x 1 bed & 394 x 2 beds) and 2,099sqm commercial space (Use Class E), with new public and private amenity areas
Approve – Conditions	12	2023/01979/PA Birmingham Childrens Hospital Steelhouse Lane Birmingham B4 6NH Construction of Emergency Department Entrance, MRI suite and operating theatres and energy centre at Loveday Street and demolition of existing hospital entrance, creation of a new glazed entrance to Steelhouse Lane. Replacement of windows and creation of 6no. ground source heat pump boreholes

Birmingham Childrens Hospital
Steelhouse Lane
Birmingham
B4 6NH

Listed Building Consent for Construction of
Emergency Department Entrance, MRI suite and
operating theatres and energy centre at Loveday
Street and demolition of existing hospital entrance,
creation of a new glazed entrance to Steelhouse
Lane. Replacement of windows and creation of
6no. ground source heat pump boreholes

Committee Date:	17/08/2023	Application Number:	2021/08880/PA
Accepted:	15/10/2021	Application Type:	Full Planning
Target Date:	18/08/2023		
Ward:	Ladywood		

30-33 Sherborne Street, Ladywood, Birmingham, B16 8DE,

Construction of a part five and part six storey building to provide 33 apartments.

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

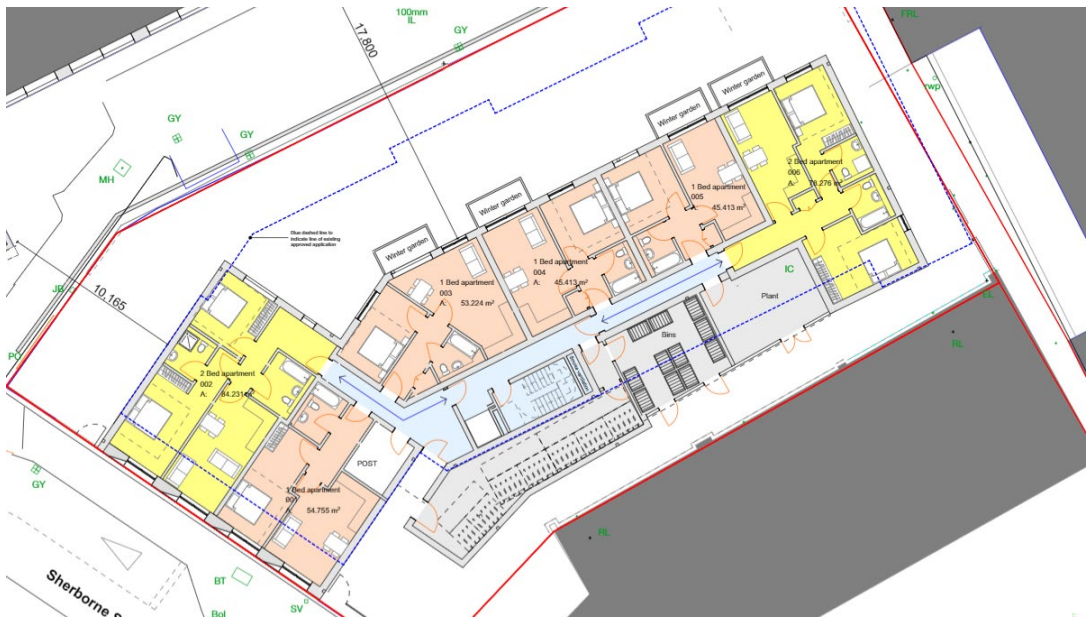
- 1.1 Full planning consent is sought for a part five and part six storey apartment block to provide 33 self-contained residential units. This application is a resubmission of a 2015 scheme that secured planning permission for a part four and five storey block to provide 28 residential units with basement car parking. This scheme however is different to that scheme by means of design, layout and number of residential units.



Image 1: CGI of the proposed scheme.

- 1.2 Originally this scheme included a basement car park (as the 2015 did) however in line with the 2021 Parking SPD it was asked that this be removed from the scheme. Additional officer concerns with regards to design quality, proximity to neighbouring residential units and the impact on amenity led to the scheme undergoing further revisions .

- 1.3 The proposed building is now a 5-storey building with a 6th storey step back to reduce the impact on neighbouring amenity. The following drawing identifies ground floor pedestrian access, proposed cycle store, plant and refuse area.



- 1.4 With regards to mix the application proposes a mix of:
21 x 1 Bedroom (2 Persons) and 12 x 2 Bedroom (4 persons) units. All residential units conform to National Development Space Standards (NDSS).

Table 1: Proposed Development | Summary Accommodation Schedule

Apartment Type	Unit Qty	Average NIA (ft²)	Total NIA (ft²)
1-Bed	21	552	11,591
2-Bed	12	888	10,655
Total/ Average:	33	674	22,246

- 1.5 Supporting information comprises: Amended Design and Access Statement, Amended Heritage Statement, Amended Transport Plan, Amended Travel Plan, Amended Sustainability and Energy Report, Amended Noise Assessment, Amended Phase 1 Geo-environmental Report, Amended SUDS Assessment, Updated Financial Viability Report, Additional Landscape Scheme, Amended Daylight and Sunlight Report and addendum, Ecological Appraisal.
- 1.6 The submitted financial appraisal has been independently assessed and demonstrates that the proposed development cannot viably accommodate provision for policy compliant affordable housing or any other section 106 planning obligation. However, the scheme can support the following without prejudicing the deliverability of the proposed scheme:

2 No. x 1 bed First Homes or Discount Market Sale @ 20% discount
1 No. x 2 bed First Homes or Discount Market Sale @ 20% discount

Total 3 units representing 9% affordable provision. However, the affordability of these units must be taken into consideration, which is considered later in the report.

- 1.7 This represents an equivalent monetary sum of in lieu of on-site delivery of approximately £178,500.

1.8 [Link to Documents](#)

2. Site & Surroundings

- 2.1 The site is a broadly rectangular shaped cleared site located west of the Birmingham Canal Old Line, east of Sherborne Street, north of Sherborne Gate and south of Morville Street.
- 2.2 The application site measures 0.3 acres and is generally level with a minor slope towards the north-east. The site is presently used as a temporary construction compound for storing building materials and facilities including portable units used as changing rooms and canteens.
- 2.3 A five-storey residential development lies to the northwest and other residential developments lie on the opposite side of Sherborne Street reaching six and seven storeys in height. A part single and part two storey residential property lies at 1 Sherborne Gate to the southeast of the site.

2.4 [Site Location](#)

3. Planning History

- 3.1. 05/05/2016 - Construction of part four and part five storey building to provide 21 apartments, means of access and associated car parking - 2015/08644/PA- approved subject to conditions.
- 3.2. 28/03/2011 - Outline planning application for the erection of 7, three storey dwellings in two terraced groups with ancillary parking and access - 2011/00640/PA - approved subject to conditions.
- 3.3. 07/03/2008 – Reserved matters pursuant to application C/03350/OUT for siting, design, external appearance and means of access for the erection of 21 unit residential scheme of apartments with associated car parking - 2007/04640/PA – approved subject to conditions.
- 3.4. 22/12/2006 – Reserved matters application for design, in connection with previous outline approval for 24-unit residential scheme, granted under application C/3550/02/OUT and renewed under C/02484/05/FUL – 2006/05884/PA – Refused for the reason below.

- 1 The proposed development by virtue of the siting, height and design of the building would cause an unacceptable overbearing impact and overshadowing of neighbouring properties particularly those at Sherborne Mill (Jupiter 1) and 1 Sherborne Gate. It would also result in a loss of light and sunlight detrimental to the amenities the occupiers of these properties could reasonably expect to enjoy. Therefore the proposal is considered contrary to the guidance contained Policies 3.14 and 5.20 of the Birmingham Unitary Development Plan 2005 and Supplementary Planning Guidance 'Places for All' (2001) and 'Places for Living' (2001).

Date: 21st December 2006

- 3.5. 27/06/2003 – Outline planning application for residential development (all matters reserved) – 2002/03550/PA – approve subject to conditions.

4. Consultation/PP Responses

- 4.1. Archaeology – no objections and no conditions recommended.
- 4.2. Affordable Housing Team – seeks an increased sales discount for the affordable unit/s.
- 4.3. City Design – no objections subject to material, architectural detailing and site levels conditions.
- 4.4. Canal & River Trust – by condition considers a Landscape and Ecological Management Plan should be submitted as well as a Phase II Investigation covering an assessment of any pollutant linkages which may be found from the site to the canal and the request for an informative
- 4.5. Conservation – acceptable, no conditions recommended.
- 4.6. Ecology - acceptable subject to the following conditions: scheme for ecological/biodiversity/enhancement measures. Bird/bat boxes, implementation of acceptable mitigation/enhancement and biodiversity roof condition
- 4.7. Education School Places – no comments received.
- 4.8. Employment Access Team – have no comments to make
- 4.9. Health and Safety Executive – no objections
- 4.10. Historic England – no comments
- 4.11. Leisure Services – confirm the public open space (POS) contribution would total POS and off-site play area contribution of £114,365 (based on 54 people). Leisure services were re-notified for a revised calculation however no further response received.
- 4.12. Local Leading Flood Authority – no objections subject to conditions and informatives.
- 4.13. Natural England – has no comments to make.
- 4.14. Planning and Strategic Growth – no objections subject to conditions that the development be in accordance with the sustainability and energy report.

- 4.15. Regulatory Services - no objections subject to conditions around noise insulation, noise levels for plant and machinery, contamination remediation scheme and contaminated land verification report.
- 4.16. Severn Trent Water- no objections subject to foul and surface water details to be submitted prior to occupation.
- 4.17. Transportation Development – no objections subject to a S278 highways agreement and conditions relative to secure cycle parking prior to occupation and construction management plan to be submitted before any works start.
- 4.18. West Midlands Fire Service – makes several designs recommendations.
- 4.19. West Midlands Police – requests CCTV and video-controlled entry system conditions

5. Policy Context

- 5.1 The application has been publicised by newspaper advert, site notice and neighbour letters.
- 5.2 27 sets of representations have been received making the following comments, a number of objectors have written in more than once:

- Loss of light and overshadowing to existing apartments/effect on mental health
- Additional traffic/congestion and parking problems
- Too many apartments
- No green/areas of open space as originally planned
- Loss of privacy for residents (particularly the balconies)
- Construction noise from existing building work and future building
- Application site should be used as open public space
- Development will severely impact on neighbouring resident's standard of living
- Apartments do not cater for locals
- Will add to further apartments being used for rent/late night parties
- Unable to view the plans in detail
- Unsure of distances between the proposed and their property
- Site is unsuitable for large scale development
- Impact on canal and local wildlife
- Noise concern from continuous development opposite the site
- Severe overlooking at 14m from Jupiter 1
- Right of access

6. Planning Considerations

- 6.1. National Planning Policy Framework (if relevant)
Section 2: Sustainable Development
Section 8: Promoting healthy and safe communities
Section 9: Promoting sustainable transport
Section 12: Achieving well-designed places
Section 14: Meeting the challenge of climate change, flooding and coastal change
Section 15: Conserving and enhancing the natural environment
Section 16: Conserving and enhancing the historic environment
- 6.2. Birmingham Development Plan 2017: (if relevant)

The application site falls within the City Centre Growth Area where Policy GA1 of the BDP promotes the City Centre as the focus for office, residential and commercial activity. As defined by Policy GA1.3, the application site falls inside the Westside and Ladywood Quarter where the objective is to create a vibrant mixed-use area combining the visitor, cultural, commercial and residential offer into a dynamic well-connected area.

PG1 Overall levels of growth
PG3 Place making
TP1 Reducing the City's carbon footprint
TP2 Adapting to climate change
TP3 Sustainable construction
TP4 Low and zero carbon energy generation
TP6 Management of flood risk and water resources
TP7 Green infrastructure network
TP8 Biodiversity and Geodiversity
TP9 Open space, playing fields and allotments
TP12 Historic environment
TP26 Local employment
TP27 Sustainable neighbourhoods
TP28 The location of new housing
TP29 The housing trajectory
TP30 The type, size and density of new housing
TP37 Heath
TP38 A sustainable transport network
TP39 Walking
TP40 Cycling
TP44 Traffic and congestion management
TP45 Accessibility standards for new development
TP46 Digital communications

6.3. Development Management DPD: (if relevant)

DM1 Air quality
DM2 Amenity
DM3 Land affected by contamination, instability, and hazardous substances
DM4 Landscaping and trees
DM5 Light pollution
DM6 Noise and vibration
DM10 Standards for residential development
DM14 Transport access and safety
DM15 Parking and servicing

6.4. Supplementary Planning Documents & Guidance:

Birmingham Parking SPD (2021)
Public Open Space in New Residential Development SPD (2007)
Affordable Housing SPG (2001)
Birmingham Design Guide SPD 2022
Sherborne Street Development Brief SPG (2000)

7. Conclusion

The main material considerations are principle of development, affordable housing mix, impact on the highway, design, impact on residential amenity, sustainability,

noise, drainage and biodiversity.

- 7.1 The application site falls within the City Centre Growth Area where Policy GA1 of the BDP promotes the City Centre as the focus for office, residential and commercial activity. As defined by Policy GA1.3, the application site falls inside the Westside and Ladywood Quarter where the objective is to create a vibrant mixed-use area combining the visitor, cultural, commercial and residential offer into a dynamic well-connected area. The Sherborne Street Development Brief SPG remains extant and endorses the principle of further residential development, particularly adjacent the canal. Furthermore, in 2016 (2015/08644/PA) planning permission was granted for residential apartments at this site, therefore, the principal for residential development is supported.
- 7.2 The application proposes 33 units, whereby 64% (21) are 1 bed (2persons) and 36% (12) are 2 beds dwellings. Whilst the LPA needs new housing, the proposed mix fails to provide a more varied supply of homes as suggested in the April 2022 Housing and Economic Needs Assessment (HEDNA) and is weighted towards smaller units, for which the City has the lowest need.
- 7.3 That said it is worthy to note that for the most part, design discussions and revisions were had during in April/May 2022 and by reason of timing and the publication date of the HEDNA data (April 2022) vs amended plans being agreed (early May 2022), it was then at that point in time considered unreasonable to request further changes.
- 7.4 The Council's independent financial viability advisor was updated and accepted the schemes viability on the basis of the recently revised scheme. Furthermore, the applicant stated a scheme containing larger units would render the scheme completely unviable as well as result in fewer homes and subsequently a reduced affordable housing contribution offer. It was suggested a more varied mix could be provided via the scale of development being increased, however given the size of the site and the proximity to immediate neighbours an increase in scale would be out of character and potentially harm local amenity therefore this option is both unrealistic and unviable.
- 7.5 As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking. NPPF paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development.
- 7.6 For decision taking, paragraph 11 d) states that where the policies which are the most important for determining the planning application are considered out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Footnote 8 of the NPPF confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 7.7 Whilst the proposed mix does not wholly adhere to the aims of policy TP25, the scheme fully accords with DMB Policy DM10; all units meet the Nationally Described Space Standards (NDSS) and the size and density are acceptable, thereby the weight attributed to the lack of a 5-year housing land supply (5YHLS) outweighs the weight afforded to the TP25 conflict. The proposal is sustainably located whereby the

limited harm by means of unit sizes would not be outweighed by the economic, environmental, and social benefits the development could deliver.

Affordable Housing

- 7.8 Policy TP31 requires housing developments of 15 dwellings or more to provide 35% of dwellings as Affordable Housing. A Viability Assessment has been submitted and assessed by an Independent financial advisor who confirms the scheme can support the following:

- 2 No. x 1 bed First Homes or Discount Market Sale @ 20% discount
- 1 No. x 2 bed First Homes or Discount Market Sale @ 20% discount

Total 3 units representing 9% affordable provision.

- 7.9 However, in consultation with the BCC Affordable Housing Team it has been recommended to maximise the discount to provide housing that is genuinely affordable for people who live in the area. Due to the level of deprivation Ladywood is one of the affordable housing teams target regeneration areas whereby a 50% market discount would be a better outcome for prospective purchasers. Please see the table below.

Table 1 – Discounts on sale costs

Unit Type	Sale cost	20% discount sale cost	50% discount sale cost
1 X 2 bed unit	£352,506	£282,004	£176,253

- 7.10 It has been agreed thereby that the scheme can support an affordable unit of 1 No. x 2 bed First Home (on site) at a discount on market value of 50%. This offer has been discussed with the independent financial advisor and agreed with the planning agent.

Impact on highway

- 7.11 The site lies within a highly accessible location and is in walking distance of the city core. There are numerous public transport options/stops within a short walk as well as local services and facilities to serve day to day needs.
- 7.12 No car parking is proposed. The scheme provides 100% cycle parking which is SPD compliant. BCCs Transport Officer supports the application and confirms no objections subject to conditions and a S278 highways agreement. The transport details presented are acceptable and accord with Policies TP38, TP39, TP40 and TP44 of the BDP and Policies DM14 and DM15 of the DMB.

Design

- 7.13 With regards to design the scheme has undergone several revisions.
- 7.14 The principle of the development, its scale, form, and massing have generally been supported. However, by reason of the harm to neighbouring properties the form and position of the building has now been revised back to be generally in accordance with the original approved scheme (ref: 2015/08644/PA) albeit with an additional floor throughout.
- 7.15 The Sherborne Street Development Brief SPG states that development should demonstrate a sensitive relationship to scale to the surrounding housing area and should define the street, be built up to the back of the pavement, create a strong

sense of presence, respect the surrounding areas in terms of scale, character and design and be appropriate height generally indicated as 3-4 storeys across the wider brief area.

- 7.16 Since the SPG was adopted however much of the area surrounding the site has been redeveloped with apartments ranging in height from four to seven storeys, therefore exceeding the heights recommended in the SPG. The surrounding site comprises of buildings of a similar storey height therefore the proposed reflects existing scale and character, with the exception of the neighbouring part 1, part 2 storey building.
- 7.17 The scheme is generally linear in form with a slight angle to align it with the street frontage. The front block is five-storeys, and the rear wing is six-storeys. Whilst this is not typical of building hierarchy that one would expect, in this scenario it allows the scheme to morph with the existing and emerging townscape within the street scape.
- 7.18 The five-storey front range would front onto other five-storey structures on the opposite side of the street and the six-storey range would back onto taller structures fronting the canal. The scale is therefore justified and accepted.
- 7.19 The architectural design of the building is simple and typical of many proposals submitted across the City and uses a standard orange/red brick reflective of this area. The scheme uses a minimal palette of materials drawn from the immediate context - which is largely brickwork with a number of details to add interest including deep chamfered reveals to windows, deep recesses, contrast between vertical and horizontal brick bonding. The simplicity gives the development a distinguished and contemporary appearance. It is proposed that ground floor brick work would have a vertical emphasis, whilst the upper levels would be traditional horizontal brick work. The proposed brickwork is a red brick, typical of Birmingham buildings.
- 7.20 The quality of the façade has been revisited and the deep reveals (removed under the last iteration of drawings) has been reinstated, however, flashing and other details require further design development.
- 7.21 The landscaping is sat behind metal fencing and would need conditioning to avoid poor-quality design. The hard and soft landscaping to the rear/flanks is basic and can also be secured and managed through condition.
- Amenity of future occupiers
- 7.22 Private residential outdoor amenity space that amounts to 446sqm is being provided at ground floor level as per image 3 below. A total of 20 balconies and 4 winter gardens (at ground level) are proposed to the rear each measuring 4.4sqm. At the fifth floor one unit is served by a private terrace measuring 8.25sq.m. Biodiversity roofs are being proposed at fourth floor and roof levels as per image below.



Image 3: Ground floor residential shared outdoor amenity space



Image 4: Fifth floor plan showing private terrace and green roofs.



Image 6: Layout and site surroundings plan

- 7.26 With regards to design changes and in comparison, to the 2015 approval (2015/08644/PA) the scheme proposes to be taller in height. It varies with regards to abutting the back of the footway, featuring an additional storey together with the inclusion of winter gardens at ground floor and balconies along the northern elevation.



Image 7: Location plan and surrounding residential properties.

- 7.27 In terms of separation distances between elevations, 10.1 and 17.8m would remain between the proposed and Jupiter 1 (to the north), between 13.2m from Jupiter 4 and between 10.4m and 13m from One Sherborne Gate to the south. Approximately 2.4m would separate the scheme from the existing domestic curtilage at single storey height. At 13m the site becomes 2 storeys plus.

- 7.28 Letters of objection refer to previous schemes that were refused and approved therefore the table below has been put together to show how these schemes compare against one another in terms of separation distance (bearing in mind the additional height).

Table 2: Planning application comparison

Site from property	Separation Distance (2015 approval)	Separation Distance (2006 refusal)	separation Distance 2007 (approval)	Separation Distance (current app)
Jupiter 1/34 Sherborne Street/Mill	10.1 - 17.8m	21m	17.5m	10.1 - 17.8m
Jupiter 4/51 Sherborne Street	15.7m	13.2m	15.7m	13.2m
One Sherborne Gate	5.5m to existing site boundary 11m - 14m between elevations	4.3m from existing site boundary and proposed development 8.7m from existing windows proposed windows (3 storeys)	7m between boundary and proposed 12.6m wall to wall (obscure glazed)	2.4m to existing site boundary and proposed development (at ground floor) 10.4m - 13m from existing property to proposed obscure windows (at storeys) 11.4m from small bedroom window to proposed flank wall
Sherborne Wharf (to the east)	3m	5.4m	n/a	8.1m

- 7.29 Objections regarding the 14m separation distance between the proposed and Jupiter 1 were taken on board and the scheme revised to retain a 17.8m standoff – as the 2015 approval did. The scheme is set 2.5m closer to Jupiter 4 (to the west) and is closer to the boundary to One Sherborne Gate. Nevertheless, it allows for a separation distance of 13m between dual aspect habitable windows and obscured glazed corridor windows at the proposed scheme. Although the 17.8m does not adhere to the numerical standards in the Design Guide SPD, and the building is taller the distance and scale is unlikely to adversely harm levels of outlook, light, privacy or result in an unacceptable standard of living.



Image 8: View of the proposed, southwards from Jupiter 1 - red line indicates previous 2015 approved scheme.

Jupiter 4/51 Sherborne Street

- 7.30 The proposed scheme would face onto this residential property leaving around 13m (at its closest) separation across the street. Although the proposed is closer to the development (than what was approved in 2015), the 2.5m setback is considered a design improvement that matches other schemes along this street and does not result in any adverse impacts on neighbouring amenity.



Image 9: View from the west/ Jupiter 4 onto the front elevation

One Sherborne Gate/Street

- 7.31 Existing habitable rooms are to lie opposite a proposed flank wall and a set of obscurely glazed corridor windows; therefore, One Sherborne Gate would not experience any loss of privacy. The scheme would sit at its closest 2.4m away from the site boundary where a north facing garden sits – see image 9 below. However, by means of its position and existing boundary fencing, overlooking would be somewhat unlikely to achieve. As can be seen below no habitable windows would look opposite and onto One Sherborne Gate except for the obscurely glazed corridor windows. Therefore, the relationship is considered acceptable.



Image 10: View of proposed southern elevation from One Sherbourne Gate – blue dashed line reflects 2015 approved scheme.

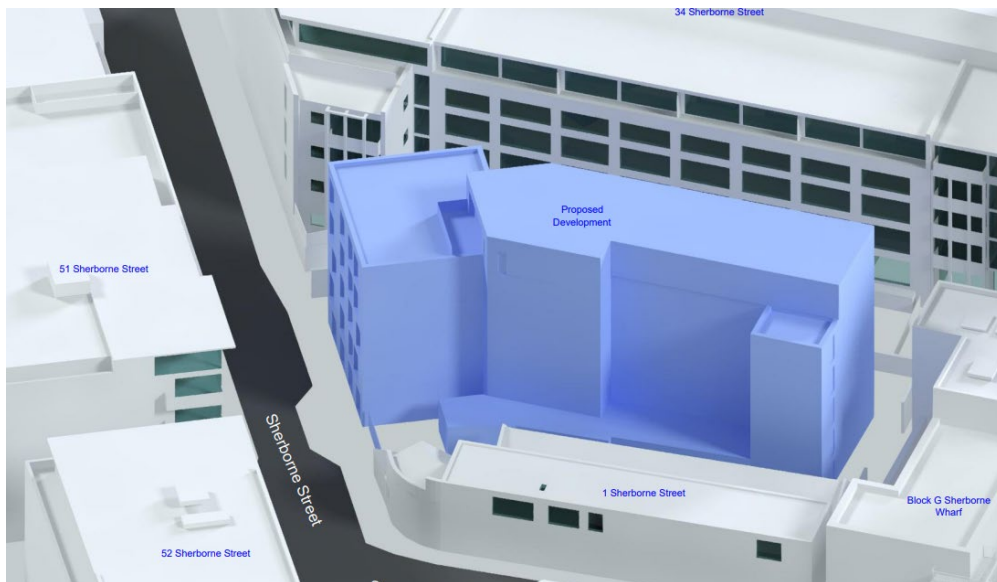


Image 11: 3D View of proposed scheme

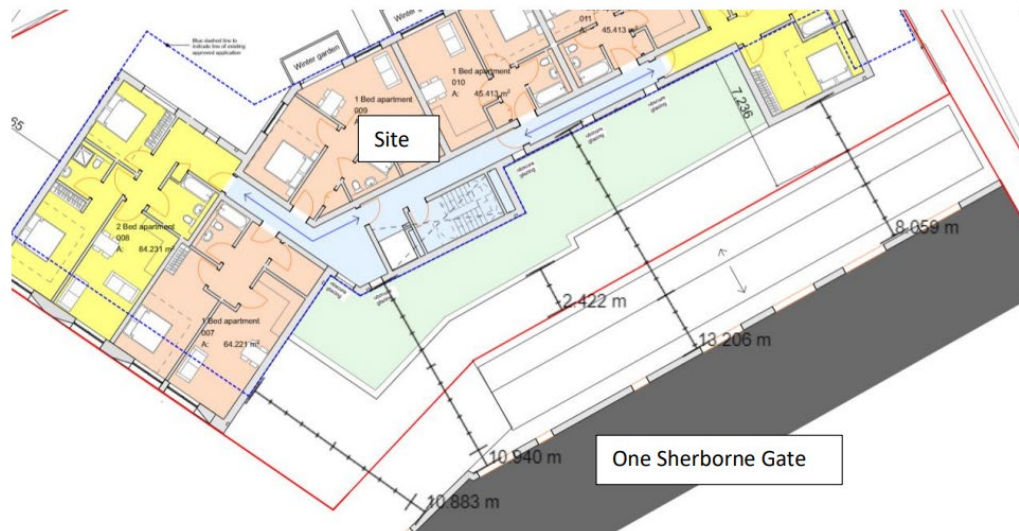


Image 12: Separation distances between the scheme and One Sherborne Gate

Sherborne Wharf

- 7.32 It is noted the scheme would leave a separation distance of 8m however this flank does not include any habitable room serving windows and would lie opposite a storeroom.

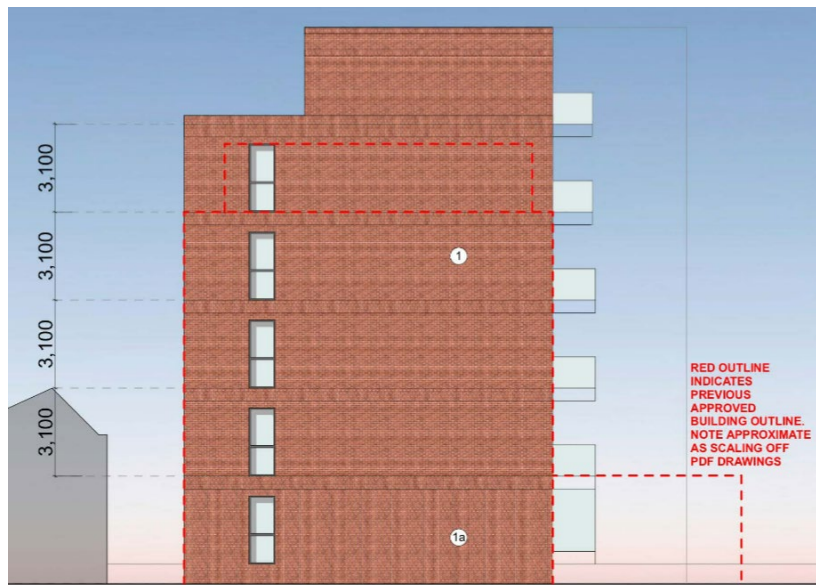


Image 13: View of eastern flank from Sherborne Wharf development

- 7.33 The numerical standards in the Design Guide SPD give a separation distance guide of 27.5m (for 3 storeys and above) and further states that the separation distance should be increased by 2m for every 1m rise in ground level between the new and existing dwellings. On that basis the separation distance would not meet the numerical standards. However, the guidance is simply that, and should not be applied as a blanket threshold, a point which reflects national policy in NPPF para 125(c); furthermore, the site's context should be considered. In this instance the site is located within the City Centre where the urban grain is tight and the density of development much higher (as encouraged by the BDP and Design Guide) to make the most efficient use of land in sustainable locations. Therefore, in this context the

separation distances are considered acceptable with respect to maintaining the privacy of the existing adjacent occupiers, whilst making efficient use of this brownfield land in a sustainable location.

7.34 In 2006 planning application 2006/05884/PA was refused as per the reason below:

THE REASON IS AS FOLLOWS

- 1 The proposed development by virtue of the siting, height and design of the building would cause an unacceptable overbearing impact and overshadowing of neighbouring properties particularly those at Sherborne Mill (Jupiter 1) and 1 Sherborne Gate. It would also result in a loss of light and sunlight detrimental to the amenities the occupiers of these properties could reasonably expect to enjoy. Therefore the proposal is considered contrary to the guidance contained Policies 3.14 and 5.20 of the Birmingham Unitary Development Plan 2005 and Supplementary Planning Guidance 'Places for All' (2001) and 'Places for Living' (2001).

Date: 21st December 2006

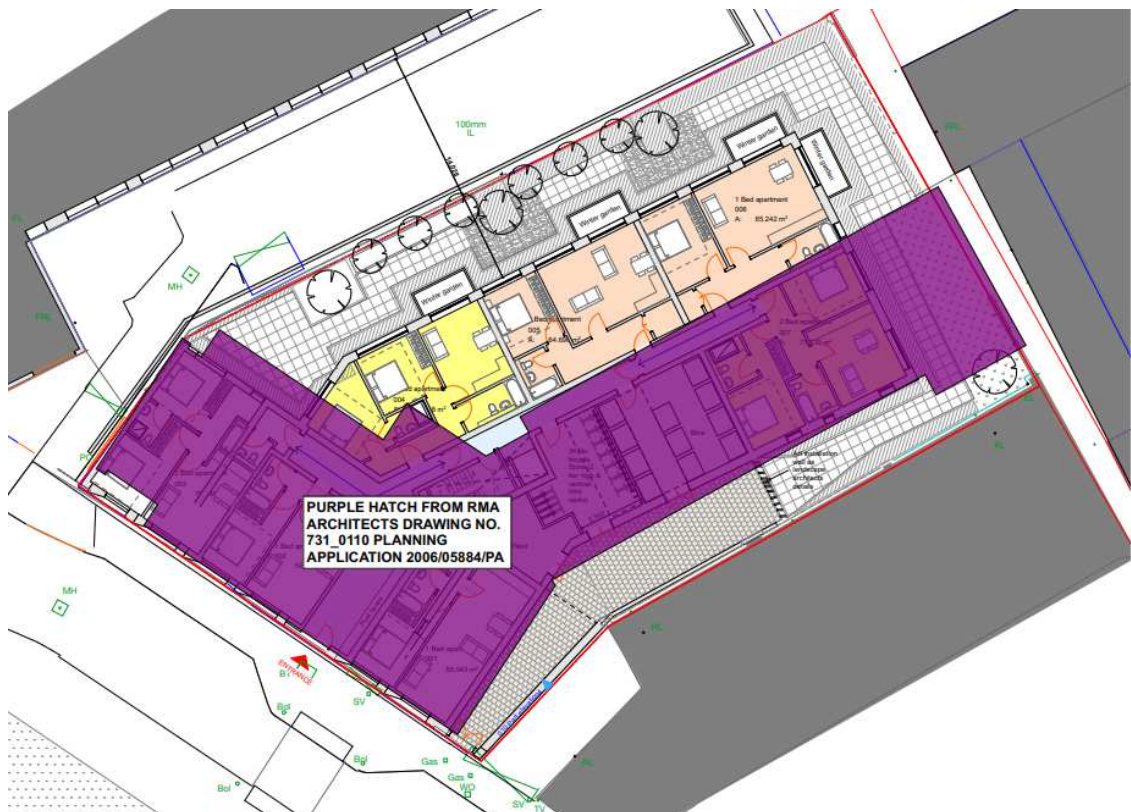


Image 14: Plan presenting the 2006 scheme in purple that was refused.

7.35 That application proposed a four and five storey apartment building fronting Sherborne Street between No.1 Sherborne Gate and Jupiter 1/Sherborne Mill. The top floor of the five-storey element was recessed, and the 4th and 5th floor set adjacent to No.1 Sherborne Gate.

Jupiter 1/Sherborne Mill

7.36 Proposed 5-10m from existing balconies at Sherborne Mill (north) – was a five-storey flank wall. It was considered that the outlook from these properties were adversely affected whereby there was a significant reduction in daylight and sunlight to ground and first floor windows.

One Sherborne Gate

- 7.37 The five-storey section was to be within 7metres of a large first floor window and balcony at 6m from a small bedroom window. The development was considered to cause a loss of light to these windows. It was also considered the development would adversely affect the use/enjoyment of the existing courtyard garden as at 1 Sherborne Gate. Although there is currently a 3m high fence in situ, 3.5m from the boundary it was proposed to position a 9m high wall which increased to 14.5m having an imposing impact. It was also considered the wing proposed at the rear of the building would also adversely affect the outlook from the 1 Sherborne Gate due to the four-storey height and the large number of windows proposed.

Jupiter 4

- 7.38 Opposite the site are a number of ground and first floor windows in Jupiter 4 which the daylight/sunlight report indicated would suffer a loss of daylight and sunlight as a result of the development. These windows are situated 13.5 metres away from the development which is a separation distance accepted elsewhere within the immediate areas – it was therefore considered that reason in itself would not be sufficient to justify refusal of the 2006 application.

Daylight/Sunlight

- 7.39 Neighbouring occupiers have continually raised concerns regarding the increase in mass/scale, decrease in separation distances and the loss of light impacts. In accordance with the amendments a revised sunlight and daylight report has been submitted, this considers the impact of the proposed development based on Building Research Establishment (BRE) guidelines that cover amenity requirements for sunlight and daylight to buildings around any development site as well as the quality of daylight within a proposed habitable development.



Image 15: 3D plan showing position of the proposed in relation to neighbours.

Daylight to windows/ Vertical Sky Component

- 7.40 All windows with a requirement for daylight pass the VSC test with the exception of 3 windows at 1 Sherborne Street/Gate and 9 windows at 51 Sherborne Street and 38 windows at 34 Sherborne Street. However, there are mitigating factors to mention. For reference the windows are numbered in the revised sunlight and daylight report.

One Sherborne Street/ Gate

- 7.41 The kitchen served by window 7, the Living room served by window 10 and the Bedroom served by window 16 also benefit from additional light sources (windows 8, 11 & 17). Windows 8, 11 & 17 face away from the development and would therefore remain unaffected. Since the rooms are dual aspect and have at least one window which surpasses the BRE recommendation, the rooms would maintain adequate light and the loss of light in the room would not be materially noticeable for the occupants.

51 Sherborne Street (Jupiter 4) and 34 Sherborne Street (Jupiter 1)

- 7.42 Secondly it is noted that all 9 windows at 51 and 34 Sherborne Street fall only marginally short of the recommended VSC (before/after ratios of 0.68 and above against the BRE target of 0.8). It should also be said that the BRE guide acknowledges that in an area with modern high-rise buildings, a higher degree of obstruction may be unavoidable if new developments are to match the height and proportion of existing buildings (i.e., 34 Sherborne Street). BRE is also intended to be used flexibly particularly in urban locations, therefore given the borderline nature of the results considered the design has acceptable impact on daylight.

Daylight Distribution

- 7.43 All rooms with a requirement for daylight pass the daylight distribution test with the exception 31 rooms at 34 Sherborne Street and 1 room at Block D Sherborne Wharf. However, there are mitigating circumstances that prevents the scheme meeting the BRE daylight distribution recommendations. Section 2.2.12 of the BRE guide states that 'if an existing building contains rooms lit from one side only and greater than 5m deep, then a greater movement of the no skyline may be unavoidable'. It is noted that the rooms which fall short at 34 Sherborne Street are lit from one side and are over 5m deep (rooms approx. 7.5m deep). Furthermore, the room served by windows 190 & 191 at Block D Sherborne Wharf falls only marginally short of the BRE recommendation and achieves a reduction ratio of 0.76 against the BRE target of 0.8.

Sunlight to Windows

- 7.44 All windows that face within 90 degrees of due south have been tested for direct sunlight. All windows with a requirement for sunlight pass both the total annual sunlight hours test and the winter sunlight hours test except for only 15 windows at 34 Sherborne Street. However, it is noted that of the 15 windows which fall short, only 6 fall short of the annual sunlight hours test. The results confirm that with the exception of only 3 windows, all windows retain excellent annual sunlight hours (23% and above against the BRE target of 25%). The results also confirm that 5 of the 15 windows fall only marginally short of the winter sunlight hours test (5 windows retain at least 3% winter sunlight hours against the BRE target of 5%). Given the isolated nature of the shortfalls and the excellent levels of retained annual sunlight, it is viewed that the development design has an acceptable impact on direct sunlight.

Overshadowing to Gardens and Open Spaces

- 7.45 All amenity areas tested pass the overshadowing to gardens and open spaces test with the exception of 3 gardens at 34 Sherborne Street. The results confirm that at

least 31% of gardens 2 & 4 would receive at least two hours of sunlight on 21st March after the development against the BRE recommendation of 50%. However, this is mainly as a result of the garden not having an ideal southerly aspect and the urban location of the site. The results confirm that garden 3 falls only marginally short of the recommendation and achieves 45% against the BRE target of 50%.

- 7.46 To conclude the results of the study show that both the 2015 approved design and the proposed 2021 design have a similarly low impact on the light receivable by its neighbouring properties. Non-compliance with the BRE recommendations is limited to the daylight or sunlight tests in respect of isolated windows at 1,34 and 51 Sherborne Street. The shortfalls against the BRE recommendations were acceptable.
- 7.47 The view therefore remains that the proposed scheme would have a low impact on the light received by its neighbours. The proposed is therefore compliant with Policies PG3 and TP27 of the BDP.

Drainage

- 7.48 The site is situated within Flood Zone 1, with a very low likelihood (1 in 1000) of flooding. The LLFA originally objected to the application, however amended documents have been received whereby the LLFA have recommended conditions and detailed informatives.

Air Quality, Contamination and Noise

- 7.49 Regulatory services confirm no objections subject to conditions around noise insulation, plant and machinery noise level limits and contamination. Subject to conditions therefore I consider the proposed development is suitable for residential development and accords with PG3 of the BDP and DM2 and DM6 of the Development Management DPD.

Ecology/Biodiversity

- 7.50 Amended details and additional information have been submitted and the ecologist confirms no objections subject to conditions around enhancement and management. The proposed is in accordance with Policy TP8 of the BDP 2017 and Policy DM4 of the DPD.

Highway Safety

- 7.51 The proposed is a zero-car parking proposal whereby accessibility of public transport is excellent, located within easy walking distance from the site as well as car parking facilities. Secure cycle parking spaces are being proposed at 100%. Some existing footway crossing would become redundant therefore this should be reinstated to full height kerb at the applicant's expense via a suitable highway's agreement. BCC Transport confirm no objections subject to conditions, therefore the proposed is considered policy compliant.

Energy and Sustainability

- 7.52 Energy and Sustainability Policy TP3 sets out a number of ways in which development should be designed and constructed. A revised combined energy and sustainable construction statement has been submitted and is considered acceptable.

- 7.53 In accordance with Policy TP4 an appropriate assessment of low and zero carbon forms of energy sources (LZC) has been completed and a third iteration sustainability statement has been submitted. The statement concludes that the development is estimated to achieve a 61.39% reduction in CO2 emissions over the TER of Building Regulations Part L1A 2021 which is an improvement on the old figure of 53.13%. This saving is to be realised using a Solar Photovoltaic Array 8.5kWp System which would produce 7,180kWh/annum. An amended roof plan has been submitted and the PV has also been marked on the roof plans. To ensure compliance with TP4 and to secure the above a condition is recommended.

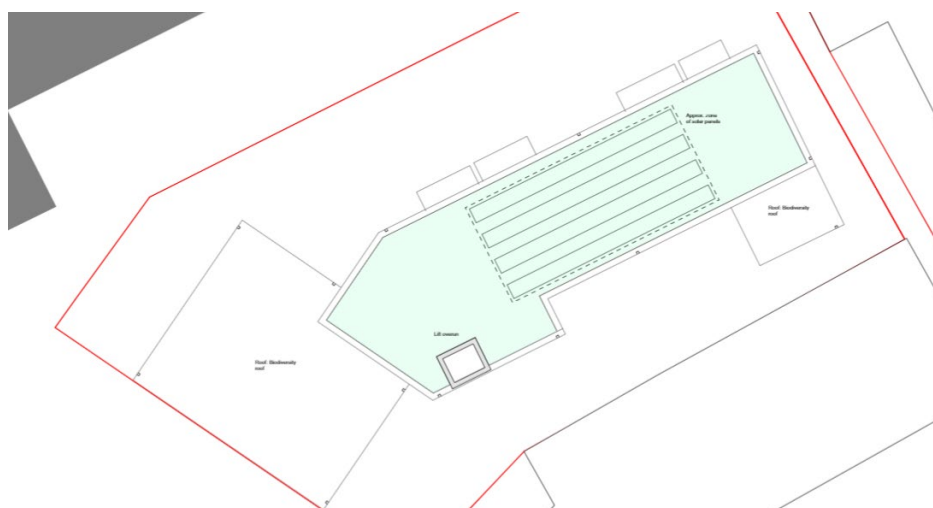


Image 16: Roof plan showing biodiversity roofs and position of solar photovoltaics.

Other matters

- 7.54 Several letters of objection have been received whereby most of the concerns raised have been addressed further up in the report. Concerns the proposal would increase existing vehicle noise and congestion is unlikely given the zero proposed level of car parking proposed and nearby highway parking restrictions.
- 7.55 Matters of noise during construction have been raised, whilst this is noted, construction is a day-to-day occurrence across the City and beyond whereby it would be for a temporary period, that said an updated construction management statement would be required by condition to cover working practices and hours of construction/deliveries. Furthermore, the regulatory team have been consulted who confirm no objections subject to conditions.
- 7.56 Letters of objection query an area of green space that was said to be originally planned for this site – as per the diagram below (2002/03550/PA). However, having checked the planning site history this image was presented (in 2002) per urban design constraints and opportunities diagram as part of an application for Outline planning whereby all other matters were reserved for subsequent consideration. The image was for indicative purposes and therefore did not form part of the approval.

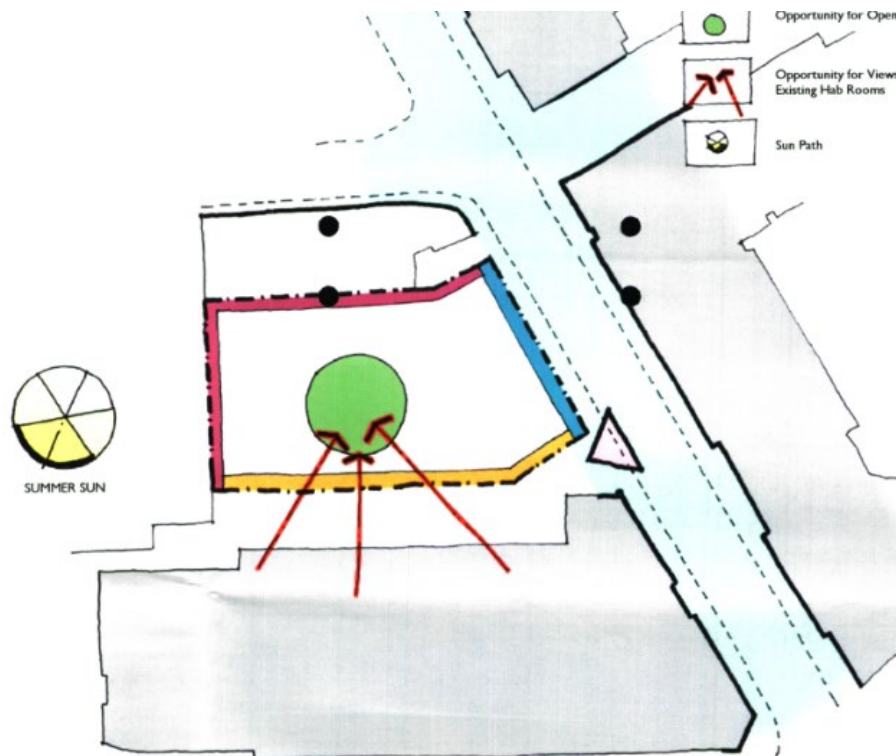


Image 17: An urban design constraints and opportunities diagram as per 2002 planning application.

7.57 Having looked at the later approvals for the site I can also confirm that those schemes did not include an open space area. Furthermore, having checked the Sherborne Design Brief SPG – no area of green space was specified or designated here either.

7.58 Comments around not being able to view the plans in detail were also received however I can confirm that all amended plans have been available for public viewing throughout each round of consultation and those superseded can still be accessed now. With regards to comments around right of access and land ownership these are separate civil matters outside of planning control.

Community Infrastructure Levy

7.59 The site lies within a low value residential area for CIL, it's exempt from any CIL charge.

Planning Obligations

7.60 Policy TP31 of the BDP requires 35% of the total number of dwellings to be affordable on sites of 15 dwellings or more and TP9 seeks either on site public open space at 2ha per 1000 population or a contribution towards off site provision for developments of 20 or more dwellings.

7.61 The applicants contend that the development would be unable to meet the Policy requirements outlined above and still deliver a sufficient developer's return. Therefore, a Financial Viability Appraisal (FVA) has been submitted and independently assessed.

7.62 Independent review of the submitted Financial Viability Appraisal indicates that the proposal could support the provision of 1 First Homes units at a 50% discount on market value.

- 7.63 This provision, while not meeting the 35% set out in policy TP31, is welcomed, 1 x 2bed First Homes units at a 50% discount has been agreed.

Conclusion

- 7.64 Section 38(6) of the Planning and Compulsory Purchase Act 2004 advises that the determination of a planning application shall be made in accordance with the development plan unless material considerations indicate otherwise. Whilst I have found conflict with policy TP25 in relation to housing mix I consider that the scheme is in overall general accordance with the development plan as a whole. As there are no policies of 'particular importance' in the NPPF that provide a clear reason for refusal (footnote 7) and there are no adverse impacts of approval that would significantly and demonstrably outweigh the benefits, the tilted balance requires the development is permitted without delay.
- 7.65 The proposed development would see the delivery of a high-quality residential development in a sustainable location. It would provide a meaningful contribution towards the much-needed housing (albeit the weight attributed to this is tempered by the proposed mix) and contribute towards the regeneration aspirations for this part of the City Centre. It would create a distinctive place and deliver a low-cost unit at a 50% market discount in accordance with local and national policies.
- 7.66 The application is acceptable subject to completion of a legal agreement and safeguarding conditions.

8. Recommendation

- 8.1. That application 2021/08880/PA be approved subject to the prior completion of a Section 106 Legal Agreement to secure the following:
- a) Onsite affordable unit of 1 No. x 2 bed First Home at a discount on market value of 50%
 - b) Payment of a monitoring and administration fee associated with the legal agreement subject to a maximum of £1,500.
- 8.2 In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the 20th of August 2023 or such later date as may be authorised by officers under powers hereby delegated, planning permission be refused for the following reason:
- a) In the absence of a legal agreement to secure affordable housing, the proposal conflicts with Policy TP31 Affordable Housing of the Birmingham Development Plan 2017 and the NPPF
- 8.3. That the City Solicitor be authorised to prepare, complete, and seal an appropriate agreement under Section 106 of the Town and Country Planning Act.
- 8.4 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 20th August 2023, or such later date as may be authorised by officers under delegated powers, favourable consideration be given to this application, subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

1	Time Limit
2	Approved Plans
3	Construction Management Plan
4	Sustainable Drainage Scheme
5	Sustainable Drainage Operation and Maintenance Plan
6	Ecological/Biodiversity Enhancements
7	Hard and Soft landscape details
8	Hard surfacing materials
9	Landscape Planting and Ecological Management Plan
10	Phase II Investigation Report
11	Noise Insulation Report
12	Noise Levels for plant and machinery
13	Contaminated land remediation scheme
14	Details of Biodiversity Roofs
15	Boundary Treatments
16	Photovoltaics Details
17	External materials
18	Architectural and specification details
19	Cycle parking in place prior to occupation
20	Requires redundant footpath to be reinstated
21	Requires lighting scheme
22	Requires CCTV
23	No displays or signage fitted
24	Energy and Sustainability in accordance with statement
25	Remove PD rights for telecoms
26	Foul and Surface details
27	Building and site levels

28	Verification Report
29	Video Controlled entry system
30	Bird and Bat Boxes
31	Sample panel
32	Implementation of acceptable mitigation/enhancement

Case Officer: Sarah Plant

Photo(s)



View 1 – Looking north with the application site to the east



View 2 – Northern residential block Jupiter 1/Sherborne Mill, site to rear of fencing



View 3 - Application site and straight ahead Sherborne Wharf development



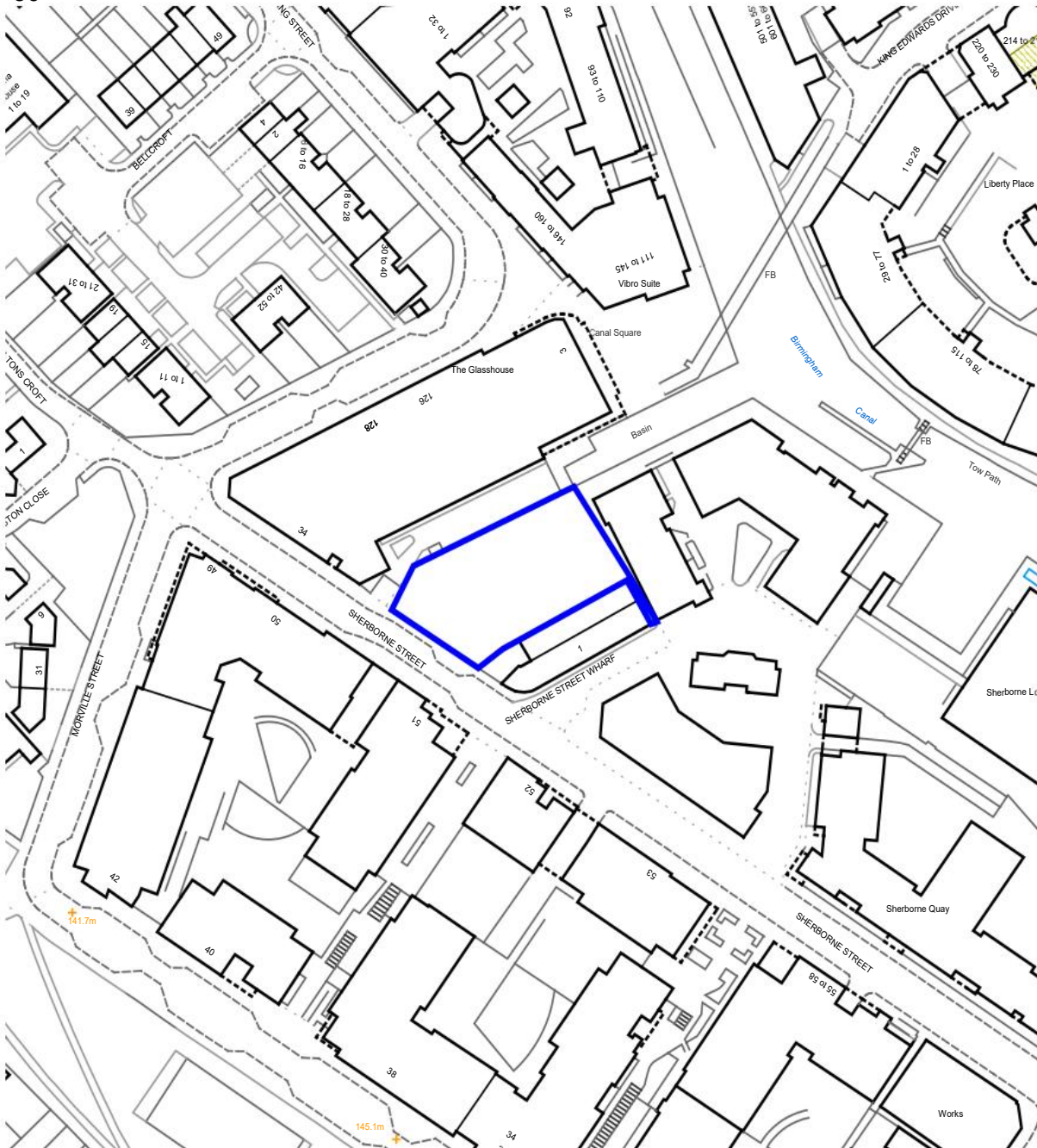
View 4 – South of one Sherborne Gate



View 5 – Jupiter 4 opposite site entrance

Location Plan

30



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Committee Date: 17/08/2023 Application Number: 2021/05811/PA
 Accepted: 29/06/2021 Application Type: Full Planning
 Target Date: 18/08/2023
 Ward: Bordesley & Highgate

Land bounded by Bradford Street, Moseley Street, Barford Street and Rea Street, Digbeth, Birmingham,

Demolition of existing buildings, erection of buildings of 7-23 storeys comprising 711 apartments (317 x 1 bed & 394 x 2 beds) and 2,099sqm commercial space (Use Class E), with new public and private amenity areas

Applicant: Prosperity Investments and Developments Limited
 Mr P R Basra and Mrs A D Basra and Raj Properties, C/o Agent,
 Agent: PJ Planning
 Cradley Enterprise Centre, Box No 15, Maypole Fields, Cradley, B63 2QB

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

- 1.1. Planning permission is sought for the redevelopment of two blocks on land to the south of Bradford Street, within the Smithfield area of the city centre. Cheapside runs through the middle of the site, creating two separate parcels of land, with Rea Street and Barford Street either side. Moseley Street runs to the south and both Moseley Street and Cheapside are expected to continue into the Smithfield site to the west through implementation of the Smithfield Masterplan.



Figure 1: Application site
 (Source: 20039-GNA-XX-ST-DR-A-0100)

- 1.2. The blocks would each contain commercial uses (Class E) on the ground floor and apartments above. Building heights would be between 7 and 11 storeys, with a 23 storey tower at the southern boundary of the site facing Moseley St (within Plot 1).

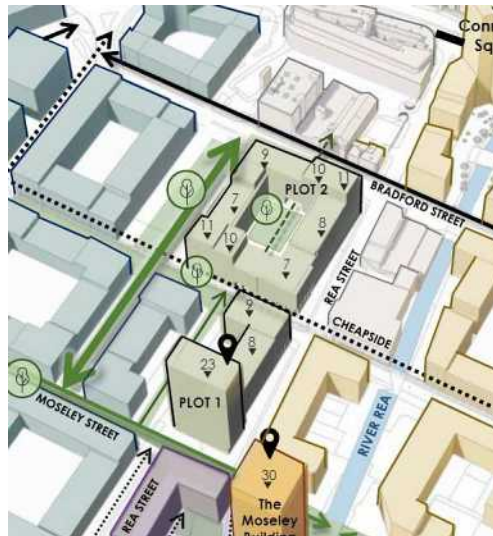


Figure 2: Proposed massing
(Source: Design and Access Statement)

- 1.3. Proposed elevations would have a predominantly red brick finish as illustrated below:



Figure 3: Proposed Rea Street elevation showing both blocks
(Source: Design and Access Statement)

- 1.4. Car parking: None.
- 1.5. Cycle parking: 100% for apartments plus 10 spaces for staff working in the commercial units.
- 1.6. Housing mix: 45% 1 beds; 55% 2 beds.
- 1.7. Employment: Approx 200 jobs on site/managing the construction phase, plus 100+ off-site suppliers. Approx. 100 operational jobs once construction is complete.
- 1.8. An EIA screening opinion has been issued concluding there would be no environmental impacts sufficient to justify the need for an Environmental Statement.

1.9. Supporting documents:

Planning Statement
Design and Access Statement
Urban Design Appraisal Addendum
Financial Viability Appraisal
Energy Statement
Sustainable Construction Statement
BREEAM Pre-Assessment Report
BREEAM Technical Note
Baseline Noise Assessment
Air Quality Assessment
Daylight and Sunlight Report
Wind Microclimate Report
Geo-environmental Statement
Flood Risk Assessment + Addendum
Flooding Sequential and Exception Test
Flood Warning and Evacuation Plan
Surface Water Drainage Strategy
Heritage Assessment
Supplementary Heritage Assessment
Visual and Heritage Impact Assessment Addendum
Verified Views
Zone of Theoretical Visibility Designated Heritage Assets
Ecological Appraisal
Framework Travel Plan
Transport Statement

1.10. [Link to Documents](#)

2. **Site & Surroundings**

2.1. The site forms part of the Smithfield Masterplan area, sitting alongside its eastern edge:

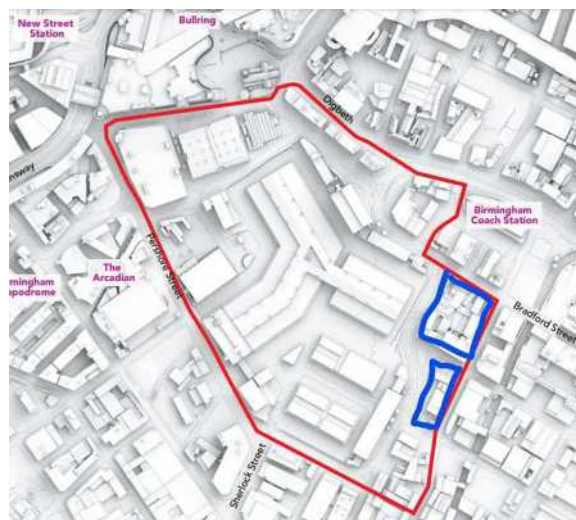


Figure 4: Outline of Smithfield Masterplan area
(Source: Birmingham Smithfield Masterplan 2016)

2.2. It currently comprises an assortment of buildings, including some traditional red brick factory and warehouse buildings, and other post-war development. Some are in use while others are vacant. There are also surface level car parks on cleared land within the site. General scale is low, only two to three storeys.

2.3. Site area: 1.2ha

2.4. The surrounding area is undergoing significant change, with various redevelopments having been constructed, approved or currently going through the planning process. In broad terms, the area is changing from being predominantly commercial to more mixed commercial and residential, in accordance with the BDP's Southern Gateway Wider Area of Change.

2.5. Features of note include:

- Non-designated heritage assets within the application site.
- Grade II listed The Anchor public house at the junction of Bradford Street and Rea Street.
- Digbeth, Deritend and Bordesley High Streets Conservation Area approx. 150m north of the application site.
- River Rea approx. 50m east of the application site running parallel with its east boundary.

2.6. [Site location](#)

3. **Planning History**

3.1. 28/12/2022 – 2022/09643/PA - Land bound by, Moat Lane, Bradford Street, Rea Street, Pershore Street and Edgbaston Street (Smithfield site) - Hybrid application comprising:

- Outline application (with all matters reserved) for demolition of existing buildings and mixed use development including; residential accommodation (Class C3) co-living accommodation (Sui Generis), Hotel (C1), Commercial floorspace including; Retail, food and beverage (E(a,b,c)), flexible commercial (E), Office and workspace (E (g)), Education (F1(a)), Local Community (F2(b)), Drinking Establishment (Sui Generis), Indoor sport / recreation (E(d)), Leisure and evening entertainment (Sui Generis); Cultural uses (F1(b,c,d,e)) and flexible Market (Sui Generis) with open space and public realm works
- Full application for the demolition of existing buildings and mixed use development of residential accommodation (Class C3) Retail, food and beverage (E(a,b,c)), Drinking Establishment (Sui Generis); Indoor sport / recreation (E(d)), flexible commercial (E); Office and workspace (E (g)), Theatre / cinema (Sui Generis); Market (Sui Generis); Workshops / studios (E (c, g); Event space (F1 (e) / F2 (b)) together with landscaping, public realm and open space (including new public square), vehicular access, pedestrian and cycle infrastructure, drainage infrastructure, lighting and other associated development - Awaiting decision.

3.3. 10/01/2022 – 2022/00135/PA – Land to south of Moseley Street, Southside – Hybrid planning application comprising:

- Full element for site clearance and demolition of existing buildings and erection of new buildings for mixed-use development comprising: residential apartments (Class C3) with ancillary internal and external amenity areas; commercial floorspace (Class B2, Class E, Class F1 and F2, and/or sui generis (drinking establishments); works to the River Rea; landscaping; servicing and parking; and other associated works on land bound by Barford Street/MacDonald Street/Rea Street (Site A), and on land bounded by Rea Street South/Moseley Street/Charles Henry Street (Site C).

- Outline element with all matters reserved comprising demolition of existing buildings and erection of two new buildings for mixed-use development comprising: residential apartments (Class C3) with ancillary internal and external amenity areas; commercial floorspace (Class B2, Class E, Class F1 and F2, and/or sui generis (drinking establishments); associated public realm works and landscaping; access and parking; and all other associated works, on land at Charles Henry Street (Site D). – Awaiting decision.
- 3.4. 10/01/2022 – 2022/00136/PA – Land bounded by Barford Street, Rea Street South, Charles Henry Street, Lombard Street, Moseley Street, MacDonald Street, Adelaide Street and Lower Darwin Street, Southside - Outline planning application with all matters reserved comprising site clearance and demolition of all existing buildings and erection of new buildings ranging up to 15 storeys for a mixed use development of up to a maximum 101,029sqm floorspace (GIA) including: up to 85,701sqm of residential accommodation and associated amenity floorspace (Class C3), up to 15,328sqm floorspace of flexible uses (including Use Classes B2, Class E, Class F1, F2 and / or sui generis (drinking establishments), works to the River Rea and new pedestrian crossings, associated public realm works and landscaping, works to the highway and all other associated works on land bounded by Moseley Street / Lombard Street / Adelaide Street / MacDonald Street/Barford Street – Awaiting decision.

4. **Consultation Responses**

- 4.1. [Transportation Development](#): No objection subject to the following conditions:

- Construction Management Plan to define highway impacts before any works, including site clearance, commence.
- Grampian style conditions for highway works, including removal of redundant footway crossings and associated improvements, to be carried out before the development is occupied.
- Public footway to be in place before servicing layby is constructed and development occupied.
- Cycle parking and refuse stores to be provided before occupation.
- Boundary treatment required to prevent drivers parking on forecourt areas.

- 4.2. [Regulatory Services](#): No objection subject to the following conditions:

- Scheme of noise insulation to be submitted and implemented prior to occupation.
- Submission of an overheating assessment
- Submission of Construction Management Plan to control dust
- Submission of contaminated land site investigation and remediation strategy
- Submission of contaminated land verification report

- 4.3. [City Design Team](#): No objection. The layout of the development would transform the way the site functions and would respond to the emerging townscape in this part of Birmingham. The ground floor layout of Plots 1 and 2 are improved. The architecture and landscaping are ambitious.

- 4.4. [Principal Conservation Officer](#): Harm to heritage assets is identified which triggers the tests of paragraphs 202 and 203 of the NPPF and the planning case officer will need to be satisfied that:

- the public benefits of the scheme can outweigh the degrees of less than substantial harm identified to the designated heritage assets; and

- that the balanced judgment of harm verses significance to the non-designated heritage assets is properly considered as part of the wider material planning benefits of the scheme.

4.5. [Principal Ecologist/Arboriculturist](#): No objection subject to conditions:

- Construction Ecological Mitigation Plan to be provided
- Bat/bird boxes to be provided
- Hard and soft landscape details to be provided
- Details of green/brown roofs to be provided

Ecological appraisal identifies 9 buildings with low potential for bats, with the remainder of negligible potential. Surveys of bat activity will need to be carried out prior to demolition. Further survey work is also needed in respect of Black Redstart. The images shown in the Design and Access Statement of the courtyards and roof gardens are encouraging and conditions are recommended to ensure these are delivered to last, e.g. with adequate rooting volume for trees.

4.6. [Leisure Services](#): In accordance with the BDP policy TP9, this scheme generates an off-site public open space (POS) and play area contribution of £1,473,375. This should be allocated towards provision, improvement and or maintenance of off-site public open space within the Bordesley and Highgate Ward which has an under provision against the 2ha per thousand population target in the BDP. This could be directed towards the provision, improvement and/or biodiversity enhancement at Highgate Park or other POS priorities within the Bordesley Open Space Strategy.

4.7. [Employment Access Team](#): No objection subject to a condition/S106 clause to secure local employment.

4.8. [Lead Local Flood Authority](#): No objection subject to conditions requiring the submission of Sustainable Drainage Strategy and a Sustainable Drainage Operation and Maintenance Plan.

4.9. [Severn Trent Water](#): No objection subject to the following condition:

- Drainage plans for the disposal of foul and surface water flows shall be submitted prior to commencement.

4.10. [Environment Agency](#): Objects. A previous objection was withdrawn following amendments to the plans in accordance with EA advice which showed the following flood mitigation measures:

- The proposed ground floor level to match the existing, to avoid displacement of flood water.
- Flood resistant and resilience measures to be implemented on the ground floor to minimise flood damage.
- More vulnerable uses to be restricted to the first floor and above.

However, further amended plans/supporting documents (Sept 2022) do not indicate that these measures would continue to be implemented, hence reinstatement of the objection.

4.11. [Historic England](#): Concern due to the impact on the Grade II* listed St Martin's Church through development within its setting. HE agrees with the applicant's assessment that the development would cause a moderate level of less than substantial harm and this should be weighed against the public benefits of the scheme.

- 4.12. [Birmingham Civic Society](#): Supports the scheme. The residential element would support other new residential development in the Southern Gateway. The scheme would improve the settings of nearby listed buildings. The maximum height at 23 storeys is much higher than those proposed along Bradford Street, but other taller buildings have been approved on Digbeth/Deritend High Street and the Smithfield proposal will include a significantly high tower. The proposals take account of the flood risk. Proposed materials and detailing are ambitious and interesting and if delivered will raise standards in the area. Missed opportunity to celebrate the particular industrial heritage of the site, though effort has been made to create a sense of place.
- 4.13. [West Midlands Police](#): No objection subject to the following conditions:
- CCTV to be provided.
 - Lighting scheme to be submitted.
 - Maintenance plan to be submitted.
- 4.14. [West Midlands Fire Service](#): No objection.
- 4.15. [Birmingham Airport](#): No objection however cranes may be required during the construction phase which could result in infringements of protected surfaces for the Airport. Any cranes exceeding 150m above ground level shall require an Instrument Flight Procedure Assessment to be undertaken.

5. **Third Party Responses**

- 5.1. Site and press notices posted; local ward councillors, MP and Residents' Associations, and the occupiers of nearby properties notified of the application.

2 representations received making the following comments:

- The destruction of Digbeth's character for these place-less generic apartment blocks is unacceptable and must be blocked. There are at least 4 or 5 nice heritage buildings on this site which define the streetscape of Digbeth, and all of these are planned to be demolished. Totally ruining the heritage and character of the city.
 - The public realm plans are excellent and the inclusion of both recessed residential balconies and ground floor commercial premises in an area devoid of street level activation is to be welcomed.
 - The building design is so poor as to warrant rejection of the application. The architecture is placeless, boring and only responds superficially to local character.
 - Several historic buildings on the site although unlisted are worthy of retention and representative of the area's character. Demolition would be contrary to BDP policy TP12.
 - From a design and sustainability perspective, the buildings fail to meet the ambitions of the Smithfield Masterplan and the Rea Valley Urban Quarter SPD.
 - The development contravenes a number of BDP policies: the towers are not on a gateway site, nor near the proposed metro route and so do not respond to the planned or existing locality (Policy TP30).
 - The generic architecture does not positively contribute to place making or respond to the local area context, including heritage assets and appropriate use of innovation in design (Policy PG3). It is unclear which 'quarter' this site really responds to (Policy GA1.3) but it does not reflect the local character of any.
- 5.2. 1 response from a representative of those with an ownership interest in the application site, raising no objection and stating the scheme will greatly improve the location.

5.3. **2** responses from Lendlease, the Council's development partner for the Smithfield site, objecting on the following grounds:

- The appointment of Lendlease as the development partner was with the intention of delivering comprehensive redevelopment and the benefits a joined-up approach would bring.
- In addition to the five big moves contained in the Masterplan, other uses are proposed as benefits alongside the revenue-generating uses. It is essential that the revenue-generating plots make a commensurate contribution to delivering these uses.
- Piecemeal development is likely to result in the potential of such a large development opportunity being under-realised.
- Absence of an EIA screening opinion.
- Lack of evidence to support conclusions of Heritage Assessment. Lack of a comprehensive assessment of all nearby heritage assets of significance.
- Moderate level of less than substantial harm to the significance of heritage assets, specifically St Martin's Church, would not be outweighed by the public benefits of the scheme, including the lack of on-site affordable housing, limited publicly accessible facilities/open space, and prejudice aspects of the wider Smithfield Masterplan.
- An updated, detailed assessment of potential adverse impacts on setting of The Anchor PH is needed.
- Proposal does not demonstrate compliance with emerging fire safety guidance and building regulations in relation to the provision of stair cores.
- Proposed landscape strategy does not reflect amendments made to levels and landscaping to satisfy the Environment Agency.
- Possible sterilisation of development potential for the Smithfield Park area within the Smithfield Masterplan, due to proposed pedestrian and vehicular access route for Pressworks along Barford St, and proposed flood evacuation route. Prejudice the delivery of a high quality public open space.
- Concerns regarding the methodology of the Baseline Noise Assessment and the accuracy of the results. Impact of noise from and to the development during the overheating scenario is not discussed.
- Absence of on-site affordable housing and contribution towards wider infrastructure within Smithfield area.
- Housing mix comprising 1 and 2 bed units only goes against the Smithfield Masterplan principle of delivering a mix of units including 3 and 4 bed family houses. It is not reasonable to expect the remainder of the Smithfield development to redress this imbalance.

6. **Relevant National & Local Policy Context**

6.1. **National Planning Policy Framework**

The following chapters and paragraphs are of relevance to the proposal but this list is not exhaustive:

Chapter 2: Achieving Sustainable Development – paras. 7, 8, 11

Chapter 4: Decision-making – paras. 56, 57

Chapter 5: Delivering a sufficient supply of homes – paras. 60, 62

Chapter 8: Promoting healthy and safe communities – paras. 92, 98

Chapter 9: Promoting sustainable transport – paras. 104, 110, 112

Chapter 11: Making effective use of land – paras. 119, 120, 124

Chapter 12: Achieving well-designed places – paras. 126, 130, 131, 132, 133

Chapter 14: Meeting the challenge of climate change, flooding and coastal change – para.152

Chapter 15: Conserving and enhancing the natural environment – paras. 174, 180, 183, 185, 186, 187

6.2. Birmingham Development Plan 2017

PG1 Overall levels of growth
PG3 Place making
GA1 City Centre
TP1 Reducing the City's carbon footprint
TP2 Adapting to climate change
TP3 Sustainable construction
TP4 Low and zero carbon energy generation
TP5 Low carbon economy
TP6 Management of flood risk and water resources
TP7 Green infrastructure network
TP8 Biodiversity and geodiversity
TP9 Open space, playing fields and allotments
TP11 Sports facilities
TP12 Historic environment
TP17 Portfolio of employment land and premises
TP20 Protection of employment land
TP21 The network and hierarchy of centres
TP26 Local employment
TP27 Sustainable neighbourhoods
TP28 The location of new housing
TP29 The housing trajectory
TP30 The type, size and density of new housing
TP31 Affordable Housing
TP37 Health
TP38 A sustainable transport network
TP39 Walking
TP40 Cycling
TP44 Traffic and congestion management
TP45 Accessibility standards for new development
TP46 Digital communications

6.3. Development Management DPD 2021

DM1 Air quality
DM2 Amenity
DM3 Land affected by contamination, instability and hazardous substances
DM4 Landscaping and trees
DM6 Noise and vibration
DM10 Standards for residential development
DM14 Transport access and safety
DM15 Parking and servicing

6.4. Supplementary Planning Documents & Guidance

Smithfield Masterplan 2017
Rea Valley Urban Quarter SPD 2020
Birmingham Design Guide SPD 2022
Loss of Industrial Land to Alternative Uses SPD 2006
Public Open Space in New Residential Development SPD 2007
Sustainable Management of Urban Rivers and Floodplains 2007
Conservation Through Regeneration SPG 1999

7. Planning Considerations

Background

- 7.1. This application relates to land which, although within the Smithfield Masterplan area, is beyond the boundary of the former wholesale markets site and is not owned by the Council.

Key considerations

- 7.2.
- Loss of existing development
 - Principle of the proposed uses
 - Affordable housing
 - Design issues, including layout, scale, mass and architectural design
 - Landscape/ecology
 - Heritage impact
 - Sustainability
 - Flood risk and drainage
 - Noise, air quality and contaminated land
 - Residential amenity
 - Transportation matters
 - Safety/security
 - Planning obligations

Loss of existing development

- 7.3. The site comprises a variety of buildings at present, many in a deteriorating state, but some are examples of good late 19th century and early 20th century works, factories and clerks' offices. Some are of local historic and architectural interest, are completely characteristic of this district of Digbeth/Cheapside and are considered to be non-designated heritage assets (NDHA). Consequently, the applicant's Supplementary Heritage Assessment (SHA) has identified them and assessed their loss. Your Principal Conservation Officer (PCO) has reviewed the SHA and reached the following conclusions on the NDHAs:

- 7.4. *Nos. 30-31 Bradford Street and No. 32 Bradford Street:* These are good buildings which, despite alterations (which are not irreversible) retain a number of architectural features and details reflective of their period and distinctive to these industrial areas of Digbeth. The SHA conclusion that they hold a low level of heritage value is agreed, however your PCO considers the level of harm to their significance to be high, rather than low, because they would be completely demolished.



Figure 5: Nos. 30-31 and No. 32 Bradford St

- 7.5. *No. 232 Moseley Street:* A former shop with residential accommodation above, the shopfront now being absent although its extent remains legible. The SHA considers the building retains a degree of historic and architectural interest but of comparatively low order. Your PCO agrees but as above, considers the level of harm to the significance of the NDHA to be high rather than low due to the full demolition proposed.



Figure 6: No. 232 Moseley St

- 7.6. In addition, to those assessed by the applicant, your PCO considers [No. 34 Rea Street/Nos. 300-325 Cheapside](#) to be an NDHA as well. This building holds a prominent position on the corner of Rea Street and Cheapside and is a good example of the larger commercial buildings of Digbeth dating from the early-mid 20th century. It shows good qualities in its simple design and proportions, materials and architectural features, retaining its original steel windows. Notwithstanding the insertion of modern roller shutters, it holds heritage value and is considered to be an NDHA. Complete loss would result in a high degree of harm to its significance.



Figure 7: Nos. 300-325 Cheapside/No.34 Rea St

- 7.7. Therefore, the proposal would result in a high degree of harm to the significance of these four NDHAs, arising from their complete loss. In accordance with para. 203 of the NPPF, the effect of this proposal on the significance of NDHAs should be taken into account in the determination of the application. A balanced judgment will be required having regard to the scale of any harm or loss and the significance of the assets. A conclusion on this matter will be reached below in the Planning Balance section towards the end of this report.
- 7.8. In addition to the loss of heritage assets, the proposal would see the loss of employment land which BDP policy TP20 seeks to protect. However, exceptions are permitted where this land has become obsolete and where the site is either a non-conforming use, or it is no longer attractive having been actively marketed. The Loss of Industrial Land to Alternative Uses SPD also states that within the city centre, a more flexible approach to changes of use from industrial to residential will be required to support regeneration initiatives. Taking a broad view, many of the buildings within the site appear to be vacant with little prospect of providing jobs in the near future, and their loss would facilitate wider regeneration efforts through the Southern Gateway Wider Area of Change. Clearance of this site would also allow for new commercial units to be provided as part of mixed-use redevelopment, which are likely to be more attractive to businesses in the E class. Consequently, in land use terms, there is no objection to the redevelopment of this site.

Principle of proposed uses

- 7.9. The Southern Gateway Wider Area of Change is identified in BDP policy GA1.2 as the focus for expansion of the City Centre Core southwards through Smithfield towards Highgate. A mixed-use approach is supported, including residential, along with high quality public spaces and routes. Architecture and sustainability credentials are expected to be exemplar and development across the wider Southern Gateway will need to address the sustainable management of the River Rea Corridor which is associated with areas of flood risk. The site is also identified within the Housing and Economic Land Availability Assessment and the Brownfield Register.
- 7.10. *Commercial uses:* The proposed uses would fall within use class E which includes retail shops, cafes/restaurants, financial and professional services, indoor sport/fitness, medical and health services, day nurseries, offices, R&D, and light industry. The site lies 385m outside of the 'City Centre Retail Core' where retail uses should be focussed in accordance with BDP policies GA1 and TP21. However, policy GA1.1 supports appropriate scale retail development where it complements the existing retail core as part of mixed-use redevelopments. As the proposed commercial space totals only 2,099sqm and would be split between two buildings, it would complement rather than compete with the retail core and is therefore acceptable.
- 7.11. *Residential use and housing mix:* This is acceptable in principle within the Southern Gateway and in providing 711 new dwellings it would make a good contribution to addressing the city's housing need, particularly given the lack of a five year housing land supply.
- 7.12. Since the application was made, the Council's Housing and Economic Development Needs Assessment (HEDNA) has been published (April 2022), which updates the 2012 Strategy Housing Market Assessment cited in the BDP. This provides the most up to date evidence base on the mix of dwelling sizes required in the city and breaks down the mix required into sub-areas. For the central area where the application is located, the mix should be as follows (source Table 8.34, HEDNA):
- | | | | |
|-------------|-------------|-------------|-------------|
| 1 beds: 17% | 2 beds: 37% | 3 beds: 31% | 4 beds: 15% |
|-------------|-------------|-------------|-------------|
- 7.13. The proposed mix is:
- | | | | | |
|---|-----------|-------------|------------|------------|
| 1 | beds: 45% | 2 beds: 55% | 3 beds: 0% | 4 beds: 0% |
|---|-----------|-------------|------------|------------|
- 7.14. The majority of apartments, 394 units, would be 2 beds, which accords with the HEDNA data. However, the remainder would be 1 beds and of these, 272 would be 1 bed 1 person units. In the absence of any larger units, which the HEDNA shows are in need in the city's central area, the applicant has sought to justify the mix with reference to market trends, stating this is "*not an unreasonable mix for a city centre development. One beds are popular with young professional couples and single professionals which the city are aiming to attract/retain and they are cheaper to buy/rent and lower service charge if working within a budget.*"
- 7.15. In addition, a letter from local property agent, Maguire Jackson, on the current residential sales and rental market indicates that main demand in sales is for properties below £300,000, making one-bedroom apartments in the £200,000-£265,000 range more saleable than two-bedroom properties in the surrounding area. Larger properties (2+ bedrooms) are in greater demand in more mature residential areas such as the Convention Quarter and the Jewellery Quarter. Digbeth, which is still developing as a residential district, is more attractive to first time buyers and buy to let landlords. The rental market continues to be resilient with the biggest demand for single people and couples looking for one-bedroom flats, or sharers looking for two bedrooms.

- 7.16. I am mindful that, in addition to the HEDNA data, the Smithfield Masterplan refers to the creation of a neighbourhood with “*a mixture of 2, 3, 4 bed apartments*” with “*community facilities such as a health centre and primary school all contributing to the creation of a great place to live*”. The development would go some way to supporting a more family-friendly neighbourhood in the city centre, with its 394 2-bed apartments, however it is acknowledged that this part of the Masterplan area would not provide any larger units that might be attractive to bigger families or groups sharing an apartment. The application is supported by Counsel opinion that the Smithfield Masterplan is not relevant to the assessment of this application, to which a fuller response is provided later in this report, however, suffice to say here that, in my view, it is a material consideration.
- 7.17. Both the HEDNA and the Smithfield Masterplan clearly support the provision of 2 bed apartments and these are therefore welcomed. I acknowledge that market trends appear to support the provision of 1 bed apartments to a greater extent than the HEDNA indicates there is a need for, however the evidence put forward for this seems to be more anecdotal than empirical and is more a measure of demand than need.
- 7.18. In summary on the matter of principle, notwithstanding the impact on non-designated heritage assets about which a balanced view will be taken later in this report, the proposed development would accord with the regenerative aspirations of the BDP and the Smithfield Masterplan through mixed use development within the Southern Gateway Growth Area. The 711 apartments proposed would make a good contribution towards meeting the city’s housing need although the 2 beds would best accord with the identified needs and the number of 1b1p units is disappointing.

Affordable housing

- 7.19. BDP policy TP31 states the Council will seek 35% affordable homes as a developer contribution on residential developments of 15 dwellings or more. Where an applicant considers a development proposal cannot provide 35% affordable housing, for example due to abnormal costs or changing economic conditions, the viability of the proposal will be assessed.
- 7.20. In this instance, the applicant submitted a Financial Viability Appraisal to demonstrate that no affordable housing could be provided. However, following independent assessment of the FVA on behalf of the Council, it has been agreed that the site could provide 10% affordable housing, without prejudicing its deliverability, with the following discounts:
- 9 x 1 bedroom apartments at 30% discount (First Homes)
 - 9 x 2 bedroom apartments at 30% discount (First Homes)
 - 27 x 1 bedroom apartments at 20% discount (Discount Market Sale)
 - 26 x 2 bedroom apartments at 20% discount (Discount Market Sale)
- 7.21. The discounts would equate approximately to the following reductions:
- First Homes: 1 bed: £193,000 down to £135,000
 2 bed: £300,000 down to £225,000
- Market Sales: 1 bed: £190,000 down to £152,000
 2 bed: £300,000 down to £240,000
- 7.22. Using a basic online mortgage calculator, the sales value of the First Homes with the 30% discount should fall within the government’s eligibility criteria for First Homes (household income of no more than £80,000) and the market sales values should just fall within the Council’s eligibility criteria for affordable housing (a single person earning

£30,000pa or a couple earning £45,000pa). On this basis, I would expect it to be possible for these affordable homes to be sold to eligible purchasers.

- 7.23. The 10% offered is disappointing against a target of 35%, however, in the context of other city centre schemes recently considered by your Committee, it is a comparable or better offer.

- 7.24. The Council's Affordable Housing Team has provided the following comment:

"The provision of affordable homes as negotiated by the Councils independent assessor will provide a supply of affordable home ownership options in the centre of the city. The provision of 1 and 2 bedroom properties would be most suitable for the area for affordable home ownership options which is supported by the HEDNA 2022. Affordable home ownership options as offered within the scheme will provide an opportunity for people who wouldn't otherwise be able to buy their own home on the open market to own a property in the centre of the city."

Design matters

- 7.25. The final design now proposed has been the subject of discussion and amendment throughout the application process, with input from your City Design Manager.
- 7.26. **Layout:** The Smithfield Masterplan shows the following layout for the area with a linear park along Moseley Street shown in green:



Figure 8: Smithfield Masterplan Plan 4 – Pedestrian and Cycle Connections (Source: Smithfield Masterplan)

- 7.27. However, this is indicative only and proposals may depart from it, as this scheme does. The two existing city blocks would be retained in their current position, with no changes to the road layout, (see Figure 6 below) and your City Design Manager has no objection to the arrangement of the proposed buildings. The Design and Access Statement shows indicatively how the remaining Masterplan area could reasonably be laid out, demonstrating that a more piecemeal approach need not compromise the layout of the overall Masterplan area.
- 7.28. The development would preserve the connections made by Cheapside and Moseley St between Smithfield and into Highgate, via the Rea Valley Urban Quarter SPD area, and tree planting/landscaping is proposed for both streets.

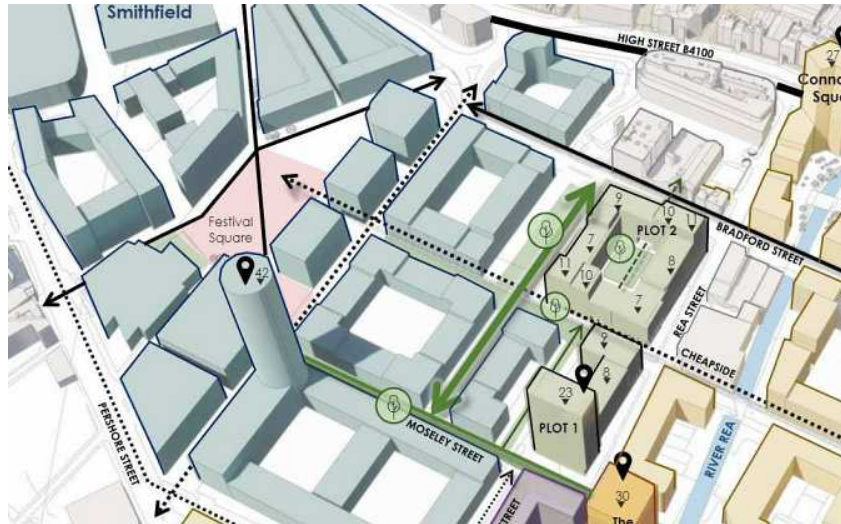


Figure 9: Proposed site layout and indicative layout of remainder of Smithfield Masterplan area (Source: Design and Access Statement)

- 7.29. **Scale, height and massing:** The scheme generally proposes a mid-scale height of between 7-10 storeys. The tallest element is a 23 storey tower at the southern end of the site, facing Moseley St, which the City Design Manager is able to support on the basis that in combination, the Smithfield Masterplan and the Rea Valley Urban Quarter SPD seek to create a new boulevard route along Moseley St. The tower was originally at the Bradford St end of the site where it would have been at odds with the hierarchy of streets and with a more significant impact on the Grade II listed The Anchor pub; relocating it to Moseley St is a better urban design solution.



Figure 10: Proposed 23 storey tower facing Moseley St (Source: Design and Access Statement)

- 7.30. **Wind microclimate:** As a tall building is proposed, the application is supported by a Wind Microclimate report. In the absence of dominant structures, existing conditions in and around the site are expected to be largely driven by exposure to prevailing winds which are from the southwest, with southerly and northwesterly winds are relatively frequent. As existing, based on the Lawson criteria for pedestrian safety the site rates as safe and in terms of pedestrian comfort, conditions are suitable at least leisurely strolling on thoroughfares in and around the site. Conditions are suitable for access into buildings and for waiting at bus stops, however, at The Anchor pub which has picnic benches on the forecourt, conditions would be suitable for 'Occasional Sitting'

but too windy for 'Frequent Sitting'.

7.31. In respect of the proposed development, the report concludes as follows:

- No significant impact on wind conditions with regard to pedestrian safety.
- Thoroughfares within and alongside the site are suitable for pedestrian access to and passage past the development in terms of pedestrian comfort.
- Main entrances would enjoy suitable conditions for pedestrian ingress/egress.
- Recreational spaces, including rooftop terraces, would generally enjoy suitable conditions for the planned activities.
- Minor adverse impact on Rea St where conditions would become marginally windy, but tolerable, for comfortable pedestrian passage to the east of the tower.
- No significant adverse cumulative effects with future surrounding developments expected, with conditions in and around the site enhanced due to additional shelter from approaching winds.

7.32. The assessment takes account of various “designed-in features” including tall shrubs (up to 1.8m) and 5m tall trees to the south of Plot 1 on Moseley St; 1.2m tall solid walls and 1.5m tall hedges within the courtyard in Plot 2; and 1.2m high balustrades and 2.4m tall screens on roof terraces, with more active recreational uses assigned to the southern parts of the Plot 1 terrace. No other mitigation measures are required. In my view, these measures could be achieved as part of the landscaping condition and this has been amended to secure these features.

7.33. **Architecture and materiality:** Six building typologies are proposed and principal materials would be brick, terracotta and concrete, which reflect local character. The Design and Access Statement includes bay studies showing the use of the main and feature materials, reveals, balustrades and other architectural elements. Your City Design Manager notes that the detailed architectural design and modelling is generous, with good reveal depths for example, and Building F proposes curved glazing. All of these features are welcome and detailed conditions are attached to ensure that the good quality design shown in the drawing is delivered.



Figure 11: Building F facing Bradford Street
(Source: Design and Access Statement)

Landscaping/ecology/biodiversity

7.34. Following amendments to reduce the impact of flooding (see below), the site would be developed at its current ground level and all of the planting, other than on roof gardens, would be at grade. Both your City Design Manager and Principal Arboriculturist have welcomed the landscaping proposals. Good space for planting is proposed, especially on Plot 1 where it would be publicly accessible and could contribute significantly to greening the streetscene and enhancing the public realm. On the roof, space has

been given over for residents' terraces, biodiversity roofing, solar photovoltaics and air source heat pump equipment, which would make good use of the space.

- 7.35. Ecological survey work to date indicates that several of the existing buildings have low potential for roosting bats and Black Redstart birds have also been recorded in the locality. Your Senior Ecologist has recently reviewed the application and advised that the original Ecological Appraisal and initial bat roost inspection are now more than two years old and he recommends further survey work is undertaken prior to determination of the application. Bats are European Protected Species (EPS) and where these are present, the LPA must consider the three tests in Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) prior to determination of a planning application. The tests are:

Test 1: The derogation is in the interests of preserving public health or public safety or other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.

Test 2: There is no satisfactory alternative.

Test 3: The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

- 7.36. It is not possible to say definitively, based on the survey work to date, that the proposed development would meet the requirements of Test 3 and that derogation would occur.
- 7.37. Having regard to the tests above, in my view the proposed development could meet the requirements of Tests 1 and 2. The delivery of major regeneration through the implementation of the Southern Gateway in BDP policy GA1.2 and the delivery of housing on this site as part of that would be in the public interest from a social and economic perspective. Furthermore, the only alternative would be to try to re-use and convert the buildings which is highly unlikely to be successful in terms of place-making, most likely would be financially unviable, and would deliver significantly fewer new homes.
- 7.38. In terms of Test 3, further surveys are needed to determine an appropriate and proportionate level of mitigation and conditions are attached to secure this work and suitable mitigation should either bats or Black Redstarts be found to be using the site.

Impact on heritage assets

- 7.39. The application is accompanied by a Heritage Statement, Supplementary Heritage Statement, Visual and Heritage Impact Assessment Addendum, Verified Views and a Zone of Theoretical Visibility Designated Heritage Assets. Together these identify heritage assets which could be affected by the proposal and describe their significance, as required by para.194 of the NPPF.
- 7.40. The impact on non-designated heritage assets within the application site is set out at paras. 7.3-7.7 above however other assets would also be affected. The impact on various assets has been tested, however only those where harm would arise are discussed here.

The Anchor PH, Bradford St – Grade II

- 7.41. Built 1901 from red bricked terracotta, this has a degree of prominence occupying a corner plot at the junction of Bradford St and Rea St. It's historic setting has been diminished through later clearance and redevelopment, although the retained 19th and early 20th century building along both streets contribute positively in placing the building

within its historic context.



Figure 12: The Anchor PH (Source: Google Maps)

- 7.42. The Supplementary Heritage Assessment (SHA) identifies the proposed development as a distinct new visual element to the south of The Anchor and states it will not impact on views which take in the building from Bradford St. It also considers that in the context of surrounding redevelopment, the proposal will not substantively impact on positive elements within the current setting of the pub. Removal of negative visual elements within the application site will also provide some enhancement to the visual setting. It concludes the urban setting would be maintained with no adverse impacts on significance.
- 7.43. Your Principal Conservation Officer (PCO) does not entirely agree with these comments or conclusions. Notwithstanding some negative elements within the application site (e.g. gap sites, poorly maintained buildings) there are some non-designated heritage assets (NDHAs) within the site which share some characteristics with The Anchor, for example, age, scale, form, materiality and design details, as well as historic communal associations. Clearance of the whole site would remove further elements of the historic setting of The Anchor. In her view, this would negatively impact on the setting causing harm through the complete loss of buildings which contribute positively towards its setting. Furthermore, redevelopment at a much larger scale would have a significant impact on the immediate setting of the pub. She concludes that the proposal would cause less than substantial harm to the setting of the Anchor. The harm arises through the demolition of buildings which contribute positively to the setting of the Anchor and the introduction of an unprecedented scale onto the site. As historic setting is compromised she would place the degree of harm at the moderate level of less than substantial. Viewpoint 2 of the Verified Views document demonstrates the overbearing impact of the scale of the development on The Anchor.



Figure 13: Verified View 2

Parish Church of St Martin - Grade II*

- 7.44. The significance of the church is summarised as being embedded in its architectural, artistic and historic significance. It dates from the 13th century with alterations and repairs in the 17th and 18th centuries. The tower, spire and transept were re-modelled in the 19th century to designs by Hardwick and Chatwin and the south transept window is to designs of Edward Burne-Jones and made by William Morris in 1875-80. The church was restored in the mid-20th century following WWII bomb damage and holds historic illustrative value as a prominent remnant of the medieval core of Birmingham and communal value as a place of worship.
- 7.45. Although its original medieval setting is significantly altered, the church's location in what was the medieval core of Birmingham contributes to its significance as does its prominence in surrounding views. Many elements of setting do not materially contribute to the church's significance but the variety and age of the surrounding buildings reflects the continuing development of Birmingham since medieval times. From the north and the Bullring walkway (St. Martin's Walk), are purposely designed sequential views which reflect historic views towards and of the church.
- 7.46. In view of the sensitivity of the church, the applicant has provided a Visual and Heritage Impact Assessment Addendum to assess the proposed development on a series of viewpoints along St Martin's Walk.



Figure 14: Viewpoint 4, St Martin's Walk
(Source: Visual and Heritage Impact Assessment Addendum)

- 7.47. The VHIAA concludes that:
- the proposed development will bring both adverse and beneficial visual effects within views experienced from St Martin's Walk from the introduction of a new, prominent tower of high-quality architecture in the backdrop of St Martin's Church.
 - The level of effect will be greatest towards the north-western extents of St Martin's Walk (Viewpoints 1, 2, and 3) and reduce travelling south-eastward along St Martin's Walk (Viewpoints 4 and 5).
 - The changing elevation will alter the perspective of the proposed development in a manner that will steadily diminish the magnitude of change.
 - Cumulative impacts are likely to be experienced within Viewpoint 1, through the combination of effects from multiple consented schemes of large scale and similar form to the proposal. The cumulative effect will be major, but net neutral in outcome due to

a balance of beneficial and adverse outcomes.

- 7.48. The concluding position of the VHIAA is that when balancing all factors, the impact of the proposed development is concluded to fall around the middle (moderate) level of the “less than substantial harm” bracket, as defined by the NPPF.
- 7.49. Your PCO considers this a fair conclusion. Taking account of the visual evidence and the level and nature of effects concluded as sitting between major/moderate adverse and moderate neutral/beneficial then the level of harm can reasonably be placed at the medium/moderate level of ‘less than substantial harm’ in Framework terms. Therefore, she agrees with the concluding position of the VHIAA that the proposed development would cause a moderate degree of ‘less than substantial harm’ to the setting of the grade II* St. Martin’s Church.

The Market Tavern PH – Grade II

- 7.50. The verified views document demonstrates that the proposed tower would form part of the immediate visual setting of the Market Tavern P.H. No further assessment of the impact of the tower has been supplied by the applicant and therefore your PCO has made the following assessments of significance, setting and impact.



Figure 15: Verified viewpoint 1
(Source: Verified Views July 2023)

- 7.51. Formerly known as the Dog and Partridge, this was built 1899-1900 by James and Lister Lea, renowned Birmingham pub architects of the period, for the Holt Brewery. It occupies a prominent position on the corner of Moseley St and Birchall St with elevations of red brick and terracotta to both streets, and a prominent canted corner entrance. Its setting is one of a mixed townscape of historic and modern, generally low-scale industrial, commercial and residential buildings, in quite a fragmented streetscape. The Anchor and the White Swan on Bradford Street, whilst not visually connected, also form significant elements in the setting of the Market Tavern through age, historic function, historic association (all James and Lister Lea), architecture, form and materiality.
- 7.52. Verified Viewpoint 1 is taken from the corner of Moseley Street and Charles Henry Street and from where the significance of the principal elevations of the Market Tavern and its architectural prominence is best appreciated. The appreciation of the pub in this view is currently uninterrupted by the larger-scale development which is apparent in more distant and wider views of the city centre.
- 7.53. The proposed development would introduce a tower into the streetscape setting of the Market Tavern bringing a city-centre scale much closer to the listed pub. Viewpoint 1 evidences how the tower would appear as a new and dominant element in the streetscape setting and be a distraction in views of the pub, challenging and competing with its prominence. Through high degrees of inter-visibility, the ability to appreciate

and experience the architectural prominence of the pub in this view would be diminished by the presence of a large tower causing harm to significance. The harm would be 'less than substantial' at the low end of the scale.

Digbeth, Deritend and Bordesley High Streets Conservation Area (DD&BHSCA)

- 7.54. The significance of the DD&BHSCA was not assessed in the Heritage Statement and based on the original position of the tower, on the corner of Bradford Street and Rea St it was not considered likely to have a detrimental impact on the setting of conservation area due to limited visibility from the inner streets. The repositioning of the tower on the corner of Moseley Street and Rea Street presents a different scenario which is evidence by the Verified View Viewpoint 4:



Figure 16: Verified viewpoint 4
(Source: Verified Views July 2023)

- 7.55. Your PCO advises that Viewpoint 4 is taken from the top of Floodgate Street looking south from where the general low scale of the conservation area can be appreciated and from where the scale of the city centre to the west remains imperceptible. The view is terminated by the locally listed Bordesley Viaduct which is a significant historic structure within the conservation area and which adds to the hard industrial appearance created by the traditional building types in these inner areas of the conservation area and make a vital contribution to local distinctiveness and sense of place.
- 7.56. The DD&BHSCA CAAMP identifies that the “*railway viaducts which run through and bound the conservation area are the most significant structures in terms of height and scale and have a monumental quality*” and that the “*narrow views along the streets to the north of the High Street corridor are generally closed by buildings or terminated by the railway viaducts and there is a strong sense of enclosure. Bordesley Viaduct severs the area and only Floodgate Street and Heath Mill Lane allow long views through.*”
- 7.57. This view is therefore considered to be a significant view of the conservation area and one which allows for an appreciation, understanding and experience of the character and significance of this inner-city industrial area. To interrupt this view with a large-scale residential tower would detract from this currently uninterrupted view and bring a city-centre scale into the visual setting where this currently does not exist from this vantage point. The proposal is therefore considered to be harmful to the significance of the conservation area, through development in its setting. The harm would be 'less than substantial' to the conservation area as a whole at the low end of the scale.

Warwick Bar Conservation Area

- 7.58. The significance of the Warwick Bar Conservation Area was not assessed in the Heritage Statement and based on the original position of the tower, on the corner of Bradford Street and Rea it was not considered that the tower would have a detrimental impact on the setting of conservation area due to limited visibility from the inner streets. The repositioning of the tower on the corner of Moseley Street and Rea Street now

presents a different scenario which is evidence by Viewpoint 3 of the verified views document.



Figure 17: Verified viewpoint 3
(Source: Verified Views July 2023)

- 7.59. Your PCO advises that Viewpoint 3 is taken from the top of Fazeley Street looking south along Pickford Street from where the general low scale of the conservation area can be appreciated and from where the scale of the city centre to the west remains imperceptible. The view is terminated by the locally listed Bordesley Viaduct which is a significant historic structure within the setting of the conservation area and which contributes to the hard industrial appearance created by the traditional building types and canal infrastructure in these inner areas of the conservation area and which make a vital contribution to the local distinctiveness, setting and sense of place.
- 7.60. The Warwick Bar CAAMP identifies that *“narrow views along the streets in the area are terminated by buildings or closed by railway viaducts and create a sense of enclosure”* and that the *“railway viaducts which confine and enclose the area to the north-west and south-east are significant landmark features which dominate the local townscape. The effect is amplified by the Bordesley viaduct which closes views to the south beyond the conservation area boundary.”*
- 7.61. Viewpoint 3 is therefore considered to be a significant view out of the conservation area and one which allows for an appreciation, understanding and experience of the character and significance of this inner-city industrial area. To interrupt this view with a large-scale residential tower, bringing a city-centre scale into the visual setting of the conservation area where this does not exist from this vantage point, would detract from this currently uninterrupted view. The tower would become the dominate feature in the view challenging the significant historic landmark feature of the viaduct which contributes to significance through setting. The proposal is therefore considered to be harmful to the significance of the conservation area, through development in its setting. The harm would be ‘less than substantial’ to the conservation area as a whole at the low end of the scale.
- 7.62. Having reviewed all the supporting documents, your PCO concludes that the development would be harmful to the following designated heritage assets:
- *The Anchor P.H.*- a moderate degree of less than substantial harm caused through demolition of elements of historic setting and scale of the redevelopment.
 - *St. Martin’s Church*- a moderate degree of less than substantial harm caused through the introduction of a tower with a degree of prominence within key and designed views of the church. The prominence of the new tower would have a negative impact upon the existing experiences of the church by creating competition to its landmark status and introducing distractions from its architectural qualities.
 - *The Market Tavern P.H.*- a low degree of less than substantial harm caused through

the introduction of a tower into the street scape setting with a degree of prominence, creating a distracting element in views which detract from the visual appreciation of the prominence of the listed pub.

- *Digbeth, Deritend and Bordesley High Streets Conservation Area* - a low degree of less than substantial harm caused through development in its setting which would interrupt a significant view within the conservation area which allows for an appreciation, understanding and experience of the character and appearance of the area.
- *Warwick Bar Conservation Area* - a low degree of less than substantial harm caused through development in its setting which would interrupt a significant view out of the conservation area which allows for an appreciation, understanding and experience of the character and appearance of the area.

7.63. As discussed in paras. 7.3-7.7 above, the proposed development is also considered to be harmful to the following non-designated heritage assets:

- *Nos. 30-31 Bradford Street* - high degree of harm to a building of low heritage value caused through demolition/complete loss of significance.
- *No.32 Bradford Street* - high degree of harm to a building of low heritage value caused through demolition/complete loss of significance.
- *No.34 Rea Street and 300-325 Cheapside* - high degree of harm to a building of low heritage value caused through demolition/complete loss of significance.
- *No.232 Moseley Street* - high degree of harm to a building of low heritage value caused through demolition/complete loss of significance.

7.64. Having reviewed all of the heritage-related documents, I have no reason to differ from your Principal Conservation Officer's conclusions.

7.65. In accordance with para. 202 of the NPPF, where less than substantial harm to the significance of designated heritage assets is identified, the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. In addition, in accordance with para. 203 of the NPPF, a balanced judgment is also required where an application affects non-designated heritage assets. These balancing exercises are undertaken towards the end of this report.

Sustainability

7.66. In the broadest terms, the proposal would see the redevelopment of a brownfield site in a very sustainable city centre location. This accords with the approach of the NPPF para. 120 which requires substantial weight to be given to the value to using previously-developed land within settlements for homes.

7.67. A Sustainable Construction Statement, an Energy Statement and a BREEAM Pre-assessment Report accompany the application. These detail the expected reduction in regulated and unregulated energy demand and carbon emissions by 24% and 20% respectively when compared with Building Regulations Part L TER baseline. This would be achieved through energy efficiency design measures and the incorporation of on-site renewable energy technologies from solar photovoltaics and air source heat pumps. The BREEAM Pre-assessment report indicates a 'very good' rating, which does not meet the 'Excellent' rating required by BDP policy TP3. The BREEAM Assessor's view is that the 'Excellent' rating cannot be achieved due to the function of the units, the nature of the shell and core, and their small individual size. In addition, credits are lost due to the limitations of the development to provide on-site biodiversity and ecology enhancements. I am satisfied with this justification, although the result is still disappointing.

Flood risk and drainage

- 7.68. Para. 161 of the NPPF states that, “All plans should apply a sequential, risk-based approach to the location of development – taking into account all sources of flood risk and the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property.”
- 7.69. The application site is located within Flood Zone 3 (dark blue in Figure 11 below), being close to the River Rea, and the need for management of the flood risk associated with the River Rea Corridor is set out in BDP policy GA1.2.



Figure 18: Flood Map for Planning
(Source: Figure 1.2 FWEP)

- 7.70. National planning guidance requires the application of two tests:
- 1) Sequential test – to steer development to areas with the lowest risk of flooding.
 - 2) Exception test – to demonstrate that:
 - a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
 - b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
- 7.71. Both elements of the exception test should be satisfied for development to be permitted. A document entitled ‘Sequential and Exception Test’ has been submitted applying the tests.

Sequential test (ST)

- 7.72. In order to identify alternative sites, the document reviews 16 allocated sites within the city centre of comparable size which are listed in the Strategic Housing Land Availability Assessment 2021. Deducting those which could not accommodate a similar number of dwellings and those also susceptible to surface water flooding, only 3 sites remain. Of these, 2 are already under construction and 1 is currently in employment use and is not considered to be readily available. The conclusion of the ST is that there are no sites of a similar size, reasonably available and in a lower Flood

Zone within the search area and therefore the ST is passed.

Exception test (ET) – Part a)

7.73. The document sets out the following wider sustainability benefits:

- Meeting housing targets
- Re-use of brownfield land
- Additional employment during construction and on a small scale in the Class E unit.
- Transport links – due to the proximity to Digbeth Coach Station, New Street and Moor Street railway stations
- Sustainable drainage systems – incorporation of SuDS into the development providing a betterment in terms of reduction in surface water runoff rate and volume, and water quality benefits.
- Green space, amenity and biodiversity – provision of these areas for private residents, site users and the wider public would give a range of social, economic and environmental benefits.

Exception test – Part b)

7.74. This test is particularly important because it deals in part with the safety of future occupiers in the event of a flood. Of relevance is the organisation of the proposed uses within the blocks, with commercial/non-habitable space (less vulnerable) on the ground floors and all habitable space (more vulnerable) at first floor and above.

7.75. The Flood Risk Assessment indicates there is no history of flooding on the site and that the site is at low, very low or no risk of flooding from surface water, groundwater, sewers, infrastructure failure and reservoirs/canals. The key source of flooding therefore is fluvial, from the River Rea which is 50m east of the site. There would be no risk of flooding in the 1 in 100-year event, however, in the 1 in 100-year +50% climate change event, the site would be inundated, with a maximum depth of between 0.9 and 1.2m. Figure 12 below shows that only the northwest corner of the site would have dry access/egress in the event of a flood, with most of the perimeter surrounded by floodwater of between 0.3m and 1.2m deep.



Figure 9 : Data extracted from the updated River Rea Flood Model

Figure 19: Floodwater depth at 1 in 100 year +50% climate change allowance
(Source: Flood Warning and Evacuation Plan)

7.76. Mitigation measures through building design were agreed with the Environment Agency following the initial submission and the plans were amended accordingly. These were as follows:

- Ground floor levels to be retained as existing thereby retaining the existing floodplain

conditions on the site and avoiding displacement of floodwater onto nearby sites.

- Implement flood resistant and resilience measures on the ground floor to minimise flood damage and aid recovery times after an event. For example, waterproof screed and internal render; ventilation outlets, utility points and air bricks fitted with removable waterproof covers; electrical cables installed from first floor downwards and plugs placed 0.9m above ground level.
- Where plant and services must be located on the ground floor they should be resilient to the 1 in 100-year +50% flood event.
- More vulnerable uses (i.e. residential) to be restricted to first floor and above where they would be at least 600mm above the 1 in 100-year +30% peak flood level and above the 1 in 100-year +50% flood level.

7.77. These measures were intended to effectively create a floodable ground floor whilst protecting the residential properties above.

7.78. There have been further changes to the plans but the supporting flooding evidence was not updated and therefore the EA reinstated its objection on the latest consultation exercise. At the time of writing, I expect the EA objection to be withdrawn following appropriate updates and Members will be advised of progress on this matter at the meeting.

7.79. In addition, a Flood Warning and Evacuation Plan has been submitted. This covers the creation of a Personal Flood Plan, the trigger level for evacuation (once the river reaches 102.8m AOD which is the level of the lower part of the site); and sign up to Environment Agency flood warning service.

7.80. In the event of a flood, several hours' warning would be expected before floodwater reaches the site. The designated flood egress route would be onto Barford Street where flood depths would be lowest. Egress from Plot 2 would take residents out of the floodwater, although with some areas of up to 0.3m depth to be passed through first, which is considered acceptable for most site users in accordance with FD2320 flood risk assessment guidance for new development.

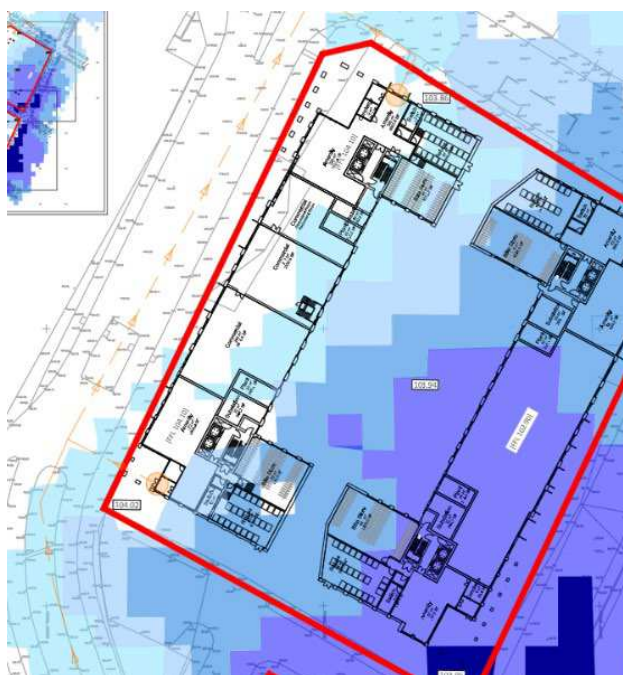


Figure 20: Plot 2 flood evacuation route

- 7.81. Egress from Plot 1 would be into depths of up to 0.6m for approx. 15m before reaching a lower depth of up to 0.3m. The building would reduce floodwater velocity before reaching this point.



Figure 21: Plot 1 flood evacuation route (orange annotations)
(Source: Flood Warning and Evacuation Plan)

- 7.82. The meeting point is proposed to be the car park at the South & City College Fusion Centre approx. 120m northwest of the site within Flood Zone 1. Residents would be encouraged to make alternative accommodation arrangements with relatives or friends if possible. Arrangements for those without accommodation would be agreed with the Birmingham Resilience Team and the FWEP updated in the event of approval of this application. Should evacuation be delayed, safe refuge should be sought on the upper floors of the buildings.
- 7.83. In addition to these arrangements, residents would be encouraged to prepare a Flood Evacuation Kit including torch, rechargeable radio, high visibility clothing, waterproof clothes, first aid kit, etc.
- 7.84. In an emergency situation, the Council has a responsibility to, among other things, meet welfare needs and provide temporary rest centres/shelter. The Birmingham Resilience Team has reviewed the FWEP and has expressed initial concern about the lack of dry access/egress and arrangements for temporary accommodation. In the event of a major flood, the priorities would be for emergency services to gain access into the buildings and for occupiers to get out. At the time of writing, final comments are awaited and Members will be updated at the meeting.
- 7.85. Building homes in Flood Zone 3 is not ideal however the River Rea runs through the Southern Gateway Growth Area and a balanced decision needs to be reached which takes account of both the need to regenerate the area, including through the provision

of housing, as well as the flood risk.

- 7.86. The ST has considered a limited number of potential alternative sites, taking account of allocated sites only; no windfall sites are considered. However, in considering the allocated sites, the ST is thorough and reasonable and I conclude that on balance enough evidence has been provided to pass this test.
- 7.87. In respect of part 1 of the ET, the document sets out a good number of wider sustainability benefits which would arise from the development. For part 2, appropriate mitigation has been arrived at through discussions with the Environment Agency which would ensure that all habitable space is well above the level of floodwaters, subject to flooding information showing this to still be the case. I have two concerns regarding the FWEP; firstly it states there would be several hours if not days of warning before a flood, however the Sustainable Management of Urban Rivers and Floodplains SPD notes that the *“heavily urbanised nature of the river means that base flows are depleted in dry weather conditions but with rapid response to rainfall as a result of the sewered run-off. This results in very rapid increase in flows at times of storms.”* Secondly, the inability to provide dry access/egress from Plot 1 is not ideal. However, I am aware that flood alleviation schemes are being considered by the Council and the EA in the upstream catchment which would reduce the overall flood risk in future climate change events for the area. The proposed Warner’s Fields development, for which a planning application is currently being considered, would also reduce flood risk by opening up the River Rea into a landscaped corridor and creating a more effective floodplain. Consequently, this situation should improve in the short to medium term. In relation to the lack of dry access from Plot 1, however, I cannot see a solution and thus a balanced decision will have to be taken. It will be important to remember that the flood risk would be greatest when factoring in climate change.

[Surface water drainage](#)

- 7.88. BDP policy TP6 requires all developments to manage surface water through Sustainable Drainage Systems (SuDS) in order to minimise flood risk, improve water quality and enhance biodiversity and amenity. The drainage hierarchy is as follows:
- Store rainwater for later use
 - Discharge into the ground (infiltration)
 - Discharge to a surface water body
 - Discharge to a surface water sewer, highway drain or other drainage system
 - Discharge to a combined sewer
- 7.89. Currently, the site is entirely impermeable due to the presence of buildings and hard-surfacing across the site. Surface water runoff currently drains via gullies and downpipes into the public drainage network. The layout of the design, incorporating soft landscaped areas would reduce the impermeable area however further betterment could be achieved through the implementation of SuDS.
- 7.90. A Surface Water Drainage Strategy states that infiltration has been discounted as the site is underlain by Sidmouth Mudstone bedrock which comprises clay, silt and sand and is unlikely to be reliable for the disposal of surface water. There would also be a potential risk of leachable contamination affecting groundwater, due to previous land uses. There are no watercourses nearby within land controlled by the applicant so discharge to a surface water body is not an option either.
- 7.91. The proposed drainage strategy includes maintaining existing surface water sewer connections but with a restriction in peak runoff rate to provide a betterment over the existing arrangement. A restricted rate of 3l/s per plot is proposed for all events up to and including the 1 in 100-year event plus 40% allowance for future climate change.

- 7.92. Attenuation tanks are also proposed under the landscaped areas in each plot to accommodate surface water runoff with restricted rate at outfall, via a hydrobrake or similar, to achieve the 3l/s per plot. In addition, bioretention areas, in the form of rainwater gardens and raised planters would intercept rainwater, allowing ponding from where water would be removed either through evapotranspiration or infiltration.
- 7.93. The Strategy acknowledges that during a fluvial flood risk event, the outfall of the surface water drainage network would become surcharged as the site would be inundated with floodwater. However, for both plots, the attenuation tanks and bioretention areas would reduce the depth of the floodwater, which together with the increased permeability of the site due to the smaller building footprint, would be a significant betterment on the existing situation.
- 7.94. The LLFA notes the site is at risk of surface water and fluvial flood risk. The Environment Agency has (previously) supported the proposal to allow the ground floor of this development to flood from fluvial flooding, and that the ground floor level will not incorporate any 'more vulnerable and highly vulnerable' development uses. This approach also offers flood resilience for surface water flooding which is likely to be a more frequent event than fluvial flooding but is likely to occur for a relatively short period of time with access and egress from the building developed for fluvial flooding available for use when surface water flooding occurs. Because of this design Birmingham LLFA accepts that finished floor levels and surrounding ground levels will remain as existing and will not increase the risk of flooding from any source to third party land.
- 7.95. Severn Trent Water (STW) has identified this area of the City Centre as a location where the sewer network requires modelling to identify how much investment is required to meet the city's ambitious growth objectives. This has resulted in a delay in them confirming to the applicant that their proposed points of connection and discharge rate are acceptable in principle. The LLFA notes that the applicant's drainage engineer has 'stress tested' the outline drainage strategy and if required can further reduce surface water discharges to meet any further requirements and in a statement confirmed that if required the surface water discharge could be reduced to just 1l/s at each point of connection. This provides assurance that there will be a means of disposing surface water which can be developed in line with STW requirements without impacting on the site layout and quantum of development. Consequently, the LLFA has recommended conditions requiring a full Sustainable Drainage Scheme and Operation and Maintenance Plan to be provided.

Noise, air quality and contaminated land

Noise

- 7.96. The application site is within the city centre with commercial premises and entertainment venues nearby. Bradford St is a busy traffic route between the city centre and the commercial and residential district to the east; it also provides a principal bus route into the city centre and is used by coaches accessing Digbeth Coach Station. The Anchor PH is located on the north side of Bradford St approx. 20m from proposed apartments in Plot 2.

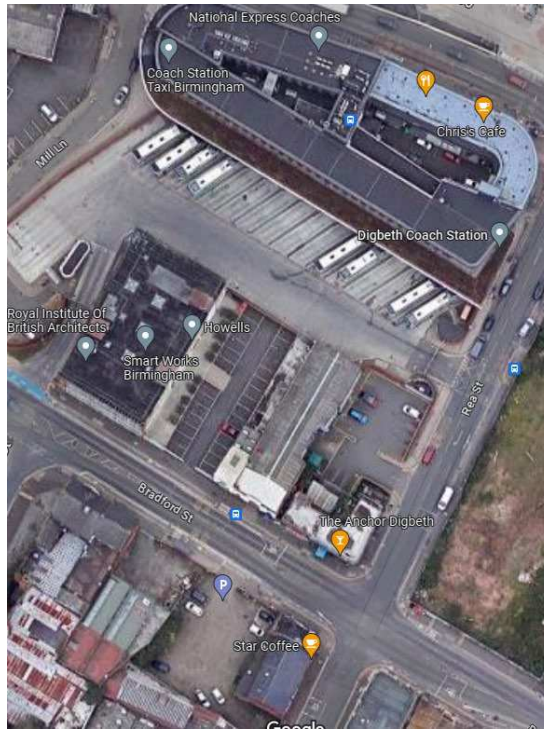


Figure 22: Location of The Anchor PH and Digbeth Coach Station (Source: Google Maps)

- 7.97. Policy DM6 of the Development Management in Birmingham DPD states that where potential adverse noise impact is identified, the development proposal should include details on how the adverse impact will be reduced and/or mitigated.
- 7.98. The application is accompanied by a Baseline Noise Assessment Rev 5 (BNA) and additional supporting information provided in response to queries from Regulatory Services colleagues. Following monitoring, the BNA identifies the existing noise climate as one which is dominated by road traffic on Bradford St but with additional intermittent traffic noise from Barford St and Rea St. Further noise is generated during the period 23:00 to midnight and night-time periods particularly for Thursday to Saturday, which is attributable to licensed premises in the vicinity together with associated pedestrian and vehicle activity on nearby streets. There was no noticeable commercial noise impact at any part of the site other than construction activity on the remaining part of the Smithfield site.
- 7.99. Based on this assessment, lower floor windows on roadside elevations would need to incorporate sound reduction measures and mechanical ventilation would be needed as open windows would not adequately reduce the noise. Almost all of the entire rooftop spaces, where roof terraces are proposed, would achieve the BS8233 'desirable' criterion.
- 7.100. In respect of commercial noise, the BNA considers the following sites: The Anchor PH, Kasablanca shisha lounge, commercial premises on Rea St, and Digbeth Coach Station.
- 7.101. **The Anchor:** This is open from midday to 23:00 Sunday to Thursday and until midnight on Friday and Saturday. It is a traditional pub with an entertainment licence and currently hosts music sessions for solo acoustic artists between 17:00 and 19:00hrs on Sunday evenings. Performers are located on a small covered raised decking area to the rear of the building. While the landlord has no intention of intensifying the level of live music, in response to comments from Regulatory Services, the noise assessment has been undertaken using data from a similar style premises (Cleary's

Bar also a pre-1920s public house) with a louder rock/pop band. This data indicates that the highest level of noise at the development site on the south side of Bradford St would be 55dB and would be significantly lower than the existing level of ambient noise on Moseley St and Rea St. The BNA states, *'On the basis that potential music noise from The Anchor is below the late evening and early night (9pm to midnight) levels of traffic noise in each of the third octave bands, it is considered very unlikely that amplified music associated with The Anchor will have any noticeable impact upon the proposed development'*.

- 7.102. **Kasablanca:** Site visits by the noise consultant confirmed there was no perceptible music break-out on either Moseley St or Rea St and the dominant noise source was road traffic. Low levels of music were audible on Cheapside to the north where traffic noise levels were significantly lower, however the music noise was below the levels of traffic noise at all monitoring positions and thus activities associated with the Kasablanca Lounge are considered unlikely to impact on the proposed development.
- 7.103. **Rea St commercial premises:** These include garages, engineering works and a church, all of which have roller shutters opening onto Rea St. During site visits, while the roller shutters were open and work being undertaken inside was observed, these works consisted of the use of hand tools and were inaudible at the development site across the street. No mechanical plant noise was audible. It was therefore considered unlikely that noise from these premises would impact on the proposed development.
- 7.104. **Digbeth Coach Station:** This is approx. 60m north of the development and coach access is from Bradford St. The intermittent coach movements are taken account of in the measured sound levels during the survey work so this was not assessed separately.
- 7.105. The BNA concludes the predominant noise source affecting the site is road traffic noise during both the daytime and night time. Although music noise was audible immediately outside both The Anchor and Kasablanca Lounge, this would not be audible at the application site. The requirements of both Regulatory Services 'Planning Consultation Guidance Note' and BS 8233 can be achieved by use of appropriate acoustic rated windows and vents to habitable rooms. Background ventilation in accordance with Building Regulations requirements can be achieved by use of appropriate acoustic rated trickle vents.
- 7.106. Regulatory Services have no objection to the scheme on the grounds of noise however, they are not convinced by the BNA's statement that music noise would always be below the traffic noise and raise questions about the methodology. At 63Hz, music noise may be louder than traffic noise. To deal with this matter, they suggest a condition requiring a noise mitigation strategy to ensure specific internal noise levels are achieved. It is possible that the mitigation strategy would result in some habitable room windows having to be kept closed to avoid music noise from becoming a nuisance, in which case, a further condition would require the submission of an overheating assessment to ensure that windows can remain closed when entertainment premises are active. Any recommendations in the overheating assessment would be implemented prior to occupation.
- 7.107. This does not give immediate certainty about whether windows would have to be sealed, however, should this become necessary, I would expect it to affect only a small proportion of the total number of apartments on the Bradford St/Rea St junction; the majority of apartments are further south of The Anchor and would not be affected. Although sealed windows do not provide the best internal environment, they have to a limited extent, been accepted on other schemes in the city centre as part of the overall planning balance.

Air quality

- 7.108. An Air Quality Assessment (AQA) submitted with the application states that the proposal has the potential to cause air quality impacts as a result of fugitive dust emissions during construction and road traffic exhaust emissions associated with vehicles traveling to and from the site during operation, as well as expose occupants to any existing air quality issues. Dust emissions could be mitigated using good practice control measures; and traffic exhaust emissions were assessed using standard screening criteria which indicated that impacts would not be likely to be significant due to the size and nature of the scheme. While the site is located within the Air Quality Management Area which covers the whole city, some locations do not experience exceedences of the Air Quality Objectives (AQOs). Given that the site is not located adjacent to any major roads and monitoring/predictions show compliance with relevant AQOs in the vicinity of the site, it is considered suitable for the proposed use from an air quality perspective.
- 7.109. Regulatory Services has no objection subject to a condition requiring a construction management statement/method plan which includes measures to control dust.

Contaminated land

- 7.110. The application is accompanied by a Phase 1 Geo-Environmental Assessment which states the site has been previously redeveloped on several occasions for industrial purposes, including use as an engineering works, metal works, chemical plant engineering works, and as a garage. The site is directly underlain by Alluvium over River Terrace Deposits, overlying bedrock of the Sidmouth Mudstone Formation. Made Ground is anticipated to be present across most of the site.
- 7.111. The Assessment indicates a moderate risk to natural ground subsidence; a moderate risk to human health, due to the potential for vapours and ground gases to impact on future site users; and a moderate/low risk to controlled waters based on the potential for contaminants to impact upon the underlying River Terrace Deposits aquifer and the River Rea. Further ground investigation works are recommended.
- 7.112. Regulatory Services has no objection subject to conditions requiring further site investigation and a contaminated land remediation strategy, and subsequent verification report.

Residential amenity

Prospective residents

- 7.113. BDP policy GA1.1 expects new living accommodation in the city centre to be of high quality and policies DM2 and DM10 of the Development Management in Birmingham DPD deal with its detailed design, together with the guidance contained in the BDG.
- 7.114. As required in policy DM10, all units would comply with the Nationally Described Space Standards and furniture layouts demonstrate how typical furniture could be accommodated within apartments. Shared internal amenity spaces would be provided on the ground floor of both blocks and, on Plot 2 would include a working from home space, meeting rooms, cinema room and private dining room.
- 7.115. Externally, residents would have access to several spaces: Plot 1 would feature a good sized area of public realm facing Barford St and along Moseley Street; and a roof terrace would be provided on the mid-section of the roof:

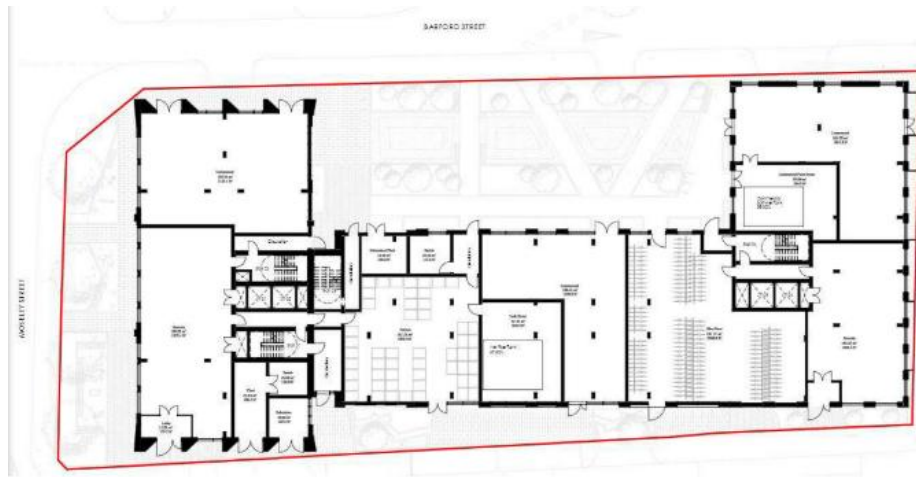


Figure 23: Plot 1 - Ground Floor Plan
(Source: Dwg ref. 20039-GNA-P1-00-DR-A-1100 Rev C)

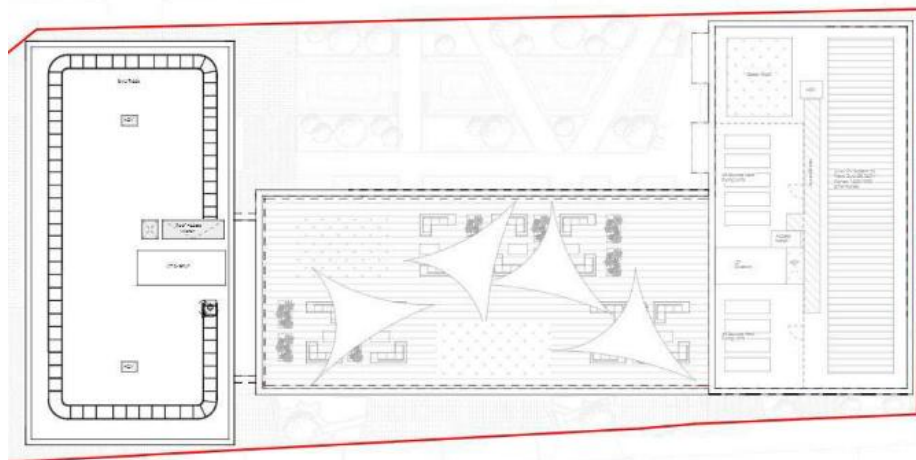


Figure 24: Plot 1 – Roof Floor Plan
(Source: 20039-GNA-P1-23-DR-A-1106 Rev B)

7.116. On Plot 2, there would be more limited public space but residents would have use of the large central courtyard, roof terraces and, apartments in Block E with a roadside elevation would also have balconies:



Figure 25: Block E, Cheapside elevation showing balconies
(Source: Dwg ref. 20039-GNA-P2-XX-DR-A-2117 Rev B)

7.117. Together, the roof terraces and courtyard would amount to approx. 3,664sqm, equivalent to 5sqm per apartment. This would be 679sqm short of the recommended

amount of outdoor amenity space for 1 and 2 bed apartments, however it does not take account of the private balconies which roadside apartments in Block E would benefit from. There would also be approx. 1,373sqm of shared internal amenity space across the ground floors of the two blocks, incorporating general seating/gathering areas, work-from-home space, meeting rooms, a cinema room and private dining room. Taking all of this into account, plus the landscaped public realm areas proposed, in my view, the amenity space provided throughout the development would be acceptable and offer a range of different environments for relaxing and socialising outside of individual apartments.

Existing residents

- 7.118. The surroundings are principally commercial and industrial however these premises are interspersed with a few residential properties. The closest and largest of these is St Eugene's Court on the east side of Rea St at the junction with Cheapside, which is a 46-bed assisted living development, and comprises individual flats and studios. While there would be more intense activity around the site as a result of the proposal, the predominantly residential nature of the proposed development would improve the general environment for existing residents bringing a new vitality, sense of security and compatibility of uses. There would also be a visual improvement given the poor state of repair of some of the buildings on the site.
- 7.119. In respect of St Eugene's Court, the development cannot achieve the minimum face-to-face separation distance set out in the Birmingham Design Guide (BDG) of 27.5m for 3 storeys and above, the separation distance being approx. 18m. However, the BDG states that this standard will be more strictly applied at the rear rather than the front, and that the standards more generally will be applied more flexibly in the city centre. Block E would be set back from the pavement by approx. 4m which would give some relief compared to the existing building which is positioned immediately at the back of the pavement. New planting along the Rea St frontage would also improve the outlook for existing residents. In addition, a Daylight and Sunlight Report considers the impact of the proposal on light received by relevant neighbouring properties and concludes that, *'All neighbouring windows with a requirement for daylight and sunlight pass the relevant BRE diffuse daylight and direct sunlight tests. The development also passes the BRE overshadowing to gardens and open spaces test.'*
- 7.120. Commercial spaces on the ground floor of the proposed blocks are relatively small units intended to serve the development and the immediate locality. Regulatory Services has not recommended any restriction to opening or delivery times however, given the proximity of St Eugene's Court, I consider it necessary to control delivery times and a condition is attached.

Impact on future residents of the Smithfield Masterplan area

- 7.121. The current application for redevelopment of the Smithfield Masterplan area is a hybrid application and full details of only some of the plots are available. The closest of these is plot 1D, which would be mainly commercial/non-habitable space on the lower and upper ground floors, then residential apartments on the upper floors. The distance between facing windowed elevations would be approx. 22m (calculating this from separate plans for each application rather than a single plan showing both developments). A similar situation would arise as described above in respect of St Eugene's Court on Rea St, where the BDG separation distance cannot be met, however, the same rationale for permitting it applies and I would not expect an undue impact on residents' privacy or outlook.

Transportation matters

- 7.122. BDP policies TP38-TP44 deal with connectivity and the transport network, seeking to ensure it is safe and prioritises sustainable methods of travel.

- 7.123. The Transport Statement notes the site is very well located for access to employment, leisure, retail and education opportunities and public transport hubs, which can all be found with a relatively short walk or cycle. Consequently, and in accordance with the Birmingham Parking SPD, no car parking spaces are proposed. On-street parking spaces are available but these are limited and subject to restrictions and it is therefore unlikely that prospective residents would own a car. Generally, the development would be expected to generate only refuse collection and servicing trips and thus vehicle trip generation is expected to be negligible.
- 7.124. In terms of detailed matters, due to the number of separate buildings/uses on the site, there are various vehicle accesses along all of the roads defining the application site. However, as no car parking spaces these should be reinstated. Of more importance will be dropped kerbs for pedestrian access. Figure 19 below shows existing (purple) and potential additional (red) pedestrian crossings:



Figure 26: Existing and Potential Additional Pedestrian Crossings
(Source: Figure 4.1, Transport Statement)

- 7.125. These changes would improve safety and pedestrian accessibility in accordance with the BDP's transport policies. Transportation Development advises that these changes can be dealt with through a S278 highways agreement and an informative is attached to that effect.
- 7.126. 100% cycle parking is proposed for the apartments which accords with the Birmingham Parking SPD. In addition, a further 10 internal cycle spaces would be provided for staff of the commercial units, and further staff and visitor cycle parking would be provided in communal areas of the development. Transportation Development is satisfied with this provision subject to a condition requiring it to be provided on site prior to occupation.
- 7.127. Due to other potential changes to the roads around the site as part of the wider Smithfield Masterplan, implementation of the Rea Valley Urban Quarter SPD and the City Centre Segments Initiative, the only long-term servicing opportunities are likely to be on Cheapside and Rea St. Consequently, the development has been designed so that refuse collection and servicing can be undertaken on these roads. A layby is proposed on Cheapside to facilitate this however on the plans in the Transport Statement, this is shown to overlap with the existing pavement which Transportation Development advise is unacceptable. They recommend an amendment to this plan is secured by condition to provide a 2m wide footway parallel to the layby which can be provided in the forecourt area and offered for adoption as public highway. A suitable condition is attached, together with an informative regarding the S278 agreement.

- 7.128. The Transport Statement concludes the proposal complies with policy and guidance, being accessible and having demonstrated that no material impact on the operation, safety or environment of the local highway network would occur. Subject to the conditions attached, Transportation Development has no objection and I have no reason to reach any other conclusion on this issue.

Safety/security

- 7.129. BDP policy PG3 which concerns place-making expects new development to create safe environments that design out crime. There are also references to safety and security in policies TP27 (sustainable neighbourhoods), TP37 (health) and DM2 (amenity).
- 7.130. In broad terms, the proposal would enliven a currently under-utilised site replacing poorly maintained or vacant units with a more comprehensive redevelopment with the ability to manage the site and ensure security across it. It would also contribute towards the wider Southern Gateway Growth Area where transformational change and the introduction of more resident development should see greater activity and natural surveillance.
- 7.131. The application has been reviewed by West Midlands Police and further information/clarification provided by the applicant concerns aspects of access control and the day to day management of the site. Many of the comments raised by the Police are about very detailed matters which are beyond the scope of planning conditions, however I agree that the provision of CCTV and lighting should be secured by condition. These would ensure that the security of the site is maintained and act as a deterrent against criminal activity.

Planning obligations

- 7.132. As a development exceeding 15 dwellings, in accordance with BDP policy TP31 a contribution should be made towards the provision of affordable housing and as discussed at paras. 7.19-7.24, 71 units (10%) are being offered.
- 7.133. In addition, as the development exceeds 20 dwellings, in accordance with BDP policy TP9, a contribution should be made towards the provision of public open space. In the first instance this should be on site but if this is not appropriate, then a contribution towards off-site provision may be acceptable. In this case, Leisure Services have indicated that a contribution of £1,473,375 should be made towards the provision, improvement and/or maintenance of public open space within the Bordesley and Highgate Ward, which has an under provision against the 2ha per thousand population target in the BDP.
- 7.134. Given that the scheme is not able to provide the full 35% affordable housing sought, it cannot afford to contribute towards the provision of off-site public open space as well. However, I am mindful that the development would include a publicly accessible landscaped area on the west side of Plot 1 and along the Moseley St frontage where proposed landscaping would contribute towards the creation of the linear park indicated in the Smithfield Masterplan. According to the Financial Viability Appraisal, the cost of providing this open space together with the necessary S278 works and landscaping would be £757,000, which although roughly half of the Leisure Services sum, is still very welcome.

- 7.135. The development is not liable for a Community Infrastructure Levy payment.

Other issues

Matters raised by Lendlease – comprehensive redevelopment.

7.136. As Members will be aware, Lendlease is the Council's development partner for delivery of the Smithfield Masterplan. Lendlease has submitted the current hybrid planning application for the Smithfield site (2022/09643/PA). The scheme to which this application relates is known as The Pressworks and this fits into the outline element of the Smithfield application site along its southeast boundary at Zone 2.1, as shown here:



Figure 27: Development Zones in Smithfield application
(Source: Smithfield Birmingham Masterplan Drawings)

7.137. Lendlease has submitted two letters of objection to The Pressworks scheme covering a range of issues. Some concerns relate to the quality and depth of the supporting information accompanying the application. These have been addressed through the submission of updated reports and the information taken into account in the consideration of the various issues discussed above. However, there are other matters raised which are addressed below.

7.138. The key objection relates to the piecemeal approach to the redevelopment of the Smithfield Masterplan area, which The Pressworks application represents, and the resulting difficulties which would arise for Lendlease in the delivery of comprehensive redevelopment. In particular, Lendlease considers this would affect the delivery of a range of apartment sizes, which according to the Masterplan should be 2, 3 and 4 beds, and how flood risk is dealt with across the wider site. Connected to this concern is the relevance of the Masterplan to the determination of this (The Pressworks) application. The relevance of the Masterplan is also an issue raised by the applicant and the application was accompanied by Counsel opinion (Paul Tucker QC, 26/5/2020) on this subject.

7.139. By way of context, it is important to remember that, when determining applications for planning permission, to the extent that development plan policies are material, the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. These requirements are set out in S70(2) of the Town and Country Planning Act 1990 and S38(6) of the Planning and

- 7.140. In Birmingham, the development plan comprises the Birmingham Development Plan adopted 2017 and the Development Management in Birmingham Development Plan Document (DPD). Various other documents, for example, Supplementary Planning Guidance (SPGs) and Supplementary Planning Documents (SPDs) may be material considerations depending on the nature of the development. Non-statutory documents are also capable of being material considerations, for example, the Big City Plan and more recently Our Future City Plan.
- 7.141. In determining a planning application, the decision-maker must decide what weight to attribute to development plan policies and to other material considerations. Put simply, the more relevant and up to date a policy or document, the more weight should be given to it.
- 7.142. In this case, there is a range of particularly important development plan policies due to the nature of the development, namely, those relating to the provision of housing, to the heritage impact, to design, to flood risk and to residential amenity. Greatest weight will be attributed to these, taking account of para.11d) of the NPPF with respect to outdatedness and the ability to demonstrate a five-year housing land supply.
- 7.143. The Smithfield Masterplan is not a statutory planning document, as it has not been through the full process to be formally adopted as a DPD or an SPD. As with the Big City Plan and the Our Future City Plan it could be described as a 'framework' which is intended to guide development but which does not set any actual policies. In my view, it is a material consideration in the determination of this planning application and therefore attracts some weight, albeit this will be less than the main BDP policies.
- 7.144. The Counsel opinion provided by the applicant suggests that it should be given "very limited weight" due to its non-statutory status and the fact that BDP policy GA1.2 Growth and Wider Areas of Change refers in respect of the Southern Gateway to the "*comprehensive redevelopment of the wholesale markets site*". They argue, essentially, that since The Pressworks site is not part of the wholesale markets site, there is no need for it to be part of a comprehensive redevelopment.
- 7.145. The Lendlease concern about the need to bring about the comprehensive redevelopment which the Masterplan aims to achieve suggests, they give the Masterplan greater weight than the applicant does.
- 7.146. In my view, the Masterplan has limited weight. I give it weight because it aims to flesh out a BDP policy (GA.1.2 Southern Gateway) with the intention of achieving good place-making and it has been through public consultation. I have limited the weight because, notwithstanding the public consultation, it is not a statutory document and does not set policies, and the site is not part of the wholesale markets site where comprehensive is very clearly expected.
- 7.147. Ultimately, while it would be ideal or desirable to bring about more comprehensive development, that is not essential for the determination of this application. The proposal accords with the main principles of the Masterplan in terms of layout and connectivity; it could come forward without worsening the flood risk or residential amenity; and it would bring public benefits in its own right, which will be discussed below.
- [Matters raised by Lendlease – housing mix.](#)
- 7.148. Lendlease notes that the proposed provision of apartments with only 1 and 2 bedrooms deviates from the Masterplan principle of delivering a mix of units including 3 and 4 bed apartments and states it would not be reasonable to expect the remainder of the

Smithfield development to redress this imbalance. I have some sympathy with this concern since TP27 aims to create sustainable neighbourhoods with “a wide choice of housing sizes, types and tenures to ensure balanced communities catering for all incomes and ages”. However, each application has to be considered on its own merits and this application is made against the backdrop of an urgent need for housing and especially affordable housing within the city. It would provide a good number of apartments, the majority with 2 bedrooms, and with 10% of those proposed to be affordable. The Masterplan addresses delivery of the wider scheme anticipating a phased approach with opportunities to bring different elements dependant on market conditions. Arguably, it would make most sense for the larger units to come forward once there is certainty regarding the provision of the primary school which the Masterplan references.

Matters raised by Lendlease – sterilisation of development potential for Smithfield Park area.

- 7.149. The Lendlease application shows within the parameter plans for the outline element of the scheme where green space could be located:



Figure 28: Parameter Plan 05 Open Space
(Source: Smithfield Birmingham Masterplan Drawings)

- 7.150. They argue there is the possibility of sterilisation of the development potential of the Smithfield Park area due to the pedestrian and vehicular access route for The Pressworks being maintained along Barford St, and due to the proposed flood evacuation route also using Barford St.
- 7.151. While The Pressworks development would eat into the northwest corner of the green area, I am not convinced it would necessarily prejudice the delivery of a high quality open space. The Lendlease proposal appears to allocate rather more land to open space than the Masterplan, as below:



Figure 29: Plan 4 Pedestrian and cycle connections
(Source: Birmingham Smithfield Masterplan)

- 7.152. The Design and Access Statement for The Pressworks shows how green space could still be provided within the wider Smithfield site, albeit in a different manner to that indicated in the Masterplan, whilst retaining Barford St in its current position. There is likely to be some scope to stop up Barford St if needed, to give space over to the park, without compromising access for The Pressworks.

Planning balance

- 7.153. Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with proposals for planning permission, regard must be had to the provision of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that *'If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.'*
- 7.154. NPPF paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development. For decision taking, paragraph 11d) states

For **decision-taking** this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; 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.

- 7.155. Footnote 8 confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 7.156. The Birmingham Development Plan became 5 years old on 10th January 2022. In accordance with NPPF paragraph 74, BDP policies PG1 and TP29 are considered out of date, and the Council's five-year housing land supply must now be calculated against the Local Housing Need figure for Birmingham. As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking.
- 7.157. However, Footnote 7 notes the specific policies which protect important areas or assets and these include policies relating to designated heritage assets.
- 7.158. The proposals would cause less than substantial harm to the significance of designated heritage assets and, if found to provide a clear reason for refusal, in this case because the public benefits of the scheme do not outweigh the heritage harm identified, then planning permission should not be granted.
- 7.159. The harm identified to the significance of designated heritage assets needs to be weighed having regard to the considerable importance and weight to be applied to the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990, specifically in section 66, as well as the degree of accord with BDP policy TP12 and

the relevant paragraphs in the NPPF.

7.160. The key [economic benefits](#) arising from the development would be:

- In excess of 300 jobs during the construction phase and approx. 100 jobs once operational.
- Capital investment of £???m
- Increased resident expenditure
- Public realm works of £757,000
- 10% affordable housing contribution

7.161. Para. 81 of the NPPF states that “*Significant weight* should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development” (my emphasis). Accordingly, the economic benefits in terms of jobs and expenditure are welcomed, as are the public realm works. However, I am mindful that the construction jobs would only be temporary, and the affordable housing offer and public realm spend do not meet the full policy expectations, so these factors reduce the weight afforded to these benefits.

7.162. The key [social benefits](#) arising from the development would be:

- The delivery of housing, particularly the 2 bed apartments - The city is only able to demonstrate a 3.99 year housing land supply (including the 35% uplift for the 20 largest towns and cities and the 5% buffer) rather than the required 5 year supply. Taking account of the extent of the shortfall, the provision of housing should be given substantial weight in the determination of this application. However, in my view, the weight afforded to it should be reduced by the following factors:
 - The loss of industrial land.
 - The number of 1 bed apartments proposed, and especially 1b1p units.
 - The site is located in Flood Zone 3 where flood risk is greatest and is therefore sequentially least preferable for the siting of housing which is a more vulnerable use.
 - Potential for some sealed windows at the Bradford St end of the development to avoid possible entertainment noise disturbance.

While the provision of housing is welcome in broad terms, the type of housing proposed in this scheme does not fully address the city’s greatest need and the location of the site would put occupiers at risk of flooding. Therefore, the weight afforded to the delivery of housing in the planning balance should be reduced to reflect this.

- Development of a high design quality with ambitious architecture and landscaping. Following amendments, the development would be an appropriate layout, scale and height and details in the Design and Access Statement give confidence that the architectural design will produce the high-quality development expected in the BDP and Birmingham Design Guide. This should be given substantial weight.
- Provision of new public realm contributing towards place-making and connectivity aspirations especially along Moseley St and Cheapside. This is a substantial benefit, again in accordance with the thrust of PG3, the Rea Valley Urban Quarter SPD and the Smithfield Masterplan.

7.163. The key [environmental benefits](#) arising from the development would be:

- Redevelopment of a brownfield site in a highly sustainable location.
- Sustainability measures – inclusion of PV panels and air source heat pumps.
- Significant increase in soft landscaping throughout the site with associated ecological benefits.
- Betterment on the existing flood risk situation as the site is currently completely built on/hard surfaced.

- 7.164. While the redevelopment of a city centre brownfield site is very welcome in principle, with regard to the detailed sustainability and environmental credentials, the proposed development is starting from a low base. Unfortunately, the development cannot meet the BREEAM 'Excellent' rating and although the Smithfield Masterplan puts a strong emphasis on sustainability measures, the PV panels and ASHPs are fairly typical. Nevertheless, these benefits would contribute towards meeting the BDP's sustainability, biodiversity and flood risk management aims.
- 7.165. The above points set out the key benefits of the scheme. Weighing most highly in favour of the application are the place-making benefits. The delivery of a high quality development in design terms and the provision of public realm accords with policies PG3 and TP27 and the Birmingham Design Guide, and the proposal would rejuvenate a fading site and support the transformational change already taking place in the surrounding area. Allied to this is the re-use of brownfield land in a highly sustainable location. I attach substantial weight to these benefits.
- 7.166. I also attach significant weight to the provision of housing. The mix of uses accords with the aims for the Southern Gateway Wider Area of Change (GA1.2) and the residential component accords with the broad location for a residential neighbourhood in the Smithfield Masterplan. Delivery of 394 2 beds is particularly welcome.
- 7.167. I attach moderate weight to the economic benefits and the environmental benefits set out (except for the reuse of brownfield land to which substantial weight is given as per para. 7.148). Whilst welcome, these would make a lesser contribution to the overall benefits of the development.
- 7.168. Set against these benefits are concerns regarding the relatively low amount of affordable housing proposed; the less than substantial harm identified to designated heritage assets ranging from low to moderate; the high degree of harm caused to non-designated heritage assets; and the flood risk. Here conflicts arise with specific policies in the development plan and these bring the scheme into conflict with the development plan as a whole.
- 7.169. Dealing firstly with the impact of harm caused to the significance of designated heritage assets, I am particularly mindful of the great weight that both the BDP and NPPF place on the conservation of assets. The NPPF states that the more important the asset, the greater the weight should be.
- 7.170. St Martin's Church is a Grade II* Listed building of great significance to the city from an architectural, artistic and historic perspective. Notwithstanding the changes in the built environment surrounding it, the church represents the early origins of the city and its development from a much smaller settlement. The views of it seen now have arisen intentionally, planned as part of the major redevelopment around the church, particularly the Bullring shopping centre. A new phase of redevelopment is now being embarked on, as the immediate backdrop of Smithfield comes forward, and this will change the setting of the church again, in this case causing a moderate degree of less than substantial harm to its significance.
- 7.171. The Anchor and The Market Tavern are less important assets than St Martin's Church, nevertheless, they also represent a period of development in the city's history and

make positive contributions to the streetscene, particularly in conjunction with other heritage assets (including non-designated) in the vicinity. Moderate and low degrees of less than substantial harm (respectively) would be caused to their significance as a result of the proposal.

7.172. The DD&BHSCA and the Warwick Bar Conservation Area would also experience a low degree of harm to their significance as a result of the proposal.

7.173. While these buildings/conservation areas hold considerable historic significance and the less than substantial harm which would be caused to their significance by the development is considered by conservation advisors to reach up to a moderate level, and the considerable importance and weight to be attached to such matters, in my view, the public benefits associated with this proposal are so extensive and substantial that they outweigh the harm to designated heritage assets.

7.174. In reaching this conclusion with reference to the designated heritage assets affected, it follows that I can find no clear reason for refusal based on policies which protect heritage assets, as referenced by NPPF para.11(d)i and Footnote 7. It follows that the tilted balance in para. 11(d)ii of the NPPF applies.

7.175. Considering the tilted balance at para. 11(d)ii of the NPPF the question is whether there are any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies of the NPPF when taken as a whole, I am mindful of the impact on non-designated heritage assets, the low provision of affordable housing, the less than ideal number of one bedroom units, and the flood risk

7.176. Turning to the non-designated heritage assets, the NPPF requires a balanced judgment in weighing applications which directly or indirectly affect non-designated heritage assets, having regard to the scale of harm or loss and the significance of the assets. They are:

Nos. 30-31 Bradford Street
No. 32 Bradford Street
No. 232 Moseley Street
No. 34 Rea Street/Nos. 300-325 Cheapside

7.177. A high degree of harm to the significance of these NDHAs would be caused, arising from their complete loss. The loss of these buildings would be regrettable; they represent typical industrial buildings once seen throughout Digbeth and are good examples. However, they are interspersed with gaps in the building line and other development of little or no historic significance or architectural merit, and on balance, I consider this comprehensive proposal for the provision of much needed housing and the place-making benefits of the proposal including obvious regeneration benefits outweigh the harm caused by their loss. This impact would not significantly and demonstrably outweigh the benefits of the scheme.

7.178. The affordable housing offer of 10% is a good way off the 35% target set in policy TP31. However, given that no affordable housing was offered initially, this is a good improvement and I do not consider the low affordable housing provided here would outweigh the benefits of the scheme. I take the same view about the significant number of one bedroom apartments.

7.179. Finally, the location of housing in Flood Zone 3 is not ideal and brings with it the possibility, in the climate change scenario, of a severe flood. However, the applicant has been through the Sequential and Exception Tests and, subject to the EA and LLFA concerns being overcome by the date of the Committee meeting, whilst there are some

reservations about the Flood Warning and Evacuation Plan, I do not consider the impact would significantly and *demonstrably* outweigh the benefits of the scheme.

7.180. Overall, on balance, I do not consider that the adverse impacts arising even collectively would, either individually or cumulatively, outweigh the benefits of the scheme, and certainly not significantly and demonstrably outweigh the benefits of the scheme.

7.181. Consequently, in accordance with para. 11(d) of the NPPF, I recommend the application is approved subject to the conditions set out below and the completion of a legal agreement.

8. **Conclusion**

8.1. This application offers the opportunity to continue the transformational change that is being effected within the Southern Gateway, providing a good number of new homes on a site which is very sustainably located. The scale, design and massing would be acceptable and would enhance the appearance of the site, complementing redevelopment which has already taken place in the vicinity. The development would also contribute towards implementation of the Smithfield Masterplan.

8.2. There are areas of compromise: the number of 1b1p units, the potential for flooding of the site and for some sealed windows, and the impact on heritage assets. However, in the context of para. 11d) of the NPPF, these are not considered to outweigh the public benefits. Appropriate conditions which are considered to pass the tests set out in the NPPF para. 56 are set out below.

9. **Recommendation**

9.1. That application 2021/05811/PA be APPROVED pending the completion of a Section 106 Legal Agreement to secure the following:

- i) 10% affordable housing comprising the following units to be provided on site:
 - 9 x 1 bedroom apartments at 30% discount (First Homes)
 - 9 x 2 bedroom apartments at 30% discount (First Homes)
 - 27 x 1 bedroom apartments at 20% discount (Discount Market Sale)
 - 26 x 2 bedroom apartments at 20% discount (Discount Market Sale)
- ii) Provision of new public realm within the site of a value of no less than £757,000 (index linked to construction costs from the date of this resolution to the date on which payment is made). In the event that the agreed public realm works cost less than £757,000 the difference will be provided to the Council to be spend on off-site affordable housing.
- iii) A financial contribution of £25,000 for the public realm works supervision fee.
- iv) A financial contribution of £1,500 for the administration and monitoring of this deed to be paid upon completion of the legal agreement.

9.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by 17th October 2023, or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reasons:

- i) In the absence of a legal agreement to secure affordable housing, the proposal conflicts with Policy TP31 Affordable Housing of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
 - ii) In the absence of a legal agreement to secure the provision of new public realm within the site of a value of no less than £757,000 (index linked to construction costs from the date of this resolution to the date on which payment is made), the proposal conflicts with Policy PG3 of the Birmingham Development Plan 2017, and the Birmingham Design Guide SPD, and the National Planning Policy Framework.
- 9.3. That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
- 9.4. That in the event of an appropriate legal agreement being completed to the satisfaction of the Local Planning Authority by 17th October 2023, or such later date as may be authorised by officers under delegated powers, favourable consideration be given to this application, subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

-
- 1 Requires the prior submission of a demolition method statement/management plan
 - 2 Requires the prior submission of a construction method statement/management plan
 - 3 Submission of a Construction Management Strategy
 - 4 Requires the prior submission of a construction employment plan
 - 5 Requires the prior submission of a Construction Ecological Management Plan
 - 6 Requires prior submission of further bat survey
 - 7 Requires prior submission of further Black Redstart survey
 - 8 Requires the prior submission of a Bird Hazard Management Plan
 - 9 Requires the prior submission of a phasing plan
 - 10 Requires the prior submission of a contamination remediation scheme
 - 11 Requires the prior submission of a surface water drainage scheme
 - 12 Requires details of foul water drainage
 - 13 Requires the prior submission of level details
 - 14 Requires prior details and samples of proposed materials
 - 15 Requires prior details of the system of construction for the external elevations
 - 16 Requires prior details of how materials will be fixed, jointed and applied
 - 17 Requires prior details of brick bond
-

18	Requires prior construction of bay panel for each building
19	Requires prior details of architectural features
20	Requires prior details of bird/bat boxes
21	Requires prior submission of shop front design
22	Requires the submission of details of green/brown roofs on a phased basis
23	Requires the submission prior to occupation of hard and soft landscape details
24	Requires the submission of a landscape management plan
25	Requires the submission of a lighting scheme in a phased manner
26	Requires the submission of a CCTV scheme
27	Requires the submission of boundary treatment details for each phase of the development
28	Requires details of boundary treatment to prevent off-street parking
29	Requires a plan showing a 2m wide public footway adjacent to proposed layby on Cheapside
30	Requires a scheme of noise insulation to achieve specific internal noise levels
31	Requires submission of an overheating assessment
32	Requires the submission of a contaminated land verification report
33	Sustainable Drainage Operation and Maintenance Plan
34	Requires an update to the Flood Warning and Evacuation Plan prior to occupation
35	Requires the submission of cycle storage details
36	To ensure energy and sustainability measures are delivered in accordance with statement
37	To ensure that the development achieves BREEAM rating level
38	Prevents the erection of gates or fencing
39	Requires the submission and completion of works for the S278/TRO Agreement
40	Requires the provision of cycle parking prior to occupation
41	Requires the provision of refuse stores prior to occupation
42	Limits delivery time of goods to or from the commercial units within the site
43	Requires the scheme to be in accordance with the listed approved plans
44	Implement within 3 years (Full)

Case Officer: Amy Stevenson

Photo(s)



Photo 1: Aerial view of application site with Barford St in foreground and Smithfield to west



Photo 2: Bradford St looking east towards application site

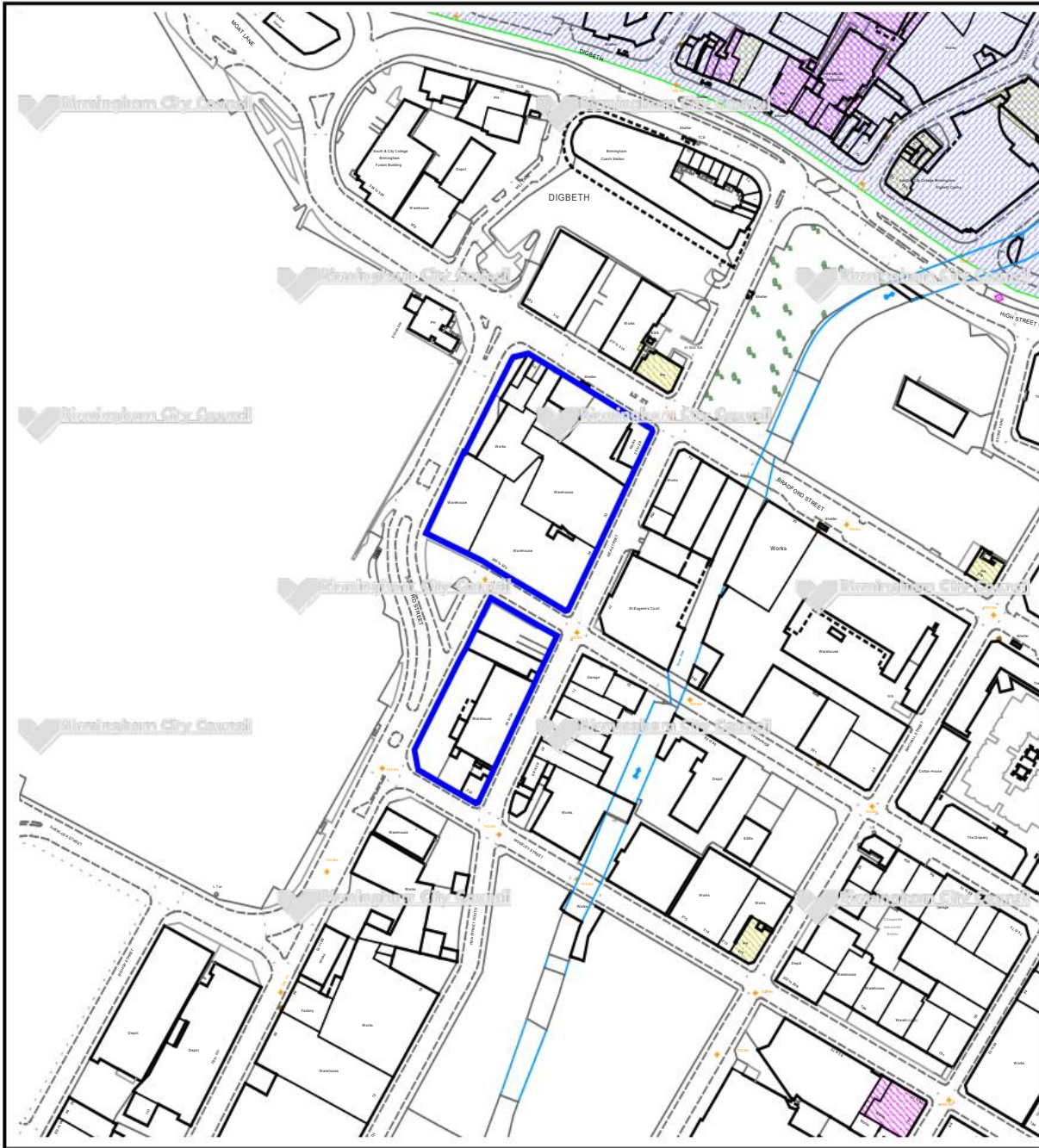


Photo 3: Moseley St/Rea St junction looking north to Cheapside junction and beyond



Photo 4: Cheapside between the two plots, looking west towards Smithfield

Location Plan



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Committee Date:	17/08/2023	Application Number:	2023/01979/PA
Accepted:	24/03/2023	Application Type:	Full Planning
Target Date:	23/06/2023		
Ward:	Ladywood		

Birmingham Childrens Hospital, Steelhouse Lane, Birmingham, B4 6NH

Construction of Emergency Department Entrance, MRI suite and operating theatres and energy centre at Loveday Street and demolition of existing hospital entrance, creation of a new glazed entrance to Steelhouse Lane. Replacement of windows and creation of 6no. ground source heat pump boreholes

Applicant: Birmingham Women's and Children's NHS Trust
Birmingham Childrens Hospital, Steelhouse Lane, Birmingham, B4 6NH
Agent: BDP
11 Ducie Street, Manchester, M1 2JB

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1. Birmingham Women and Children's Hospital Foundation Trust are committed to the long-term retention of the Children's Hospital on Steelhouse Lane. Whilst options have been looked at for re-location, the Trust have a clear vision to remain and invest in the existing site.
- 1.2. This proposed refurbishment and redevelopment work will enable the hospital to continue to deliver world class paediatric services in Birmingham. The hospital currently employs surgeons capable of performing complex surgeries for life threatening illnesses. However, the site does not currently have the facilities needed to deliver this and families travel to London or Manchester for this care. However, with the proposed development to Block R, these surgeries could take place in Birmingham.
- 1.3. In addition, this project is an enabler for a model of care that the Trust has, which has a goal of improving a throughput of surgery alongside reduction in length of stay. To unlock these benefits, new modern theatres are essential. These benefits would not only be felt by paediatric care but would free up capacity in adult care, as children currently travel to adult hospitals for some care.
- 1.4. The existing main entrance is not fit for purpose in functional or performance perspectives. There is currently no waiting or play space for families and children, and it does not provide a sense of arrival to what is a world class centre of excellence for children's medicine. In addition, the existing entrance has extremely poor thermal performance.
- 1.5. This application therefore seeks full planning permission for;

- Demolition of the existing entrance and pharmacy block and the erection of a new main entrance atrium space and demolition of a small section of brick and terracotta boundary wall to Steelhouse Lane and brick wall to Loveday Street.
 - Extensions to 'R Block' to create new clinical space, including demolition of existing staircase, link bridge and boundary wall structures on Loveday Street.
 - Re-cladding of 'R Block' (existing buildings to the northeast of the site)
 - Energy Centre (Plant) on roof of R block and associated profiled metal screen.
 - 6 boreholes associated with the ground source heat pump network.
 - Replacement windows/doors in M,N and P Block, facing Steelhouse Lane
- 1.6. The extension to R block includes two theatres, MRI and associated recovery on the 3rd floor, with associated support accommodation for surgical cases, as well as cancer services. The two floors below would serve the emergency department, walk in services and new pharmacy.
- 1.7. The internal courtyard space to the new S Block is inclusive of play zones, landscape winter gardens, seating and an internal structure housing a café and observation deck.
- 1.8. Much of the works are being provided under a decarbonisation initiative. The re-cladding, new windows and the new plant and energy centre associated with thermal stores and new ground source heat pump system are all associated with decarbonising the hospital operation.

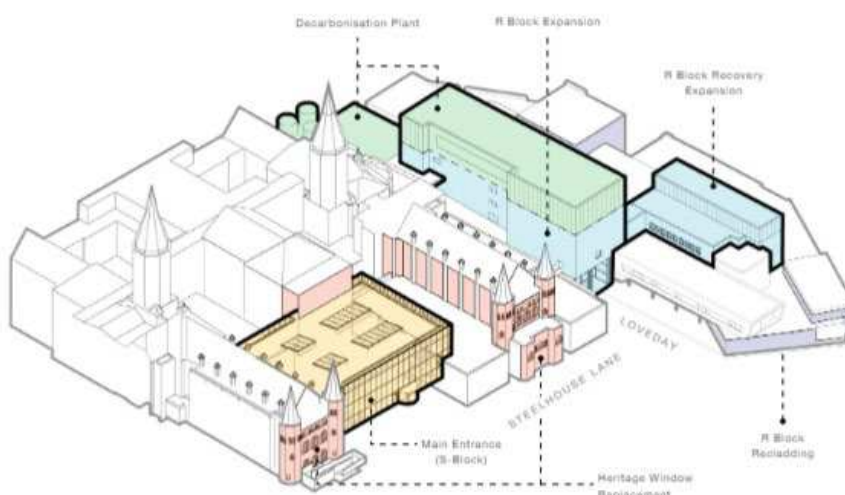


Image 1; Location of proposed works

- 1.9. The application is supported by a Design and Access Statement (DAS); Transport Statement; Heritage Statement; Preliminary Ecological Appraisal, Tree Survey and Arboricultural Report; Flue and Extraction Statement; Flood Risk Assessment and Drainage Strategy; Sustainable Construction Statement and Energy Statement.
- 1.10. A separate Listed Building Consent is also submitted and being considered.
- 1.11. [Link](#) to documents

2. **Site & Surroundings:**

- 2.1. The application site comprises the Birmingham Children's Hospital complex on the northwest side of Steelhouse Lane as it terminates with James Watt Queensway.

The application relates to only the front portion of the hospital site, including the grade II listed 19th century infirmary building, Loveday Street and the modern blocks to the northeast that overlook James Watt Queensway.

- 2.2. The site falls within the Steelhouse Conservation Area which incorporates an example of Victorian and Edwardian townscape, extending along Corporation Street ending at the Children's Hospital on Steelhouse Lane. This includes a nationally significant group of red brick and terracotta buildings in which includes the police station, fire station, lawcourts and religious buildings (methodist central hall).

- 2.3. [Link](#) to google maps

3. **Planning History:**

- 3.1. The application site has a long and varied planning history, some relevant planning history is given below.
- 3.2. 2007/05457/PA Erection of first floor extension to provide a 6 bed ward with ancillary accommodation for the Teenage Cancer Trust, enclosed bridge link, metal louvre plant enclosure and external staircase Approved Subject to Conditions 18/10/2007
- 3.3. 2009/04581/PA Construction of new three storey MRI unit between blocks E and DX Approve subject to Conditions 11/11/2009
- 3.4. 2009/04822/PA Construction of new four storey extension to Block F to increase MRI provision and future ward expansion single storey conservatory to internal courtyard, attached to Block F Approve subject to Conditions 14/12/2009
- 3.5. 2022/08433/PA Installation of roof mounted air handling plant Approve subject to Conditions 16/01/2023

4. **Consultation Responses:**

- 4.1. BCC City Design – No objection
Subject to conditions requiring the submission of material and landscaping details and material samples, architectural details and the construction of an architectural panel on site.
- 4.2. Access Birmingham – Comment
Note in this case good quality design and access statement and excellent inclusive provision in in landscaped sitting area particularly for disabled people.
- 4.3. BCC Ecology – No objection
Subject to conditions requiring the submission of a Construction Ecological Management Plan, Landscape and Ecological Management Plan and Lighting Condition.
- 4.4. Severn Trent Water – No objection
Subject to conditions requiring submission of foul and surface water drainage plans.
- 4.5. LLFA – No objection.
Subject to conditions requiring the prior submission of a sustainable drainage scheme.
- 4.6. BCC Conservation – Objection
High level of less than substantial harm to both the Grade II Listed hospital and Steelhouse Lane Conservation Area.
- 4.7. BCC Environmental Management – No objection

Subject to conditions requiring the submission of a construction management plan, and a condition to limit the noise of plant.

4.8. BCC Transportation - No objection

Subject to a condition that the highway works are provided before the revised patient drop-off facility is operational.

4.9. BCC Trees – No objection

Subject to a condition requiring root protection measures.

4.10. Historic England – Comment

“The proposed development would harm one of Birmingham’s distinct Conservation Areas and one of the nationally significant orange/red brick and terracotta buildings within that streetscene. In all instances, we agree with the applicant’s assessments that the scheme will result in ‘less than substantial harm’ as referred to in the NPPF, requiring great weight to be given to the assets’ conservation, irrespective of the level of harm. In line with national policy, this harm should only be permitted if it would be outweighed by public benefit.”

4.11. Birmingham Civic Society – Comment

“The proposal would result in operational improvements for the Hospital, a more sympathetic, functional and pleasing main entrance and with the decarbonisation works give a more energy efficient hospital campus. The massing of the proposal is inhibited by the need to retain / rationalize structures consented prior to the building’s listing, and while these are not felt appropriate given the setting, considering the use of the building and the importance that its facilities provide to the city, this does not give sufficient reason for objection.”

4.12. Victorian Society – Objection.

“In our view the scale of the proposed extensions to the more modern parts of the building on Loveday Street will make them appear too dominant and overpowering in views of the listed building and indeed in the conservation area. The extensions should instead appear subservient to the historic fabric and so we consider the proposed additional storeys over Loveday Street to be unacceptable as presented. The proposed use of buff brick and metallic cladding for this extension is not appropriate next to the grade II listed building in red terracotta, and we urge that more sympathetic materials are chosen to better blend with the historic fabric.

In our view the proposed new entrance building is also inappropriate in its design, scale, and materials. Whilst we would be content with the demolition of the current unattractive modern hospital entrance and understand the principle of its replacement, we consider the proposed replacement as presented with full glazing and internal wooden columns to be completely inappropriate as an addition to the grade II listed Victorian red terracotta hospital building; it is of too large a scale and appears too awkwardly asymmetrical in the Steelhouse Lane elevation of the hospital. Moreover, the new entrance is also to be constructed of unsuitable materials. The proposed fully glazed walls and wooden columns are in our view completely alien to the predominant red brick and terracotta of both the listed hospital building and the other historic buildings in the conservation area. Red brick or red terracotta should be used instead as the dominant material to complement the surviving historic fabric, as well as to reflect the Victorian entrance structures now lost, but which are recorded in historic plans and photographs.

In our view the proposals in these applications will have a negative impact on the character and appearance of the grade II listed building and the Steelhouse Conservation Area. We therefore object to this application and application 2023/01982/PA. We urge Birmingham City Council to refuse consent for these applications as presented.”

4.13 BCC Planning Strategy – No objection

Subject to a condition requiring BREEAM post development certificate and construction in accordance with statement.

5. **Third Party Responses:**

5.1. The application has been publicised by sending out letters to neighbours, posting a site notice within the vicinity of the site and a press notice. Residents' Associations; Ward Members; the MP and local occupiers consulted.

5.2. No third-party letters of representation have been received.

6. **Relevant National & Local Policy Context:**

6.1. National Planning Policy Framework

- Section 11: Making effective use of land
- Section 12: Achieving well-designed places.
- Section 16: Conserving and enhancing the historic environment.

6.2. Birmingham Development Plan (2017)

- PG3: Place making
- GA1: City Centre
- TP2: Adapting to climate change
- TP3: Sustainable construction
- TP4: Low and zero carbon energy generation

6.3. Development Management DPD (2020)

- DM3: Amenity
- DM4: Landscaping & Trees
- DM14: Transport Access and Safety

6.4. Supplementary Planning Documents & Guidance:

National Design Guide (2019) Birmingham Design Guide (2021) Steelhouse Conservation Area Map; Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision Taking in the Historic Environment - Historic England (2015); Good Practice Advice Note 3: the setting of Heritage Assets – Historic England (2017); Steelhouse Lane Conservation Area map.

7. **Planning Considerations:**

7.1 The main points for consideration are

- Principle of development
- Design
- Impact upon Heritage Assets
- Transportation
- Noise, Contamination and Air Quality
- Flood Risk and Drainage
- Ecology
- Sustainable Construction

Principle of development

- 7.1. The BDP identifies the application site as being within the City Centre Growth Area (Policy GA1) where the focus will primarily be upon re-using existing urban land through regeneration, renewal, and development.
- 7.2. Policy TP21 'The network and hierarchy of centres' supports proposals for main town centre uses within allocated centres. The site falls within the City Centre Boundary, a preferred location for retail, office and leisure developments and for community facilities (e.g. health centres, education and social services and religious buildings). The proposal seeks to extend an existing Hospital (C2 residential institution and community facility). Therefore, the principle of development is supported.
- 7.3. The application site also lies within the boundary to the Snow Hill Masterplan which set a vision for the re-development of the area. The extensions of the hospital show that the facility is not to be re-developed for other uses at this time.
- 7.4. The Children's Hospital is an invaluable asset to Birmingham and the scope of the proposed development will improve facilities, services and clinical care and improve the site sustainability and decarbonisation. These are all important and supported in principle.
- 7.5. Overall, Policy GA1.1 and TP21 support development proposals in identified sustainable growth areas such as this. Therefore, the principle of development can be supported, subject to satisfactorily addressing other Development Plan Policies.

Design

- 7.6. Policy PG3 of the BDP (2017) advises that all new development must ensure high quality design. It states that development should create a positive sense of place and local distinctiveness; design out crime and make provision for people with disabilities; encourage people to cycle and walk; ensure spaces are attractive and functional in the long term; integrate sustainable design; and make the best use of existing buildings and efficient use of land.
- 7.7. First of the proposed elements is the new clinical space to the northeast of the site, to create an MRI suite, additional clinical and recovery space and housing plant for new technology associated with the decarbonisation of the hospital (ground source heat pumps). This is done by building over Loveday Street (not an adopted highway), infilling the very little space that remains between buildings and extending on top of the existing building. This new MRI building would be taller than the principal hospital building, only the two main ventilator towers would be taller. However, the City Design Manager considers the layout of this building to mitigate some of its impact, in that it is considered that its position along the north-eastern flank, set back from Steelhouse Lane, is not a sensitive aspect towards the site and is not where the hospital is best experienced from. Whilst large, the proposed buildings form a transitional structure in the wider cityscape context. The building over Loveday Street is a simple brick building with a metal box capping it, to screen plant. The overall design is simple and functional, whilst prominent, this is acceptable in its context in that it does not compete with the highly intricate terracotta façade of the adjacent listed building and will allow the listed building to dominate views from the southwest, within the Conservation Area.



Image 2; proposed extensions from Steelhouse Lane looking west

Figure 26 (above) Queensway view 3
At: Google Maps, 2023
Figure 27 (below) Queensway Lane view 3
At: BDP Design and Access Statement



Image 3: proposed R Block roof extensions and cladding

- 7.8. Second, is the new glass entrance to the existing courtyard. The internalisation of the main courtyard forms a large entrance and will replace the existing shared ambulance and pedestrian arrival point, with a new central dwell space. This is proposed as a large glass cube made up of vertical panes of glass, with a partially glazed roof, held up by curved timber supports. The structure sits within the courtyard to the front of the grade II listed building and contains a café and reception/office wooden clad structure within the space. The City Design Manager considers the scale and form of the new entrance building to be subordinate and not disruptive to the gables, roofs and turrets of the host building.



Image 4: Proposed extension from Steelhouse Lane looking east



Image 5: existing view from Steelhouse Lane looking east

- 7.9. However, given the retention of a single-storey structure along the north-eastern wing, the entrance does not fully fill the width of the courtyard, which the City Design Manger considers to disrupt the symmetry of the design and the purity of the concept. The removal of the existing extension within the courtyard and the removal of the parking and drop off, will simplify this area which is of some benefit, the glazed material will allow views of the façade of the listed building.



Image 6: Proposed S Block new entrance



Image 7: Section of proposed S Block new entrance

Bay Extract of Proposed Main Entrance

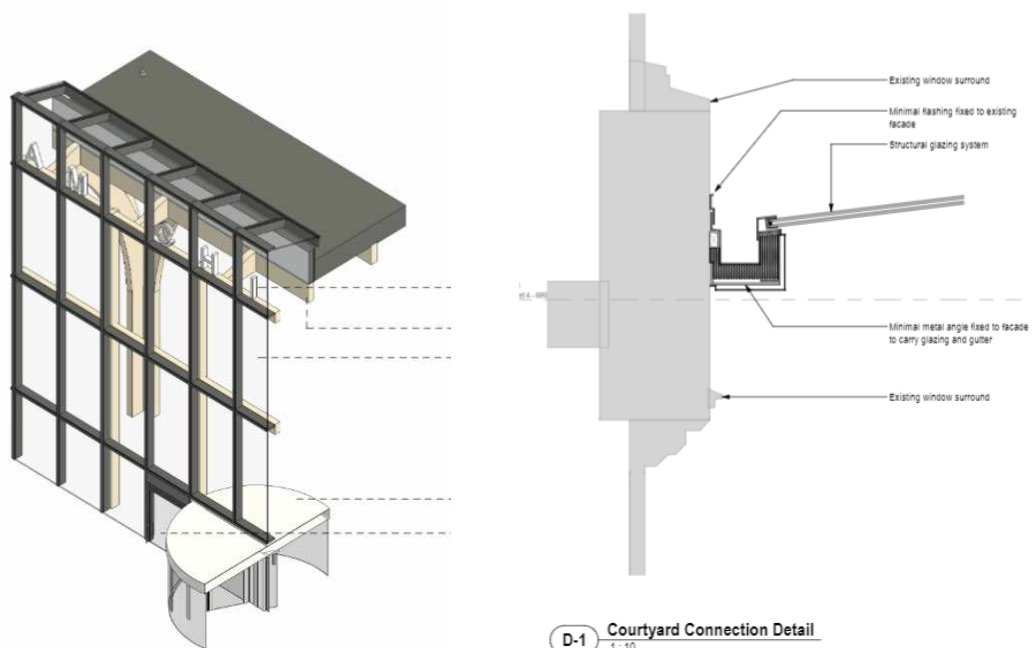


Image 8: Detail façade drawing and fixing (to listed building) detail

- 7.10. Last, the existing modern extension buildings to the northeast of the site (R Block) are proposed to receive new brick cladding to match the proposed MRI building and extensions, which is strongly supported by the City Design Manager. This will help to mitigate the ad-hoc appearance of this part of the site, which has been added to over time by buildings of varying design and materials. This element of the proposal would give the hospital a more cohesive appearance. In addition, new plant and screens are to be added to R Block, in the same profiled metal cladding as proposed on the new building.



Image 8: proposed extensions and re-cladding

- 7.11. The materials proposed are a red/orange brick, and a bronze metal cladding. An amendment from the submitted grey brick and gold cladding. This was requested to reflect the heritage of the area, which is formed of red brick and terracotta and is therefore now sympathetic to both the host building and the wider conservation area. Therefore, note that the imagery used in this report shows a grey brick and gold cladding which is not the final proposal.

Impact upon Heritage Assets

- 7.12. In determining a planning application that would affect a Listed Building, Section 66 of the Listed Building and Conservation Areas Act requires the Local Planning Authority to “have special regard to the desirability of preserving the Listed building or its setting or any features of special architectural or historic interest which it possesses.” And Section 72 requires that “special attention is paid to the desirability of preserving or enhancing the character or appearance of a conservation area”.
- 7.13. The NPPF requires heritage assets to be conserved in a manner appropriate to their significance and directs local planning authorities to require an applicant to describe the significance of any heritage assets affected and to assess how the significance any heritage asset that may be affected by a proposal. The NPPF also recognises heritage assets as an irreplaceable resource. Policy TP12 of the BDP states that great weight will be given to the conservation of the City’s heritage assets and that development affecting a designated or non-designated heritage asset or its setting, will be expected to make a positive contribution to its character, appearance and significance. The application is supported by a Heritage Assessment.
- 7.14. In accordance with the NPPF “Any harm to, or loss of, the significance of a designated

heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification”.

- 7.15. The proposal was referred to the City of Birmingham Conservation and Heritage Panel (CHP), the panel considered the proposed courtyard entrance had an unwelcome impact on this Grade II listed building. Its size and character was considered intrusive to both the listed hospital building, the setting of the facing listed buildings and the wider Conservation Area. The laminated piers were seen to be incongruous with the terracotta of the host building. The structure’s asymmetry was also noted as being harmful to the wider composition of the building. The new MRI wing was considered to make an unfortunate phase of development to the hospital worse and does not resolve previously poor design decisions such as the Teenage Cancer Unit. CHP considered that the height of the proposal would affect views towards the hospital and the Conservation Area from the north which are defined by a skyline of turrets and gables, which CHP consider central to the significance of these assets.
- 7.16. It is also noted that Historic England and Birmingham Civic Society raise concerns and the Victorian Society objects to the proposal. Historic England are the statutory consultee and comment that the amendments to R Block would result in lower levels of less than substantial harm. However, their main concern is with the glazed entrance within the courtyard, which “infill part of the legible pavilion plan form which is a fundamental part of the significance of the listed building. It would also result in a visual loss of brick and terracotta which is currently evident within the streetscene, and forms part of the character of the Conservation Area.”
- 7.17. The submitted Heritage Assessment (HA) states that the hospital is of high historic value. It concludes that the physical impact of the proposed glazed entrance area (S Block) New infill MRI block (R Block) and the associated works are considered to have a minor - moderate adverse effect on significance. However, the works are justified in the HA as required to sustain the historic use of healthcare facility and the new S Block entrance additions touch the historic building very lightly and the loss of historic fabric is considered very limited.
- 7.18. The new drop off in/out arrangement, to Steelhouse Lane results in the loss of a section of original red brick and terracotta boundary wall to adjacent to theatre. The HA concludes this is a moderate adverse effect.
- 7.19. The proposal also includes the replacement of existing hospital doors and windows to address technical performance requirements. The HA considers this to be a minor adverse effect. There are some existing leaded windows which are to be refurbished and secondary glazing added internally.
- 7.20. The significance of the Conservation Area arises from the unbroken Victorian and Edwardian townscape, and the group value of a cluster of civic buildings of distinct architecture many of which are of red brick and terracotta. Including the 19C Victoria Law Courts, Police Station and Methodist Central Hall and the C20 Fire Station as well as the Children’s Hospital, all of which are listed buildings. The submitted HA also identifies other nearby heritage assets, including the Ruskin Buildings, Coleridge Chambers, County Court and Murdoch Chambers and Pitman Chambers.
- 7.21. The supporting HA considers important views within the Conservation Area and considers the impact of the development on both the conservation area and the setting of the assets within it. It concludes that the impact of the proposed development on views looking east along Steelhouse Lane would be minor. It considers the extension to S Block would have a positive contribution to the Conservation Area and the extension and alteration to R Block would be imperceptible in this view, therefore the effect on the setting of the identified assets is negligible.
- 7.22. The second view considered is looking west along Steelhouse Lane. The HA considered the impact on this view would be moderate. Stating that the extension to S block makes a positive contribution to the conservation area and the R Block extension

and alterations is a distinct later addition, however acknowledges that the mass of the development results in a level of dominance which would result in a minor-moderate adverse impact.

- 7.23. The third view is looking west from James Watt Queensway, the HA states the change to view would be moderate however the existing nature of R Block does not contribute currently to the conservation area. It therefore considers the effect of assets from this view to be negligible.
- 7.24. The HA goes on to list a number of heritage benefits of the scheme, including the retention of significant structures within the hospital complex which will be conserved and will remain in use, with the development securing future sustainable continued use as a hospital. As a result of these benefits the HA concludes that the overall residual effect on the significance and setting is minor adverse, amounting to less than substantial harm. (The HA refers to old NPPF paragraphs).
- 7.25. BCC Conservation Officer disagrees with the conclusions of the HA and considers that the proposed development would have high degrees of less than substantial harm on the Listed Building and Conservation Area.

'S Block' new entrance

- 7.26. BCC Conservation Officer comments on the significant and unsympathetic alterations that have harmed the significance of the Listed Hospital over time. Commenting that "Originally the courtyard was enclosed from the street by a red terracotta wall and gatehouse that resembled something from a Maharaja's palace with Indian style chhatris. Around the courtyard was a cloister of highly decorated red terracotta linking the wings. These seemed to have disappeared in the early 20th century with the gatehouse demolished, the cloister enclosed as corridors and the central bay covered with a rather shallow, utilitarian extension. The balconies at the end of the wings facing the street were also infilled at this time with unsympathetic windows and glazed panels." Also noting that the "the current entrance building is single storey and dates from the mid-1990s. It is clad in metal and is not of architectural significance".
- 7.27. The glazed new entrance fills the courtyard at the front of the building with the roof joining the historic building below the second-floor windows. The extension is asymmetrical. The Conservation Officer notes that "the original Victorian courtyard was also asymmetrical, but this was lower and hidden by the gatehouse and wall, so it would not have been seen from the street" The Conservation Officer considers that the height of the proposed extension makes the asymmetry prominent which could be improved if the alignment of the extension were amended. However, the Conservation Officer does note that the roof detail for how the proposal attached to the listed building has been used successfully elsewhere with limited damage to historic fabric. This detail has been submitted in plan and should therefore be conditioned.
- 7.28. The Conservation Officer also comments on the proposed choice of timber for the internal features of the extension, noting that other materials such as metal may have been more sympathetic.

R Block MRI and Energy Centre Building

- 7.29. The Conservation Officer considers the R block extension to be substantial in scale, in close proximity of the historic building. It is therefore considered by the Conservation Officer to have a harmful impact upon the listed building.

Demolition

- 7.30. One of the bays of terracotta wall along Steelhouse Lane is proposed for removal to allow vehicle access, in addition the original wall along Loveday Street is also being demolished for the extension of R block. The Conservation Officer considers these elements of the proposal to be harmful, however recommends that the materials are salvaged and used to reinstate other missing and damaged elements of the wall.

Re-cladding

- 7.31. The Conservation Officer has no objections to the re-cladding of the modern buildings between Loveday Street and St Chads Queensway, considering these to currently be “an odd group of buildings representing a variety of addition. The cladding will give a more homogeneous appearance and the choice of brick is a more appropriate material for the conservation area”. This is not considered to have an adverse impact upon the significance of the listed building or Conservation Area.
- 7.32. The Conservation Officer concludes that there would be no harm to the setting of any other listed buildings, due to the separation distance and orientation of the proposal to those buildings (including the police station and Victoria Law Courts. It is not considered that any part of the development would have archaeological impacts, including the boreholes.
- 7.33. NPPF Paragraph 202 states that ‘where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal’.

Transportation

- 7.34. The application is supported by a Transport Statement, which sets out the sustainable location that the hospital is within, and the numerous public transport options. The supporting documents also sets out the proposed changes to access and circulation.
- 7.35. As well as providing pedestrian access, the existing main entrance off Steelhouse Lane is barriered, for authorised vehicles only. Ambulance access to the emergency department is off Loveday Street (not adopted) and is access for emergency vehicles only.
- 7.36. The existing ambulance drop off, located immediately outside the main entrance will be removed. Ambulances carrying intensive care patients will now route to the rear area of the hospital via the Lancaster Circus slip. The main entrance will remain open to patient drop offs and will continue to include traffic barriers to ensure this is not mis-used. The current arrangement with access will be reversed (from anti clockwise to clockwise), in a slightly re-aligned position off Steelhouse Lane. This will allow drop off vehicles to pull up with the passenger side nearest the main entrance, which provides a safer arrangement for patients. The revised main entrance will result in the loss of up to two on street parking bays immediately adjacent to the southwest of the existing access. Pedestrian and cycle access via the main entrance will also be rationalised to provide an easier to navigate, and more pleasant environment when entering the hospital, and will include a green link in front of the main entrance.

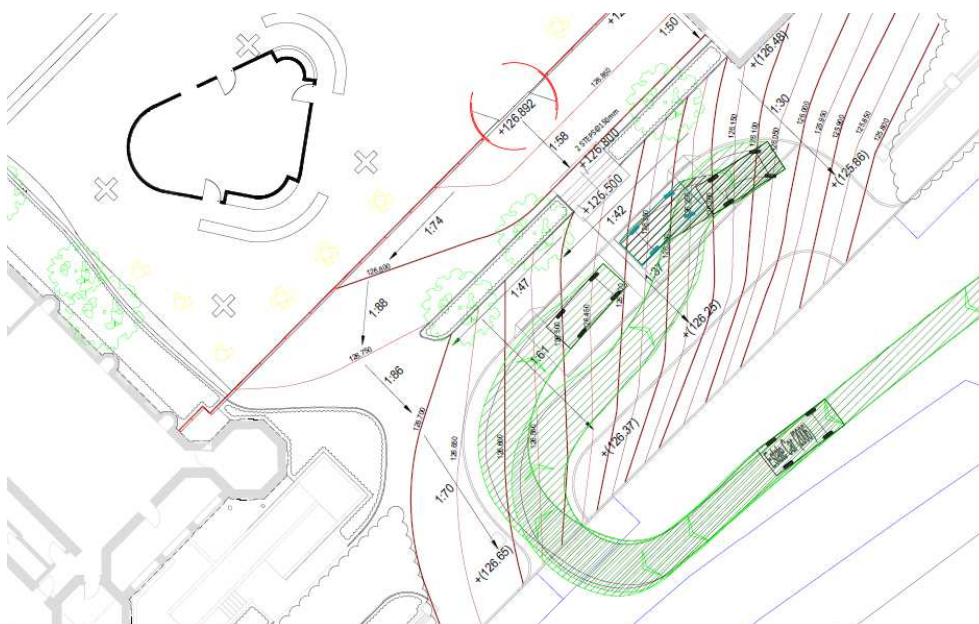


Image 9: proposed in/out drop off Steelhouse Lane

- 7.37. The existing Emergency Department ambulances will still access from the same location from Steelhouse Lane, however there will be a revised layout onsite with better separation between walk-ins and ambulances to the Emergency Department.
- 7.38. The existing cycle parking facilities are not proposed to be altered. Existing EV charging point will be relocated to within the hospital site. A very low increase in staff will be employed at the facility and as such no extra parking staff parking provision is proposed. There will be a negligible increase in vehicular trips to the hospital site as a result of the proposed development.
- 7.39. BCC Transportation raise no objection to the application, subject to a condition that works to the highway are carried out prior to the new drop off area becoming operational.

Noise, Odour, Contamination and Air Quality

- 7.40. The application is supported by a Noise Assessment. A survey has been completed to determine background noise levels. Noise modelling has been undertaken to determine the impact of proposed plant on nearby noise sensitive properties. In all cases the incident noise levels are lower than the background, which indicates a low impact.
- 7.41. Therefore, Environmental Protection raised no objection to the proposed development subjected to conditions restricting noise levels of plant and a construction management plan. No other concerns were raised with contamination or air quality.

Flood Risk and Drainage

- 7.42. According to the Environment Agency's Interactive Flood Mapping system the site lies entirely within Flood Zone 1, although some areas of the site are at risk from surface water flooding.
- 7.43. The application is supported by a drainage strategy which shows the additional surface water run off attenuated in tanks, underground. Which then run off, to the existing Severn Trent Network at a controlled rate of 2l/s. There is also a very limited area of rainwater gardens proposed. However, given the limited space available this is considered acceptable in this instance. The LLFA have accepted the proposed amended drainage strategy and do not object subject to conditions securing the implementation of the strategy.

Ecology

- 7.44. A Preliminary Ecological Appraisal (PEA) and Preliminary Bat Roost Assessment (PBRA) have been submitted in support of the planning application.
- 7.45. The PEA demonstrates the site is generally of limited ecological value, however, the PBRA assessed Parson's House and Children's Emergency Department (Block R/Rx) is shown as having low suitability for roosting bats. Built structures assessed as being of low suitability for roosting bats should be subject to a single dusk emergence/dawn re-entry survey during bats' peak active season (May-August) to confirm the presence/likely absence of the absence of roosting bats. A subsequent bat emergence survey was submitted and confirmed there was no presence of roosting bats found.

Sustainable Construction

- 7.46. The application is accompanied by a Sustainability and Energy Report which looks to set out how the proposal will meet the requirements of Policies TP3 and TP4.
- 7.47. Policy TP3 requires development to aim to meet BREEAM standard Excellent for non-residential built development more than a total floor area of 1,000m². Policy TP4 requires all new development to incorporate the provision of low and zero carbon forms of energy generation or connect into a network where it exists, unless it can be demonstrated that the cost of achieving this would make the proposed development

unviable.

- 7.48. A sustainable construction statement has been submitted. A BREEAM pre-assessment has been provided and indicates that the development is only capable of achieving BREEAM very good, short of the policy requirement of excellent. The guidance note states that if very good is the best that can be achieved, the Council will accept a statement setting out a reasoned justification for achievement of a 'Very Good' rating. A statement justifying this has been submitted and is acceptable. A condition requiring a BREEAM certificate should be applied, to ensure the best rating possible, is achieved.
- 7.49. An energy statement has been submitted, split into the two respective parts of the proposals. The site is already connected to its own district heat network, which serves the majority of the site. The proposed MRI building, and new entrance would connect to this network for back up heating, but the primary source of heating will be from a new ground source heat pump network, to be installed. This is welcome as the proposed low carbon technology – full details should be submitted via condition and a condition securing the use of low carbon technologies is proposed. The design of the new entrance has taken in to account thermal performance and includes measures to control solar heat gain and heat loss for example glazing with solar control, limiting glazing on the roof and natural ventilation. The overall changes to the existing building significantly improve the energy efficiency and carbon impact of the hospital operations and should be supported.

Conclusion and Planning Balance

- 7.50. Section 38(6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that if regard is to be had to the development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 7.51. The proposed development complies with Policies GA1 and TP21 which are those relating to the promotion of mixed-use sustainable development within the City Centre. There are no technical objections to the proposal in relation to sustainable construction, ecology, drainage, amenity, or transportation, subject to conditions.
- 7.52. The proposal would cause high levels of less than substantial harm to the significance of the Listed Building, high levels of less than substantial harm to the Conservation Area.
- 7.53. Policy TP12 requires proposals for new development affecting a designated or non-designated heritage asset to be determined in accordance with national policy. Paragraph 202 states that where a proposal will lead to less than substantial harm to the significance of a heritage asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification. Great weight should be afforded to the conservation of designated assets.
- 7.54. The benefits of the scheme are;
- Continued delivery of world class paediatric services in Birmingham and continued historic hospital function.
 - Improved clinical safety and efficiency.
 - Improved throughput of procedures and reduced length of stay
 - Greater capacity of facilities
 - Provide theatre space directly adjacent to wards for convenient access.
 - Provision of a purpose-built and high-quality MRI facility
 - Greater capacity for patient recovery

- Allowing complex surgeries to take place in Birmingham removing the need to travel to London or Manchester
 - Decarbonisation of the hospital functions to enable BCH to reach its decarbonisation targets.
 - Repair and maintenance to the listed building façade and windows
 - Removal of the poor quality and thermally inefficient entrance and creation of an entrance giving a proper sense of arrival to a centre of excellence.
- 7.55. These benefits taken together, along with the protected characteristics of patients being treated at the Children's Hospital, are afforded substantial weight and are found to outweigh the less than substantial harm identified.
- 7.56. Therefore, the application accords with the development plan and should be approved.

8. **Recommendation:**

8.1 Approval subject to the conditions below

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|----|---|
| 1 | Implement within 3 years (Full) |
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | Requires the submission and approval of external materials |
| 4 | Requires the submission and approval of architectural detailing |
| 5 | Requires the construction and approval of a sample panel on site |
| 6 | Requires the submission of hard and/or soft landscape details |
| 7 | Requires the completion of highway works |
| 8 | To ensure that the development achieves BREEAM rating level |
| 9 | Requirements within pre-defined tree protection areas |
| 10 | Requires the prior submission of a construction ecological mitigation plan |
| 11 | Requires the prior submission of details of bird/bat boxes |
| 12 | Requires the implementation of the submitted mitigation/enhancement plan |
| 13 | Limits noise of plant/machinery |
| 14 | Requires the prior submission of a construction method statement/management plan |
| 15 | Requires the prior submission of a contamination remediation scheme |
| 16 | Requires the submission of a contaminated land verification report |
| 17 | Requires the prior submission of a sustainable drainage scheme for the Birmingham Children's Hospital Main Entrance Development |
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| 18 | Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan for the Birmingham Children's Hospital Main Entrance Development |
| 19 | Requires the prior submission of a sustainable drainage scheme for the Birmingham Children's Hospital MRI Theatre |
| 20 | Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan for the Birmingham Children's Hospital MRI Theatre |
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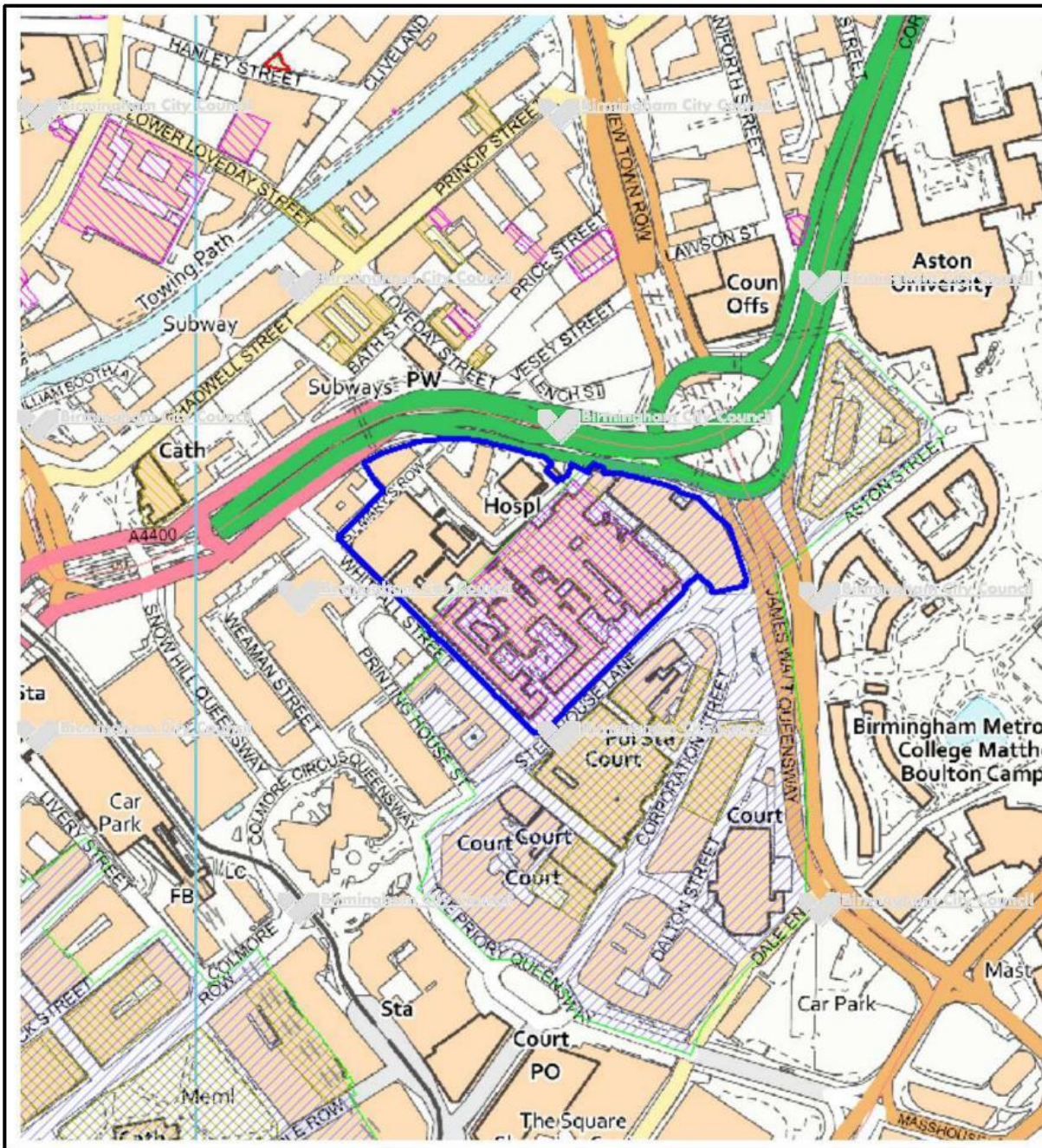
Case Officer: Rhiannon Hill

Photo(s)





Location Plan



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Committee Date:	17/08/2023	Application Number:	2023/01982/PA
Accepted:	24/03/2023	Application Type:	Listed Building
Target Date:	19/05/2023		
Ward:	Ladywood		

Birmingham Childrens Hospital, Steelhouse Lane, Birmingham, B4 6NH

Listed Building Consent for Construction of Emergency Department Entrance, MRI suite and operating theatres and energy centre at Loveday Street and demolition of existing hospital entrance, creation of a new glazed entrance to Steelhouse Lane. Replacement of windows and creation of 6no. ground source heat pump boreholes

Applicant: Birmingham Women's and Children's NHS Trust
Birmingham Childrens Hospital, Steelhouse Lane, Birmingham, B4 6NH
Agent: BDP
11 Ducie Street, Manchester, M1 2JB

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1. This application seeks Listed Building Consent for;
- Demolition of the existing entrance and pharmacy block and the erection of a new main entrance atrium space and demolition of brick and terracotta boundary wall to Steelhouse Lane.
 - Extensions to 'R Block' to create new clinical space, including demolition of existing staircase, link bridge and boundary wall structures on Loveday Street.
 - Energy Centre (Plant) on roof of R block and associated profiled metal screen.
 - Replacement windows/doors in M,N and P Block, facing Steelhouse Lane
- 1.2. Much of the works are being provided under a decarbonisation initiative by the hospital. The re-cladding and new windows, improve thermal performance of the hospital, and the new plant and energy centre are associated with thermal stores and new ground source heat pump system.
- 1.3. The MRI facility enables the hospital to deliver life-saving treatment in Birmingham, which is not currently possible.
- 1.4. A separate Full Planning application is also for consideration.
- 1.5. [Link to Documents](#)

2. **Site & Surroundings:**

- 2.1. The application site comprises the Birmingham Children's Hospital complex on the northwest side of Steelhouse Lane as it terminates with James Watt Queensway.

The application relates to only the front portion of the hospital site, including the grade II listed 19th century infirmary building, Loveday Street and the modern blocks to the northeast that overlook James Watt Queensway.

- 2.2. Birmingham Childrens' Hospital was formerly the city's General Hospital and was built in 1894-97 and was designed by Henman and Cooper. The hospital follows the 'E' plan with pavilions to maximise light and fresh air that was commonly used at the time. It is built of red terracotta in a Romanesque style and was clearly designed as a companion piece for the red terracotta Victoria Courts. The hospital and courts were later joined by the Central Hall and the three form an impressive group of institutional buildings within the Steelhouse Lane conservation area.

- 2.3. Unlike the Courts and Central Hall, the hospital has been altered and extended, these works reflect the continued adaption of the building for medical use and there have been a series of harmful demolitions and unsympathetic additions to the building.

- 2.4. Historic England Listing entry states that the hospitals significance principally arises from

Architectural interest:

For the intricate quality of its original architecture, with a remarkable degree of brick and terracotta detailing carried out on a grand scale; for the careful handling of such a large site, with varying scale and massing to differing areas of the building showing its considered composition; for the degree of survival of historic fabric, including high quality interior spaces with good quality materials.

Historic interest:

For its association with William Henman, a well-known architect who is well represented on the List; as an example of a late-C19 general hospital on a grand scale, reflecting the growth of the city of Birmingham throughout the C19; for the interest of the original plenum ventilation system, which is expressed through the physical architecture of the site.

Group value:

The hospital buildings have good group value with surrounding civic buildings, most notably the Victoria Law Courts, the Police Station Cells Block and the Methodist Central Hall. Together, these form a remarkable collection of terracotta buildings

- 2.5. The site falls within the Steelhouse Conservation Area which incorporates an example of Victorian and Edwardian townscape, extending along Corporation Street ending at the Children's Hospital on Steelhouse Lane. This includes a nationally significant (as mentioned in the listing entry) group of red brick and terracotta buildings in which includes the police station, fire station, lawcourts and religious buildings (methodist central hall).

- 2.6. Link to [google maps](#)



Image 1; Birmingham Children's Hospital, from Steelhouse Lane

3. **Planning History:**

- 3.1. The application site has a long and varied planning history, some relevant planning history is given below.
- 3.2. 2007/05457/PA Erection of first floor extension to provide a 6 bed ward with ancillary accommodation for the Teenage Cancer Trust, enclosed bridge link, metal louvre plant enclosure and external staircase Approved Subject to Conditions 18/10/2007
- 3.3. 2009/04581/PA Construction of new three storey MRI unit between blocks E and DX Approve subject to Conditions 11/11/2009
- 3.4. 2009/04822/PA Construction of new four storey extension to Block F to increase MRI provision and future ward expansion single storey conservatory to internal courtyard, attached to Block F Approve subject to Conditions 14/12/2009
- 3.5. 2022/08433/PA Installation of roof mounted air handling plant Approve subject to Conditions 16/01/2023

4. **Consultation Responses:**

- 4.1. BCC Conservation – Objection
High level of less than substantial harm to both the Grade II Listed hospital and Steelhouse Lane Conservation Area.
- 4.2. BCC Ecology – No objection
Subject to conditions requiring ecological construction management plan
- 4.3. BCC Environmental Protection – No objection
- 4.4. Historic England – Comment
“The proposed development would harm one of Birmingham’s distinct Conservation Areas and one of the nationally significant orange/red brick and terracotta buildings within that streetscene. In all instances, we agree with the applicant’s assessments that the scheme will result in ‘less than substantial harm’ as referred to in the NPPF, requiring great weight to be given to the assets’ conservation, irrespective of the level of harm. In line with national policy, this harm should only be permitted if it would be outweighed by public benefit.”
- 4.5. Birmingham Civic Society – Comment
“The proposal would result in operational improvements for the Hospital, a more sympathetic, functional and pleasing main entrance and with the decarbonisation works give a more energy efficient hospital campus. The massing of the proposal is inhibited by the need to retain / rationalize structures consented prior to the building’s listing, and while these are not felt appropriate given the setting, considering the use of the building and the importance that its facilities provide to the city, this does not give sufficient reason for objection.”
- 4.6. Victorian Society – Objection.
“In our view the scale of the proposed extensions to the more modern parts of the building on Loveday Street will make them appear too dominant and overpowering in views of the listed building and indeed in the conservation area. The extensions should instead appear subservient to the historic fabric and so we consider the proposed additional storeys over Loveday Street to be unacceptable as presented. The proposed use of buff brick and metallic cladding for this extension is not appropriate next to the grade II listed building in red terracotta, and we urge that more sympathetic materials are chosen to better blend with the historic fabric.

In our view the proposed new entrance building is also inappropriate in its design, scale and materials. Whilst we would be content with the demolition of the current unattractive modern hospital entrance and understand the principle of its replacement, we consider the proposed replacement as presented with full glazing and internal wooden columns to be completely inappropriate as an addition to the grade II listed Victorian red terracotta hospital building; it is of too large a scale and appears too awkwardly asymmetrical in the Steelhouse Lane elevation of the hospital. Moreover, the new entrance is also to be constructed of unsuitable materials. The proposed fully glazed walls and wooden columns are in our view completely alien to the predominant red brick and terracotta of both the listed hospital building and the other historic buildings in the conservation area. Red brick or red terracotta should be used instead as the dominant material to complement the surviving historic fabric, as well as to reflect the Victorian entrance structures now lost, but which are recorded in historic plans and photographs.

In our view the proposals in these applications will have a negative impact on the character and appearance of the grade II listed building and the Steelhouse Conservation Area. We therefore object to this application and application 2023/01982/PA. We urge Birmingham City Council to refuse consent for these applications as presented."

5. **Third Party Responses:**

- 5.1. The application has been publicised by sending out letters to neighbours, posting a site notice within the vicinity of the site and a press notice. Residents' Associations; Ward Members; the MP and local occupiers consulted.
- 5.2. No third-party letters of representation have been received.

6. **Relevant National & Local Policy Context:**

- 6.1. National Planning Policy Framework
Section 16: Conserving and enhancing the historic environment - Paragraph 189-202
- 6.2. Birmingham Development Plan 2017:
TP12: Preserving the historic environment
- 6.3. Supplementary Planning Documents & Guidance:
Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision Taking in the Historic Environment - Historic England (2015); Good Practice Advice Note 3: the setting of Heritage Assets – Historic England (2017); Birmingham Design Guide (2022) National Design Guide (October 2019); National Planning Practice Guidance (PPG); Steelhouse Lane Conservation Area Map.

7. **Planning Considerations:**

- 7.1. The main material considerations of this application are the impact of the application proposals on the significance and setting of the heritage asset in terms of the impact of the alterations and whether the proposal preserves the significance of the heritage asset.

Impact upon the Listed Building

- 7.2. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering in whether to grant planning permission for development which

affects a listed building, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 7.3. Policy TP12 of the BDP states that great weight will be given to the conservation of the City's heritage assets and that development affecting a designated or non-designated heritage asset or its setting, will be expected to make a positive contribution to its character, appearance and significance.
- 7.4. Preservation in this context means not harming the interest in the building, as opposed to keeping it utterly unchanged.
- 7.5. The submitted Heritage Assessment (HA) states that the hospital is of high historic value. It concludes that the physical impact of the proposed glazed entrance area (S Block) New infill MRI block (R Block) and the associated works are considered to have a minor - moderate adverse effect on significance. However, the works are justified in the HA as required to sustain the historic use of healthcare facility and the new S Block entrance additions touch the historic building very lightly and the loss of historic fabric is considered very limited.
- 7.6. The new drop off in/out arrangement, to Steelhouse Lane results in the loss of a section of original red brick and terracotta boundary wall and the R block extension results in the loss of part of a boundary wall adjacent to the existing theatre building. The HA concludes this is a moderate adverse effect.
- 7.7. The proposal also includes replacement of existing hospital doors and windows to address technical performance requirements. The HA considers this to be a minor adverse effect.

Extensions and alterations

'S Block' new entrance

- 7.8. BCC Conservation Officer comments on the significant and unsympathetic alterations that have harmed the significance of the Listed Hospital over time. Commenting that *"Originally the courtyard was enclosed from the street by a red terracotta wall and gatehouse that resembled something from a Maharaja's palace with Indian style chattris. Around the courtyard was a cloister of highly decorated red terracotta linking the wings. These seemed to have disappeared in the early 20th century with the gatehouse demolished, the cloister enclosed as corridors and the central bay covered with a rather shallow, utilitarian extension. The balconies at the end of the wings facing the street were also infilled at this time with unsympathetic windows and glazed panels."* Also noting that the *"the current entrance building is single storey and dates from the mid-1990s. It is clad in metal and is not of architectural significance"*
- 7.9. The glazed new entrance fills the courtyard at the front of the building with the roof joining the historic building below the second-floor windows. The extension is asymmetrical. The Conservation Officer notes that *"the original Victorian courtyard was also asymmetrical, but this was lower and hidden by the gatehouse and curtain wall, so it would not have been seen from the street"* The Conservation Officer considers that the height of the proposed extension makes the asymmetry prominent which could be improved if the alignment of the extension were amended. However, the Conservation Officer does note that the roof detail for how the proposal attached to the listed building has been used successfully elsewhere with limited damage to historic fabric. This detail has been submitted in plan and should therefore be conditioned.
- 7.10. The Conservation Officer also comments on the proposed choice of timber for the internal features of the extension, noting that other materials such as metal may have been more sympathetic.



Image 2: Proposed S Block, new entrance from Steelhouse Lane

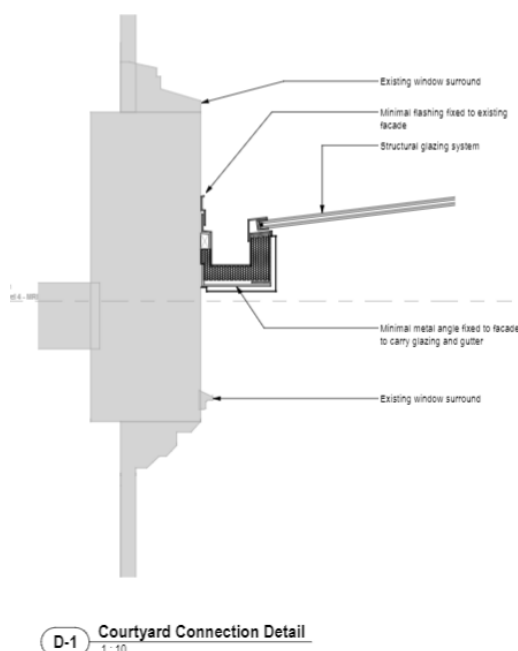


Image 3: Detail drawing of fixing of new entrance to the existing building

R Block MRI and Energy Centre Building

- 7.11. The Conservation Officer considers the R block extensions to be substantial in scale, in proximity of the historic building. It is therefore considered by the Conservation Officer to have a harmful impact upon the listed building.



Image 4: proposed MRI extension and entrance from Steelhouse Lane

- **Note proposed materials are red/orange brick and bronze cladding (not grey as shown)**

Demolition

- 7.12. One of the bays of terracotta wall along Steelhouse Lane is proposed for removal to allow vehicle access, in addition the original wall along Loveday Street is also being demolished for the extension of R block. The Conservation Officer considers these elements of the proposal to be harmful, however recommends that the materials are salvaged and used to reinstate other missing and damaged elements of the wall.



Image 5; Section of wall proposed to be demolished – Steelhouse Lane (left pillar remains)

Re-cladding

- 7.13. The Conservation Officer has no objections to the re-cladding of the modern buildings between Loveday Street and St Chads Queensway, considering these to currently be “an odd group of buildings representing a variety of addition. The cladding will give a more homogeneous appearance and the choice of brick is a more appropriate material

for the conservation area". This is not considered to have an adverse impact upon the significance of the listed building.

Figure 26 (above) Queensway view 3
At: Google Maps, 2023
Figure 27 (below) Queensway Lane view 3
At: BDP Design and Access Statement



Image 6: Re-cladding of R block

- **Note proposed materials are red/orange brick and bronze cladding (not grey as shown)**

Restoration and Repair Works

- 7.14. The historic windows in the wings are to be retained and refurbished which the Conservation Officer confirms is a positive element of the proposal, in addition and of greater importance is that the proposal includes installation of more sympathetic windows to the gables of the wings where the balconies were infilled. This is considered to be "an enhancement to the listed building and the conservation area".
- 7.15. Overall, the Conservation Officer Considers "the development will cause less than substantial harm to the historic and architectural interest of the listed building and that the level of harm is high. However, the replacement of more sympathetic windows and the recladding of the modern building does provide some mitigation"

Planning Balance

- 7.16. Both the proposed extension to S Block and R Block affect the historic significance of the Listed Building. Consequently, the proposed development is considered to amount to less than substantial harm to the listed building. In accordance with the NPPF this harm "should require clear and convincing justification".
- 7.17. This harm must be weighed against the public benefits of the scheme in accordance with Paragraph 202 of the NPPF and Policy TP12 of the BDP.
- 7.18. As set out in the accompanying planning application the public benefits of the proposal are considered to be;
 - Continued delivery of world class paediatric services in Birmingham and continued historic hospital function.
 - Improved clinical safety and efficiency.

- Improved throughput of procedures and reduced length of stay
 - Greater capacity of facilities
 - Provide theatre space directly adjacent to wards for convenient access.
 - Provision of a purpose-built and high-quality MRI facility
 - Greater capacity for patient recovery
 - Allowing complex surgeries to take place in Birmingham removing the need to travel to London or Manchester
 - Decarbonisation of the hospital functions to enable BCH to reach its decarbonisation targets.
 - Repair and maintenance to the listed building façade and windows
 - Removal of the poor quality and thermally inefficient entrance and creation of an entrance giving a proper sense of arrival to a centre of excellence.
- 7.19. These benefits taken together, along with the protected characteristics of patients being treated at the Children's Hospital, are afforded significant weight and are found to outweigh the less than substantial harm identified.
- 7.20. Therefore, the application accords with the development plan and should be approved.

8. **Conclusion**

- 8.1. Special regard that has been paid to the desirability of conserving the building, its setting and features of architectural interest. It is considered that the substantial public benefits that the proposed scheme offers is justification for, and outweighs, the less than substantial harm identified when considering the Grade II status of the building.

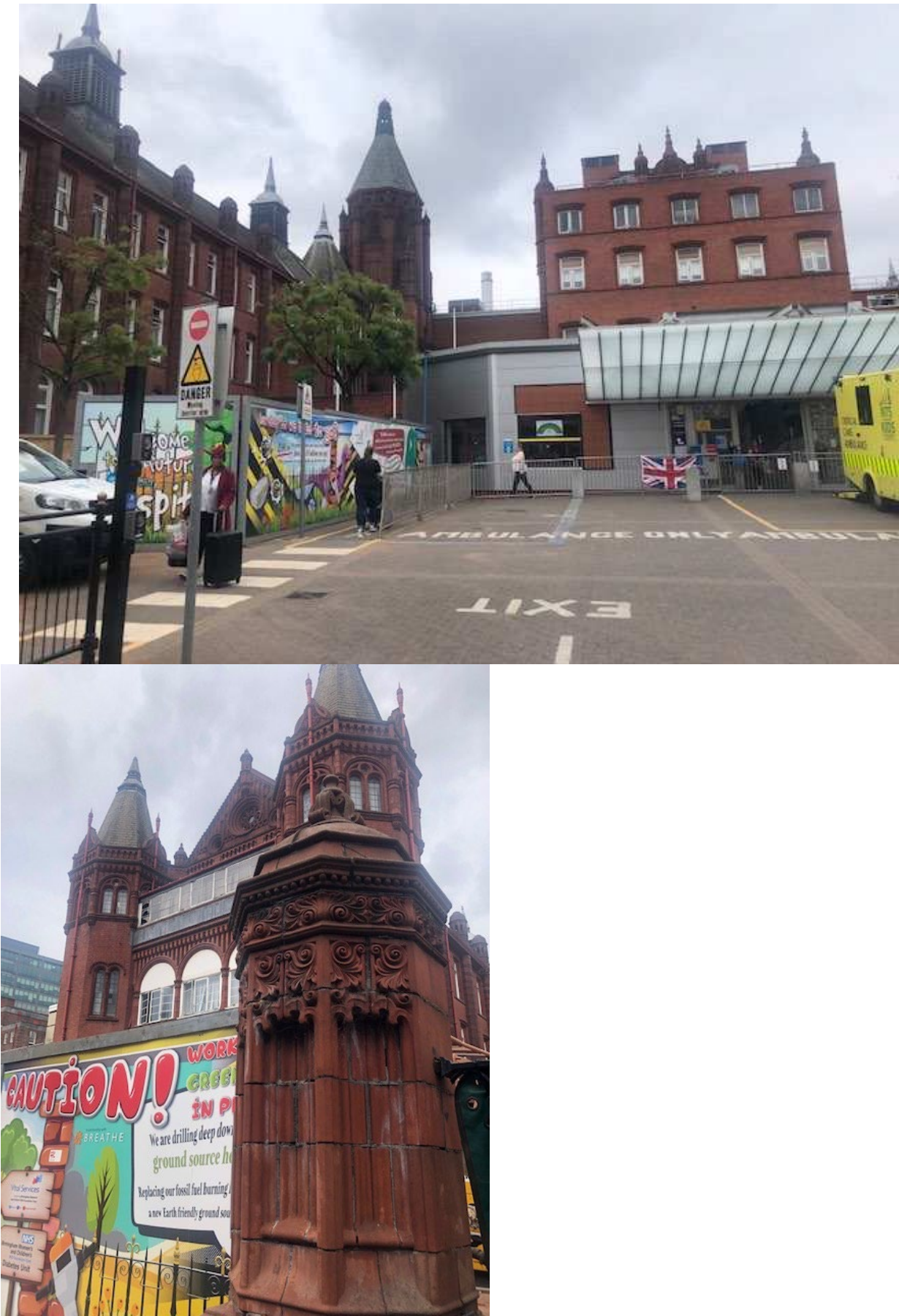
9. **Recommendation:**

- 9.1 Approve subject to the conditions below

-
- | | |
|---|--|
| 1 | Implement within 3 years (conservation/listed buildings consent) |
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | Requires the prior submission of a demolition method statement |
| 4 | Requires the submission of a Method Statement for implementation |
| 5 | Schedule of repair and work to historic fabric: |
| 6 | Requires the submission of window frame details |
| 7 | External lighting strategy |
| 8 | Requires the storage of original brick and terracotta |
-

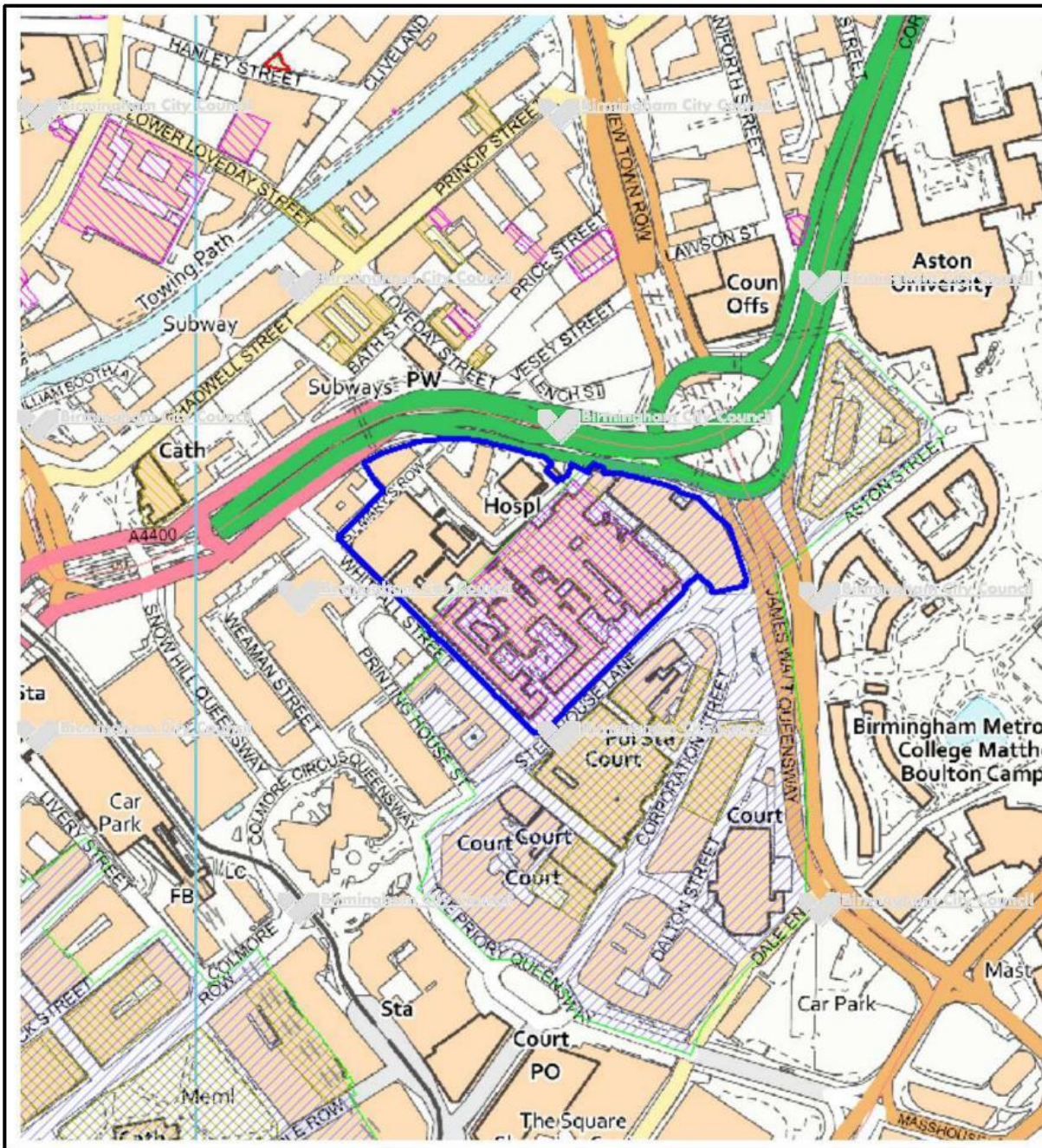
Case Officer: Rhiannon Hill

Photo(s)





Location Plan



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REPORT OF THE DIRECTOR OF BUILDING CONSULTANCY ACIVICO BUILDING CONSULTANCY LTD

To: Planning Committee

Date: 17 August 2023

Subject: Acivico Building Consultancy Ltd – Annual Performance Overview

Period: Financial Year (1st April 2022-31st March 2023 inclusive)

Background

Acivico (Building Consultancy) Ltd was established as a wholly owned company by Birmingham City Council in April 2012. This report focusses on Building Consultancy performance for the previous financial year April 2022 to March 2023 (inclusive).

Contractual obligations between the Council and Building Consultancy require that performance is monitored and reported on a quarterly basis to an independent Performance Management and Monitoring Board (PMMB). This is chaired by the Council's Statutory Functions Officer (CSFO) with support from the Contract Management and Performance Team (CMaP). A key outcome from these meetings is to ensure that this performance is shared with the Planning Committee on an annual basis.

It should be noted that the current contractual arrangement expired in March 2023 and no extension or revised contract has been agreed. Acivico Building Consultancy continues to deliver the Building Control Service.

Performance Context

The services provided by Building Consultancy are statutory and therefore delivered on behalf of the City Council. One consequence of this is that any formal notices issued during the execution of functions must be in the Council's name and duly authorised by a nominated officer (CSFO).

Acivico Building Consultancy has a longstanding reputation for the provision of high-quality public facing services and contractual measures are therefore in place to ensure that its Customer Service Excellence (CSE) and ISO9001:2015 certifications are maintained. Both are widely regarded as national benchmarks and are independently assessed by licensed external bodies on an annual basis.

The Customer Service Excellence assessment was completed in August 2022 and in keeping with previous years confirmed full compliance along with a number of aspects of compliance plus (service excellence). The ISO9001:2015 assessment was completed in April 2023, shortly after the end of the period covered by this report and also concluded that the service's operational and management systems were fully compliant with its exacting requirements.

Key Performance Indicators (KPIs)

KPIs are agreed on an annual basis in conjunction with the Performance Monitoring and Management Board and are subject to robust challenge/review with any subsequent adjustments reflected in the contract. For the year in review (2022-2023) four primary measures were agreed to enable a targeted focus of the most critical functions.

The KPIs align with some of the national Building Control performance Standards, however the new Building Safety Regulator has introduced new Operational Standard Rules for all Building Control Bodies and these include new reportable data / KPIs. These new standards will first be reported on in April 2024, based upon performance data from January 2023.

From April 2024 the Building safety Regulator will have to power to audit the performance of any Building Control provider, including Local Authorities and impose sanctions where appropriate.

Building Regulation Applications

Almost all construction projects from a residential kitchen extension to a multi-storey mixed-use commercial building require a Building Regulations input to ensure that they meet the minimum technical standards for construction. This is most commonly discharged through two linked processes, firstly initial assessment of design stage plans/details followed by on-going site verification inspections during the construction phase.

Key Performance Indicators

Decision Speed

There is a statutory requirement to issue a decision on a Building Regulation application (design stage appraisal) within twenty-eight days of submission. An extended period of eight weeks can be used subject to agreement from all parties.

Target KPI – 100% of applications determined within statutory period

Actual performance – 100%

Trend over the previous 5 years

2017/18	2018/19	2019/20	2020/21	2021/22
100%	100%	100%	98%	100%

N.B. The minor decline in performance for the year 2020-2021 was a direct consequence of COVID19 upon resources and operational systems.

Decisions Approval Rate

Building Consultancy has a performance objective to ensure that an appropriate percentage of decisions are either approved or conditionally approved first time. The certainty that this generates is something that is valued by regular volume submitters. However, the capacity to 'approve' is dependent upon the technical quality of submitted plans along with a number of associated legislative constraints including input from third parties consultees such as West Midlands Fire Service.

Target KPI – 95%

Actual performance – 98%

Trend over the previous 5 years

2017/18	2018/19	2019/20	2020/21	2021/22
97%	97%	96%	96%	95%

Dangerous Structures (Response Times)

Dangerous structures are reported from a variety of sources including, councillors, officers, emergency services and the public. Incidents are assessed for their severity from the information available to determine a target level of deployment for an officer. There are three contractual levels of response (working hours) are as follows;

Category A (immediate danger) – arrival on site **within 2 hours**

Category B (moderate danger) – arrival on site within 6 hours

Category C (low risk) – arrival on site by the close of the next working day.

Building Consultancy also support the Council's resilience team through a 24/7 365 day a year response service via the corporate emergency contact centre. Due to their nature requests through this channel are automatically categorised as category A incidents

Total number of Category A incidents during 202/23 – 40

Total number of out-of-hours call out incident during 2022/23- 44

It should be noted that the responsibility in respect of dangerous structures is to assess the danger and take steps to reduce risk, whilst ensuring resultant costs to the Council and property owners are minimised. Typically measures may be taken to ensure safety, such as restricting access and temporary support. The responsibility to ultimately make premises safe remains with the building owner.

Target KPI – 100% responded to within required timescale.
Actual Performance – 100%

Trend over the previous 5 years

2017/18	2018/19	2019/20	2020/21	2021/22
100%	100%	100%	100%	100%

Complaint Response Times

Building Consultancy mirrors the Council's corporate complaints process and as such ensure expressions of dissatisfaction are appropriately investigated and responded to within fifteen working days. This also forms an integral element of both the CSE and ISO9001:2015 standards.

During 2022/23 a revised group complaints handling process was introduced. All complaints are handled in accordance with processes and resolved within the required timescales.

Target KPI – 100% investigated and responded to
Actual Performance 100%

Reform of Building Control System

The Building Safety Regulator has been appointed to take responsibility for Building Regulations and from October 2023 all new High Risk Residential Building will be dealt with directly by the Regulator and not by Local Authorities of Approved Inspectors. Although this effectively removes such buildings from Local Authority Control it is clear that the Regulator has insufficient resource to deal with this work and may contract Acivico Building Consultancy to advise them in Birmingham and the surrounding area.

From April 2024 all those making decisions in respect of Building Regulation applications and assessing compliance at design or construction stage will need to be entered on a new register of Building Inspectors. Registration will be based upon demonstrated competence and the scale of projects which can be worked on will be limited by the class of registration held. All technical building control staff will be required to be registered.

Additional enforcement powers are being introduced to enable Contravention and Stop Notices to be issued during the construction process. IN a significant change to procedures commercial projects will not be able to commence on site until Building Regulation Approval has been given

Recommendation

That this report be noted

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