

# **Birmingham City Council**

**Planning Committee**

**25 April 2024**

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	6	2023/08290/PA  Former Sainsbury's 1 Chapel Lane Selly Oak Birmingham B29 6SJ  A mixed use development comprising 2 blocks of purpose built student accommodation with 836 bed spaces (Sui Generis), ground floor commercial, medical and community floor space (Class E) including landscaping, internal vehicular route, parking and associated works

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Committee Date:	25/04/2024	Application Number:	2023/08290/PA
Accepted:	08/12/2023	Application Type:	Full Planning
Target Date:	26/04/2024		
Ward:	Weoley & Selly Oak		

Former Sainsbury's, 1 Chapel Lane, Selly Oak, Birmingham, B29 6SJ

A mixed use development comprising 2 blocks of purpose built student accommodation with 836 bed spaces (Sui Generis), ground floor commercial, medical and community floor space (Class E) including landscaping, internal vehicular route, parking and associated works

Applicant:	GHL (Selly Oak) Limited Sterling House, 3rd Floor, Langston Road, Loughton, Essex, IG10 3TS
Agent:	Knight Frank LLP 103 Colmore Row, Birmingham, B3 3AG

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Recommendation

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

1. **Proposal:**

- 1.1. Planning permission is sought for the erection of two blocks of purpose built student accommodation which will provide 836 bed spaces. The scheme consists of 472 self-contained studios and 364 en-suite rooms which are arranged in clusters of between 4 and 8 bedrooms. The studios vary in size between 17.7sqm and 31.7sqm with some accessible rooms provided that are up to 39.9sqm in size. The ensuite bedrooms vary in size between 13.5 and 20sqm. Each cluster has between 4 and 8 occupants and include a shared lounge and kitchen area which varies between 27.8 and 47sqm in size.
- 1.2. Block B fronts onto the Bristol Road and incorporates 1271sqm of retail floor space (Class E). The ground floor also incorporates a medical centre which is located close to the Chapel Lane entrance which is 1242sqm. The main pedestrian entrance into this block of student accommodation is located on Harborne Lane. Block B is broadly rectangular in shape with a central courtyard and varies in height between 5 and 6 storeys high.
- 1.3. Block A is located at the northern end of the site and incorporates a building which is between 4 and 6 storeys high. The building is an unconventional shape with 3 separate wings projecting out towards Harborne Lane. Courtyards are provided between each wing.
- 1.4. The building would be primarily constructed of brick (red, orange, grey and beige) with areas of render included. Both buildings have a flat roof.

- 1.5. There is only one vehicular entrance to the site which is via the existing roundabout on Chapel Lane. This entrance would primarily be used by patients of the medical centre plus deliveries and maintenance for the whole development. The access would also be used at the beginning and end of each term for drop off and pick-ups. For the student element 4 disabled bays and 3 loading bays would be provided. 34 parking spaces are provided for patients of the medical centre, which includes 4 disabled bays. The proposal provides a total 472 cycle spaces, of which 426 are within secure parking areas across both blocks and 23 sheffield stands (46 spaces) spread across the development.
- 1.6. Across the 2 buildings 11 internal communal rooms will be provided for the occupants with a total provision of 1280sqm which include a gym, cinema, study room, wellness area and lounge.
- 1.7. Outdoor amenity space is provided in a number of different locations across the site in the form of mixture of courtyards and roof terraces which total 2637.90sqm. In addition 4 public amenity areas are provided around the periphery of the site with a public pedestrian route through the heart of the site.



Image 1: Proposed Site Plan

- 1.8. The application is supported by a Design and Access Statement, Planning Statement, Tree Survey, Contaminated Land Report, Noise Survey, Air Quality Assessment, Heritage Statement, Energy Statement, Statement of Community Involvement, Student Needs Assessment, Archaeological Assessment, Economic Impact Statement, Internal Daylight and Sunlight Report, Bat Survey, Bat Roost Assessment, Preliminary Ecological Appraisal, Transport Statement and a Flood Risk and Drainage Assessment.
- 1.9. [Link to Documents](#)
2. [Site & Surroundings](#)
- 2.1. The application site consists of a triangular parcel of land bounded by the Bristol Road, Chapel Lane and Harborne Lane. The site was occupied by a 2 storey red brick building with associated car park which was utilised as a food retail store. The

building was recently demolished meaning the site is entirely vacant with the majority covered in hardstanding. There is a single vehicular entrance into the site via the mini roundabout on Chapel Lane. The site falls within the boundary of Selly Oak District Centre and is consequently surrounded by a mix of uses. To the north is the Battery Retail Park and to the east there are variety of E class uses on the Bristol Road. Residential development is located to the west of the application site.

## 2.2. [Site Location Plan](#)

## 3. [Planning History](#)

- 3.1. 2020/01795/PA - Demolition of supermarket and erection of 1187 units of purpose built student accommodation and student communal facilities (Sui Generis), ground floor commercial and community floorspace (Use Classes B1/A1/A2/A3/D1/D2) and associated works including new hard and soft landscaping, internal site vehicular circulation route and parking with access from Chapel Lane roundabout. Refused on 03/03/2020 due to the harm to the character and appearance of the area. Dismissed at appeal following public inquiry on 15/11/2021.
- 3.2. 2023/02842/PA - Application for a prior notification for proposed demolition of existing building. No Prior Approval Required on 31/05/2023.

## 4. [Consultation/PP Responses](#)

- 4.1 Transportation Development – No objection subject to conditions requiring implementation of a student management plan, submission and completion of works for the S278/TRO Agreement, parking areas to be laid out, provision of cycle storage and construction plan is place prior to commencement.
- 4.2 Regulatory Services – No objection subject to conditions requiring the submission of contamination remediation scheme, contaminated land verification report, noise mitigation scheme, noise levels for plant and machinery, lighting scheme, noise insulation scheme and construction method statement.
- 4.3 West Midlands Police – No objection subject to conditions requiring CCTV, lighting, secure access system and secure refuse and cycle stores.
- 4.4 West Midlands Fire Service – No objection
- 4.5 Lead Local Flood Authority (LLFA) – Awaiting comments on amended drainage scheme.

## 5. [Third Party Responses:](#)

- 5.1 Adjacent occupiers, Councillors, M.P. and residents associations notified and site/press notices posted. 15 letters of objection received raising the following concerns:

- Parking should be underground;
- S106 monies required to improve local cycle network;
- Further student accommodation not needed;
- Will create unbalanced community;
- Community uses needed instead e.g. bowling alley, retail or library;
- No demand for retail units;
- Increased parking pressures on surrounding roads;
- Increased congestion on already busy roads;
- Harmful impact on quality of life;
- Should be built next to University;



- Poor design;
- Affordable family housing is required instead;
- Sufficient and secure waste and recycling facilities needed;
- Increased levels of anti-social behaviour;
- Greater mix of uses needed;
- Greater details on the occupiers of medical centre and retail units needed;
- Use of grey in design is not supported;
- Too many studios;
- Clarity over actual use of medical centre needed;
- Potential increase in exempt accommodation in Selly Oak;
- Increased pressure on public services;
- Rooms are too small; and
- New pedestrian crossing needed;

5.2 2 letters of support have been received raising the following matters:

- Site is being put to good use;
- Attractive modern design;
- Good location for high density housing;
- Great public transport links;
- Good access to recreation area e.g. Selly Oak park and canal network;
- Medical centre needed; and
- Positive that site isn't gated.

5.3 Comments have been received from the Community Partnership for Selly Oak (CP4SO). Whilst they note improvements have been made when compared to the previous scheme they object on the following grounds:

- No need for further student accommodation in Selly Oak;
- Greater mix of residential uses needed;
- Hotel could be provided on the site;
- Greater promotion of clusters needed;
- Rooms and corridors are too small;
- Greater detail on medical centre needed;
- Without identified end user it is impossible to know if correct level of parking will be provided for medical centre;
- Retail units poorly articulated and may end up vacant;
- Vacant commercial space may be turned into further student accommodation;
- Greater variation in building heights needed;
- Design would be improved by additional built form above medical centre;
- Bristol Road elevation is too bland; and
- Increased parking in surrounding streets.

## **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 6 – Building a Strong Competitive Economy

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 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change

## **6.2 Birmingham Development Plan 2017:**

PG3 - Placemaking

GA9 – Selly Oak and South Edgbaston

TP3 – Sustainable Construction

TP4 – Low and Zero Carbon Energy Generation

TP6 – Management of Flood Risk and Water Resources

TP21- Network and Hierarchy of Centres

TP22 – Convenience Retail Provision

TP30 – The Type, Size and Density of New Housing

TP33 – Student Accommodation

## **6.3 Development Management DPD:**

DM2 – Amenity

DM4 - Landscaping and trees

DM6 - Noise and vibration

DM14 - Transport access and safety

DM15 - Parking and servicing

## **6.4 Supplementary Planning Documents & Guidance:**

Birmingham Design Guide SPD

Shopping and Local Centres SPG

Wider Selly Oak SPD

Birmingham Parking SPD

## **7. Planning Considerations:**

- 7.1. I consider the key planning issues in the determination of this application are; the principle of student accommodation on this site; Housing Land Supply, economic impact; impact on Selly Oak District Centre; the siting, scale and appearance of the proposed building; living conditions for prospective occupiers; impact on parking and highway safety; impact on neighbouring residential amenity; impact on trees and landscape; and drainage.
- 7.2. It is important to note that a previous scheme for student accommodation was refused under reference 2020/01795/PA due to the harm to the character and appearance of the area. Following a 5 day public inquiry a Planning Inspector dismissed the appeal. The Inspector's primary concerns were:
- Excessive scale, massing and density;
  - Harmful Impact on key views;
  - Harm to wider townscape; and
  - Harm to outlook of Rebecca Drive residents;
- 7.3. It will be important to consider whether the amended scheme overcomes these concerns.
- 7.4. Principle of Student Accommodation
- 7.5. The National Planning Policy Framework (NPPF) advises that there is a presumption in favour of sustainable development and that for decision making this means approving development proposals that accord with the development plan without delay. Paragraph 117 encourages the use of as much previously developed (brownfield land) as possible.
- 7.6. Policy GA9 of Birmingham Development Plan (BDP) promotes the Selly Oak and South Edgbaston area for major regeneration and redevelopment. The policy seeks to strengthen the role of Selly Oak District Centre Growth Point. To address the

need for regeneration of the centre the policy recommends that all developments should contain a mix of uses, make a positive contribution to the diversity and vitality of the Centre. The policy makes specific reference to the Triangle Site indicating that it would be suitable for small scale retail, offices, other town centre uses and residential.

- 7.7. The site has lain vacant since the opening of a food superstore on the new Selly Oak Retail Park, which was formerly known as the Battery Site. When outline planning permission for a major mixed use development on the Battery Site (2012/02178/PA) was granted it was accepted that a large supermarket was no longer required on the Triangle Site. The S106 associated with Battery Site specifically precluded the then applicant from using the old building on the triangle site for food retail once the new store on the Selly Oak Retail Park became operational. Now the building on the triangle site has been demolished this restriction no longer applies.
- 7.8. The Birmingham Development Plan (BDP), at Policy TP33, has a set of criteria for off-campus development which includes; a demonstrated need for development; a good location in relation to the educational establishment, local facilities and public transport; that the development would not have an adverse impact on the local neighbourhood or residential amenity; the scale, massing and architecture of the development is appropriate for the location; and that the design and layout of the accommodation would create a positive living experience.
- 7.9. The application site falls within the defined District Centre and also falls within the primary shopping area. However, the site is also identified as a development opportunity within the Wider Selly Oak SPD. The policy identifies that a mix of uses could be acceptable on the site including non-food retail, community uses, residential, hotel, student accommodation, offices and leisure uses.
- 7.10. The Wider Selly Oak SPD acknowledges the attractiveness of Selly Oak for student accommodation and the application site is one the identified larger sites where purpose-built provision could be acceptable. The scheme also incorporates a medical centre and retail uses (Class E) on the Bristol Road frontage. There is specific support for such uses within the SPD.
- 7.11. There are high concentrations of students living in Houses in Multiple Occupation (HMOs) in Bournbrook. This puts pressure on this area and both the quality of life for existing residents and the residential environments have been adversely affected as a result. The Wider Selly Oak SPD acknowledges that whilst purpose built accommodation can still bring large numbers of students into an area, it can help minimise adverse impacts on areas that are over-populated with students by freeing up HMOs for potential reversion to family housing, thereby restoring a more balanced community and helping with certain local services such as take up of school places.
- 7.12. The submitted PBSA Demand and Need Assessment concludes that there are 25,688 bedspaces across Birmingham representing 31% of total FT students meaning there are 3 students for ever one PBSA bedspace. The Council's estimate of total available bedspaces across the city is higher at 29,751.
- 7.13. The submitted Assessment estimates 4,793 bedspaces are in the pipeline (under construction or planning consented) across the city increasing the accessibility to PBSA to 36%. Once again, the Council's supply figures are higher at 6,260 bedspaces.

- 7.14. The Assessment also analyses a two mile and one mile catchment. Within the two-mile catchment, it identified 7,221 bed spaces and 26,198 full time students producing a ratio of students per bed of 3.2 (counting the two universities located within 2 miles of the site, The University of Birmingham and Birmingham City University). It then goes on to say that that if the number of students living at home with parents is excluded (1,441) the ratio would reduce to 3.0. The Council's methodology, in its own paper also excludes students who don't require accommodation for other reasons (e.g. living in own home or not in attendance) from the demand pool. When counting just demand from University of Birmingham the assessment states the ratio of student per beds to be 2.9, which is still a significant shortfall.
- 7.15. The submitted assessment also considers future total full-time students and projects an increase of 14.5% to 2026/27 across the 4 institutions. The Council's own Report entitled 'Purpose Built Student Accommodation: Supply and Demand Update' (March 2023) estimates an increase of circa 9% to 2025/26 for students requiring accommodation, not the overall full time student number.
- 7.16. The Planning Policy Officer notes that there are differences in the methodologies used by applicant's consultants and the Council in estimating student accommodation supply and demand. Notwithstanding the differences, it has been established through the Council's monitoring of student supply and demand that there is a large shortfall of PBSA to accommodate unmet demand arising from the University of Birmingham as set out in the Council's latest report dated 16<sup>th</sup> March 2023.
- 7.17. The March report demonstrates "There are around 9,000 existing bedspaces in the Selly Oak/ Edgbaston area and a further 1,386 consented but not yet started, against a current need of 23,095 and future need of up to 25,407 bedspaces."
- 7.18. Local objectors' concerns regarding a purported over-supply of student accommodation (and associated impacts in creating an unbalanced community) are noted. However, existing and currently consented developments for student accommodation fall short in terms of providing sufficient residential accommodation to meet the identified quantitative need for student accommodation to serve the University of Birmingham. The increasing trend in full-time students at the University, and in particular overseas students, means there is a demonstrated demand for purpose built accommodation. Selly Oak will always likely be a popular location for students to live in because of its close proximity to the University. Furthermore, the Inspector when considering the recent appeal on the site concluded that there was a need for a further 1187 student bed spaces. There have been no fundamental change in circumstances in the past 2 years suggest that there is not a demand for this smaller scheme of 836 bed spaces.
- 7.19. The application site is approximately 1.2km from the University of Birmingham campus and taking into account the direct nature of walking routes available e.g. along the Bristol Road or canal towpath this provides good access within a reasonable walking distance.
- 7.20. Selly Oak Railway station is approximately a 4 minute walk away (320m) from the application site and there are 8 different bus services operating along Bristol Road adjacent to the site. The application site is located within Selly Oak District Centre and therefore benefits from direct access to a range of local facilities. In addition, it has a similar relationship (in terms of distance) to other recently approved student schemes, such as the Birmingham Battery site and Elliott Road. I therefore consider the site has good access for walking, cycling and public transport.

- 7.21. Current planning policy does not restrict the provision of student accommodation at this site and therefore I consider such development would be acceptable in principle, and the need for additional student accommodation has been demonstrated in accordance with Policy TP33 of the Birmingham Development Plan.
- 7.22. Housing Supply
- 7.23. 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.
- 7.24. The Council's estimate of deliverable sites is 31,534 dwellings for 2023- 2028 (including windfall allowance). The Local Housing Need (LHN) target over the same period is 35,450 dwellings. This equates to a 4.45 years supply and represents a shortfall against the LHN requirement.
- 7.25. 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 towards the end of the report where significant weight will be placed on the delivery of 472 self-contained studios and 364 en-suite rooms which boosts supply by 617.6 units.
- 7.26. Economic Impact
- 7.27. The NPPF places great emphasis on building a strong and competitive economy. Paragraph 85 states that planning decisions should help create the conditions in which businesses can invest, expand and adapt. The paragraph goes on to state 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.
- 7.28. The development would create jobs through the construction phase and once complete would create jobs through the maintenance and management of the student accommodation and the operation of the commercial units. The introduction of over 800 students onto the site would also result in increased expenditure in local shops and services.
- 7.29. In summary, the scheme would deliver significant economic benefits over both the construction and occupation of the development which would boost the local economy. Such benefits weigh in favour of the scheme.
- 7.30. Impact on Selly Oak District Centre
- 7.31. The property is situated within the Primary Shopping Area (PSA) of Selly Oak District Centre. Policy TP21 of the BDP seeks to encourage a range of uses within Centres.
- 7.32. The redevelopment results in the loss of a large food retail store from the site however it is important to remember that the same food retailer has a new superstore on the nearby Selly Oak Retail Park so in this wider sense there has been no harm to provision of food retail facilities in the Selly Oak District Centre. In addition, over 1200sqm commercial floor space (Class E) would be provided on the

Bristol Road frontage and a medical centre is also included within the scheme. Retail and community uses within centres are supported within Policy TP21 and will expand the range of facilities available to local residents.

- 7.33. By virtue of the broad nature of class E the commercial units could be a mix of retail, restaurants, financial services, professional services, nursery or office uses. This provides flexibility for the applicant and increases the likelihood of occupiers being found.
- 7.34. The site has been vacant for approximately 5 years. The proposal will therefore greatly enhance the vitality and viability of the Selly Oak District Centre.
- 7.35. Siting, Scale and Appearance
- 7.36. Policy PG3 of the BDP explains that “All new development will be expected to demonstrate high design quality, contributing to a strong sense of place.” It goes on to explain that new development should: reinforce or create a positive sense of place and local distinctiveness; create safe environments that design out crime and make provision for people with disabilities; provide attractive environments that encourage people to move around by cycling and walking; ensure that private external spaces, streets and public spaces are attractive, functional, inclusive and able to be managed for the long term; take opportunities to make sustainable design integral to development; and make best use of existing buildings and efficient use of land.
- 7.37. Paragraph 131 of the NPPF states that “The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”. The Birmingham Design Guide SPD also give significant weight to achieving high quality design which recognises local character and distinctiveness.
- 7.38. The former retail store was of red brick construction with a pitched tiled roof and extended across virtually the whole Bristol Road frontage between Chapel Lane and Harborne Lane with car parking located across the remainder of the application site. This was a relatively modern building of no particular architectural merit and provided a dead frontage to the Bristol Road. Following the granting of a prior approval application this building has recently been demolished providing a blank canvas for redevelopment.
- 7.39. The scheme proposes 2 blocks of development which vary in height between 1 and 6 storeys high. Which is a significant reduction in what was proposed on the previous appeal scheme which peaked at 12 storeys high. The reduction in the overall massing is demonstrated by the reduction in the number of units from 1187 to 836 bed spaces. The scale and prominence of the development is reduced further by the removal of the substantial retaining wall at the junction of Harborne Lane and Chapel Lane meaning that the development can be built up from street level. The halving of maximum heights greatly reduces the impact on key views in the area such as the University Clock Tower and St Marys Church which the applicant has demonstrated through the submission of a Landscape and Visual Appraisal where key viewpoints have been considered. This was a major concern of the Inspector on the previous appeal which has now been overcome.



Image 2: View of proposed development from junction of Langleys Road and Bristol Road with Clock Tower visible

- 7.40. Block B is located towards the south of the site adjacent to the Bristol Road. The ground floor provides an active frontage to the Bristol Road incorporating a mix of class E uses. This is a significant improvement over the current blank elevation.
- 7.41. To provide visual interest and contrast a number of different brick colours are proposed across the frontage including red, grey and orange. The buildings have varying fenestration details and the height of each block is different which creates the impression of a high street that has evolved overtime.



Image 3: View from junction of the Bristol Road and Harborne Lane looking north towards Block B





Image 4: View from retail park towards Chapel Lane elevation of Block B

- 7.42. Block A is an irregular shape with a lengthy façade facing onto Chapel Lane with 3 wings projecting towards Harborne Lane. The use of wings has provided an opportunity for courtyards to be provided between each wing. Importantly, the substantial retaining wall at the junction of Harborne Lane and Chapel Lane will be removed in its entirety meaning that the development will be built up from street level which was not the case on the previous scheme. At its peak the retaining wall is over 3m high meaning the scheme now proposed far less dominant.
- 7.43. Another significant change is the creation of a public route through the heart of the site between the 2 blocks of development which greatly enhances connectivity. No such route was provided on the appeal scheme which essentially created a gated community.



Image 5: View along Harborne lane looking south towards application site (Block A)

- 7.44. In summary, the scale, massing and appearance of the proposal fits comfortably into the street scene maintaining the character and appearance of the area.
- 7.45. Living Conditions for Occupiers
- 7.46. The scheme consists of a mix of studios and cluster flats. There are 472 studios proposed which vary in size between 17.7sqm and 39.9sqm. 53 No. of the larger studios are identified as accessible rooms thereby ensuring suitable accommodation is provided for students who use a wheelchair. The remaining 364 bed spaces are provided in clusters of between 4 and 8 bedrooms. All cluster rooms include an ensuite and vary in size between 13.5 and 20sqm in size. The clusters all include a shared lounge and kitchen area which varies between 27.8 and 47sqm in size.

- 7.47. Historically, Officers have tended to prefer a higher proportion of clusters however the applicant has explained that studios are increasingly popular among overseas students and those undertaking post-graduate degrees and is thereby meeting a clear demand.
- 7.48. All units are considered to be of an acceptable size. In addition, all bedrooms have an acceptable outlook with access to daylight.
- 7.49. A range of communal spaces are provided across the 2 blocks of accommodation which include a gym, cinema, study area and lounge. Combined the 11 communal areas provide 1280sqm of shared space which is considered to be a good level of provision for the proposed occupiers. It is noted that block B has a higher proportion of amenity areas however the applicant has confirmed that all occupiers would have access to amenity areas within both blocks.
- 7.50. Outdoor private amenity space is proposed in a number of different locations across the site. Block A has 2 courtyard areas which combined provides 473sqm of amenity space. Block B has a total provision of 2,164sqm which is split between 2 courtyards, 2 terraces and a mezzanine podium. It is acknowledged that the split between the 2 blocks is not even, but all occupiers will have access to the whole site. In total 2,496sqm of outdoor amenity is provided for occupiers across the whole site which is considered to be a good level of provision.
- 7.51. The applicant has undertaken a noise assessment. The main source of noise affecting the site is vehicular traffic as the site is effectively an island surrounded by 3 busy roads. The report identifies that the elevations closest to the roads will be most affected by noise. Mitigation is suggested in the form acoustic glazing, trickle ventilators and mechanical ventilation where necessary. Regulatory Services accept that the measures identified will ensure noise levels are acceptable but have requested a condition securing a detailed noise mitigation scheme.
- 7.52. The site is located within an Air Quality Management Area and therefore an air quality assessment has been submitted by the applicant. The assessment indicates that the impact of the development would be 'not significant'. This is accepted by Regulatory Services who have confirmed that the nearest BCC monitoring points to the site have recorded relevant levels well below the mean objective levels of NO<sub>2</sub> for at least 5 years.
- 7.53. In summary, the scheme creates an acceptable living environment for the proposed occupiers.
- 7.54. Parking and Highway Safety
- 7.55. Policy TP38 of the BDP states that "The development of a sustainable, high quality, integrated transport system, where the most sustainable mode choices also offer the most convenient means of travel, will be supported." One of the criteria listed in order to deliver a sustainable transport network is ensuring that that land use planning decisions support and promote sustainable travel. Policy TP44 of BDP is concerned with traffic and congestion management. It seeks to ensure amongst other things that the planning and location of new development supports the delivery of a sustainable transport network and development agenda.
- 7.56. The NPPF highlights that decisions should take account of whether opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure; Safe and suitable access to the site can be achieved for all people; and Improvements can be

undertaken within the transport network that cost effectively limits the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

- 7.57. The Birmingham Parking SPD highlights that the site falls within Zone B. In terms of purpose built student accommodation the SPD sets out that a maximum of 10% parking can be provided although any such provision must be robustly justified. It goes on to state that accommodation providers must strongly discourage students from bringing cars to the City. In addition, 1 cycle space per 3 bed spaces and 1 space per 20 bed spaces for visitors should also be provided.
- 7.58. In terms of the student accommodation, the development would be car free with the exception of 4 disabled bays. A loading and servicing area will also be provided. It is important to stress that there is no minimum parking provision requirement within the SPD for student accommodation. Furthermore, zero parking was accepted on the previous larger scheme which would have provided 1187 bed spaces and this was not objected to by the Inspector.
- 7.59. Concerns have been raised over the impact on street parking in nearby streets. To address the matter the applicant has agreed to pay the sum of £65,000 so the Council can monitor parking in nearby residential streets and implement any traffic regulation orders as deemed appropriate. This approach was accepted by the Inspector at the previous appeal where a figure of £90,000 was agreed. The figure has been proportionately reduced to reflect this smaller scheme.
- 7.60. A Framework Travel Plan has been submitted which is an overarching document of the measures, targets, monitoring and management strategy which promotes sustainable travel choices and reduces reliance on the private car for all users of the site. Transportation have requested that a detailed Student Travel Plan is secured by condition which would be based on the Framework Travel Plan. Whilst the Council cannot prevent students bringing cars to the site, the operator will include a clause within each individual tenancy agreement that prohibits students bringing cars to the locality. In combination with the £65,000 secured this will ensure that there is no undue impact on nearby residential streets.
- 7.61. A Student Management Parking Plan has been requested as a condition which will agree the procedures for drop-off/pick up at the start/end of each term to ensure that this procedure is carried out on a phased basis to minimise any impact.
- 7.62. A total of 426 cycle spaces are proposed for the student occupiers. These are split between 3 internal cycle store rooms across the blocks. This comfortably exceeds the minimum requirement of 320 for the student development.
- 7.63. In accordance with the Parking Standards SPD car parking for a medical centre should be provided at a rate of 4 spaces per consulting room and 1 per treatment room. 6% of the bays should be disabled bays and one in 5 spaces should have an electric vehicle charging point.
- 7.64. The application initially presented a medical centre with a floor area of 1242sqm with 27 dedicated spaces. Amended plans were then provided which increased the size of the medical centre to 1907sqm with an associated reduction in the amount of retail space (Class E). Alongside this submission a Highways Informative Note was provided which reviewed the trip rates associated with a larger medical centre and recommended an increase in parking spaces by 7 to a total of 34 spaces which the applicant incorporated through amended plans. The Transportation Officer reviewed the detailed justification put forward and accepts the level of provision

provided. However, following a review of occupier requirements by the applicant the size of the medical centre has now been reduced to its original size (1242sqm) with the retail space increased back up to 1271sqm. Importantly, the car park has retained 34 spaces (of which 4 are disabled bays). In addition, an ambulance bay has also been incorporated. With the number of consulting rooms currently unknown it is considered that the larger car park ensures that an element of flexibility has been built in so that the parking needs of the medical centre can comfortably be accommodated within the site. Furthermore, a condition is proposed which means that the car park can only be used by staff and patients of the medical facility.

- 7.65. The retail units have been provided as car free in Selly Oak District Centre which is typical of this and many other High Streets around the City.
- 7.66. Further cycle storage amounting to 23 sheffield stands (46 spaces) are provided across the site in 3 locations which is considered to meet the needs of the retail and medical uses.
- 7.67. The site is located within Selly Oak District Centre meaning that there is excellent access to local facilities. There are bus stops located along the Bristol Road which have very frequent services into the City Centre. Selly Oak Rail Station is located approximately 350m from the site, and again provides frequent rail links to the City Centre. I am therefore satisfied that the site benefits from good public transport links and is located within easy walking/cycling distance of the University of Birmingham and local facilities at Selly Oak District Centre.
- 7.68. Transportation Development have raised no objection to the scheme subject to a number of conditions. Concerns have been raised over traffic and congestion. However, it is important to remember that the site was previously occupied by a busy supermarket and the road layout has been reconfigured around the triangle site in recent years to improve traffic flow. It is considered that the vehicular movements associated with this retail use would have been substantially greater than what is likely to occur with the proposed development.
- 7.69. Amenity of Existing Residential Occupiers
- 7.70. The closest residential properties are No's 25 –31 (odds) on Rebecca Drive. At the nearest point the front elevation of these terraced properties are located approximately 47m from Block A. Furthermore, the nearest part of block A is limited to 5 storeys in height. This significant level of separation is considered sufficient to prevent overlooking or a loss of privacy.
- 7.71. At the previous inquiry the Inspector raised concerns over the overbearing nature of the development when viewed from nearby properties. The massing of the scheme has greatly reduced when compared to the previous scheme, which was 12 storeys high at its peak. This current scheme is no higher than 6 storeys. On this basis it is considered that the Inspector's concerns have been overcome.
- 7.72. In summary the proposal does not have a significant impact on the living conditions of nearby occupiers.
- 7.73. Trees, Landscaping and Ecology
- 7.74. Policy TP7 of the BDP seeks to conserve and enhance Birmingham's woodland resource and states that all new development schemes should allow for new tree planting. Policy DM4 of the Development Management DPD highlights the need to

take opportunities to provide high quality landscapes and protect existing trees of quality.

- 7.75. The site is predominantly hard surfaced with some trees located around the periphery of the site. The submitted tree survey identified 3 individual category B trees and 2 tree groups (category C) either within or adjacent to the site. The applicant proposes to remove 2 category B trees. The Tree Officer raises no objection to this noting that the 'Selly Oak' is being retained and incorporated into the soft landscaping scheme. It is considered that appropriate planting can be secured through a landscaping condition.
- 7.76. The application is supported a Preliminary Ecological Appraisal, Preliminary Roost Assessment and Dusk Emergence and Dawn Re-entry Surveys and Biodiversity Metric Assessment.
- 7.77. The surveys found that no bats were utilising the now demolished building, although limited foraging activity was seen across the site. Other than a small number of trees the site has no biodiversity value as it is covered in hardstanding. Consequently, the submitted assessment considers a biodiversity net gain of 386% can be achieved. Subject to conditions securing wildlife friendly lighting, bat and bird boxes, logpiles and invertebrate nest boxes and biodiverse green roofs the Ecologist is satisfied that a biodiversity net gain can be comfortably achieved on the site.
- 7.78. Sustainability
- 7.79. A Sustainable Construction and Energy Statement have been submitted with the application. The development will reduce regulated CO2 emissions by incorporating a range of passive design and energy efficiency measures throughout the site, including improved building fabric standards beyond the requirements of Part L of the Building Regulations and energy efficient mechanical and electrical plants. The submitted statement demonstrate that a range of renewable technologies have been considered and the proposal incorporates photo voltaic (PV) panels. The locations of such PV panels can be secured via condition.
- 7.80. When the application was first submitted A BREEAM pre-assessment was provided but this only assessed the medical centre and class E units. This confirmed that these elements of the scheme could achieve a rating of 'Excellent'. However, the Planning policy Officer requested that a BREEAM pre-assessment also be provided for the PBSA element of the scheme. This has now been submitted which demonstrates that BREEAM 'very good' can achieved on this part of the scheme. The development falls just 3% short of achieving an 'excellent' score but the applicant has explained that this is not achievable with certain credits infeasible for the project due to the location of the building, technical limitations, the nature of the building use and the environment surrounding the site.
- 7.81. In light of the justification provided the Council's Policy Officer is satisfied that the proposal meets the requirements of policy TP3 and TP4 subject to conditions requiring the submission of the relevant BREEAM certificates within 6 months of the completion of the development.
- 7.82. Drainage
- 7.83. Policy TP6 of the BDP requires applicants to submit a Sustainable Drainage Assessment and Operation and Maintenance Plan with all major applications. Proposals must demonstrate that the disposal of surface water does not increase flooding elsewhere. Surface water should also be managed in accordance with the drainage hierarchy set out within TP6.

- 7.84. Following an objection by the Lead Local Flood Authority (LLFA) an updated Drainage and Flood Risk Assessment has been submitted by the applicant.
- 7.85. Views are awaited from the LLFA to confirm whether sufficient information has been provided to demonstrate that the proposed drainage strategy is in full accordance with the requirements of policy TP6 of the BDP. A verbal update on this matter will be provided to Members. However, it is important to note that there were no drainage concerns on the previous scheme and the matter was not debated at the recent appeal. It is therefore considered that a policy complaint drainage scheme could be delivered via condition.
- 7.86. Other Issues
- 7.87. Many objectors believe that the site should be used for alternative uses which include affordable family housing, a bowling alley or library. It is important to note that the site is effectively a large island that is bounded by busy roads. This detracts from the attractiveness of the site for certain alternative uses. Furthermore, officers are only able to consider the scheme presented to them to determine whether the predominant use as student accommodation is acceptable. The fact that other alternatives may also be theoretically acceptable on the site should have no bearing on the determination of this application.
- 7.88. Concerns have been raised over the potential for increased crime and anti-social behaviour. There is no evidence to suggest the occupation by students will increase crime and anti-social behaviour. The PBSA scheme will have staff present 24/7 with secure access provided to both blocks of accommodation. It is important to note that West Midlands Police have raised no objection to the scheme.
- 7.89. The development would be liable for Community Infrastructure Levy (CIL), which I calculate to be in the region of £2,430,209.48.
- 7.90. Planning Balance
- 7.91. Significant weight must be attached to the provision of an additional 617 units to the Council supply position. With no harm identified and a number of significant benefits arising the development should be approved without delay as per paragraph 11 of the NPPF.

## **8. Conclusion**

- 8.1 I consider the development of this site for purpose built student accommodation would be acceptable in principle, given this is a brownfield site in a highly sustainable location within walking distance of the University of Birmingham campus. The siting, scale and appearance of the proposed development would be acceptable and would sit comfortably in the streetscene. There would be no adverse impact on the amenity of neighbouring residential occupiers and the development would provide an acceptable living environment for future occupiers. The proposal would support the function of the University of Birmingham as a key provider of employment, culture, and learning in the City. Furthermore, it is considered that the scheme clearly overcomes all of the concerns raised by the Inspector at the previous appeal. Therefore I consider the proposal would constitute sustainable development and I recommend that planning permission is granted.

## **9. Recommendation:**

- 9.1 That the consideration of planning application 2023/08290/PA should be approved

subject to the completion of a legal agreement to secure the following:

- a) £65,000 for the monitoring and management of parking in the surrounding streets; and
  - b) Payment of a monitoring and administration fee associated with the legal agreement of £2,275.
- 9.2 In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 24th May 2024 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.
- 9.3 That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
- 9.4 That in the event of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority on or before 24th May 2024, or such later date as may be authorised by officers under delegated powers, planning permission for application 2023/08290/PA be approved, subject to the conditions listed below (that may be amended, deleted or added to provided that the amendments do not materially alter the permission).

- 
- |    |  |
|----|--|
| 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 submission and approval of building & site level details            |
| 5  | Requires the submission of hard and/or soft landscape details                    |
| 6  | Requires the submission of hard surfacing materials                              |
| 7  | Requires the submission of boundary treatment details                            |
| 8  | Requires the submission of a landscape management plan                           |
| 9  | Requires the submission of a lighting scheme                                     |
| 10 | Requires the submission of details of green roofs for Block B                    |
| 11 | Requires the prior submission of a construction method statement/management plan |
| 12 | Requires the submission of a CCTV scheme   |
| 13 | Requires the submission of a student travel plan                                 |
| 14 | Requires the parking area to be laid out prior to use                            |
| 15 | Requires the provision of vehicle charging points                                |
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|----|--|
| 16 | Arboricultural Method Statement - Submission Required  |
| 17 | Requires the prior submission of a contamination remediation scheme  |
| 18 | Requires the submission of a contaminated land verification report   |
| 19 | Requires the prior submission of a sustainable drainage scheme   |
| 20 | Requires the submission prior to occupation of the properties of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan |
| 21 | Requires the prior submission of a construction ecological mitigation plan   |
| 22 | Requires the submission of a scheme for ecological/biodiversity/enhancement measures   |
| 23 | Requires the prior submission of details of bird/bat boxes   |
| 24 | Requires the submission of extraction and odour control details  |
| 25 | Limits the noise levels for Plant and Machinery  |
| 26 | Requires the prior submission of a Noise Mitigation Scheme   |
| 27 | Requires the prior submission of noise insulation details  |
| 28 | Requires the submission of a Landscape ecological management plan (LEMP)   |
| 29 | Requires the provision of cycle parking prior to occupation  |
| 30 | To ensure energy and sustainability measures are delivered in accordance with statement  |
| 31 | To ensure that the development achieves BREEAM rating level for PBSA   |
| 32 | To ensure that the development achieves BREEAM rating level Excellent for Class E uses   |
| 33 | submission of solar PV location plan   |
| 34 | Requires the prior submission of a construction employment plan.   |
| 35 | Requires the submission of a student parking management strategy   |
| 36 | Use of 34 space car park for staff and patients of the medical centre only   |
- 

Case Officer:        Andrew Fulford

## Photo(s)



Photo 1: View towards application site from Junction of Harborne Lane and Chapel Lane

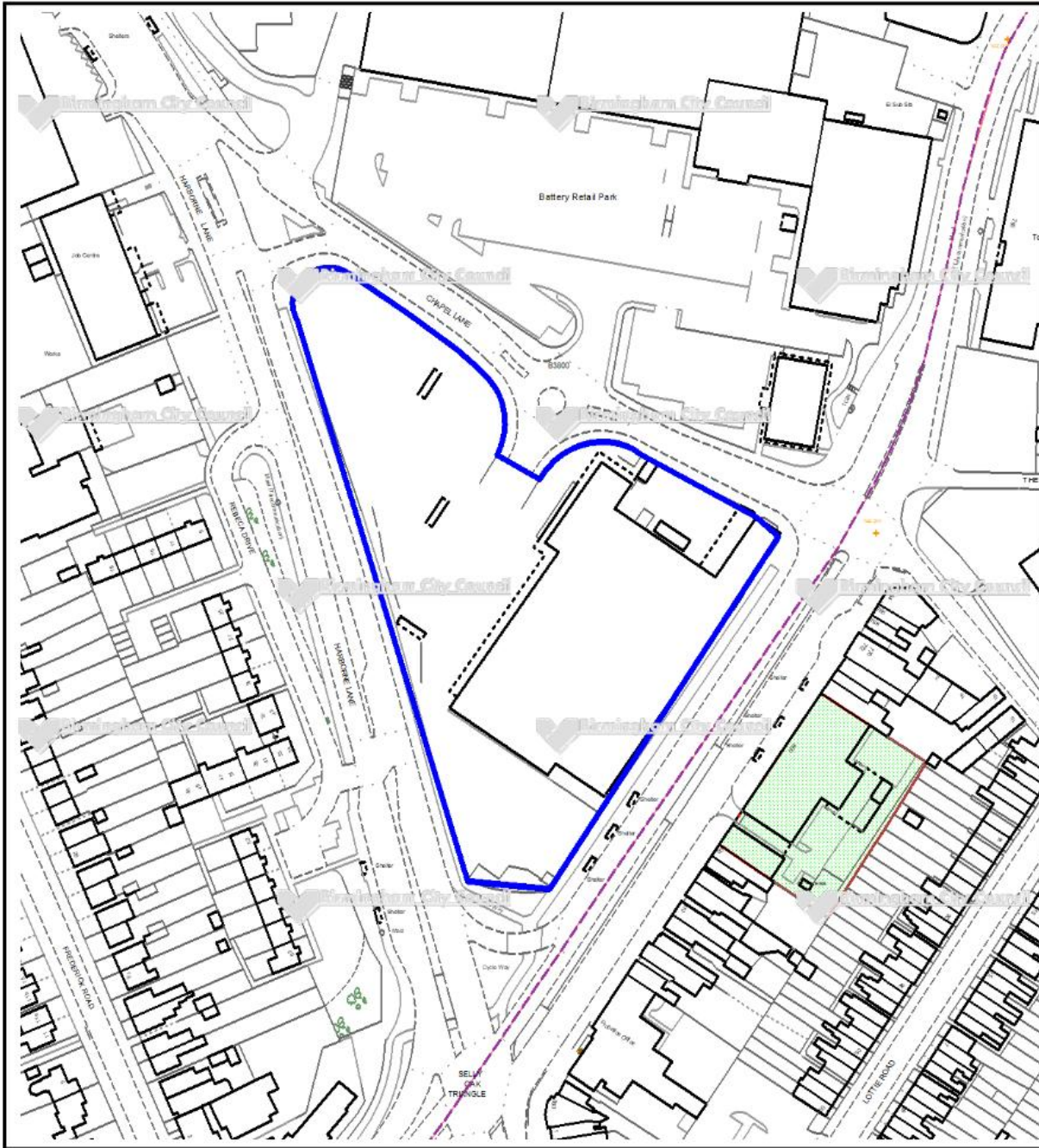


Photo 2: View from Bristol Road/Elliott Road junction towards application site



Photo 3: View from Harborne Lane looking towards application site

## Location Plan



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# **Birmingham City Council**

**Planning Committee**

**25 April 2024**

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Conditions	7	2022/01909/PA  Cross Keys 15 High Street Erdington Birmingham B23 6RG  Change of use from public house (Sui Generis) to local community and education centre with ancillary prayer facility (Sui Generis)

Committee Date:	25/04/2024	Application Number:	2022/01909/PA
Accepted:	28/04/2022	Application Type:	Full Planning
Target Date:	23/02/2024		
Ward:	Erdington		

**Cross Keys, 15 High Street, Erdington, Birmingham, B23 6RG**

**Change of use from public house (Sui Generis) to local community and education centre with ancillary prayer facility (Sui Generis)**

#### Recommendation

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

### **1. Background**

- 1.1. This application was previously on the agenda for the Planning Committee meeting on 22/12/2022 and was initially recommended for approval. The application was withdrawn following third-party concerns relating to highways impacts, raised on the day prior to the meeting. Since that date, the following additional work has been completed:
- Parking Survey Supplementary Report prepared by John Davies Associates Consulting Engineers (ref no. JDA/429/5/2)
  - Structural Report prepared by AH Structural Consultants (Project no. 2022-34)
  - Supporting Information (received 29/08/2023)
  - Response to Highclare School (received 29/08/2023)
  - Tracking Analysis 1 and 2 (ref nos. JDA.397.1.1 and JDA.397.1.2)
- 1.2. An additional seventy-eight letters of support have been received, raising the following points:
- Community cohesion
  - Mitigating cuts to public services
  - Provision of new use for important building
  - Concerns over delay in determination

### **2. Proposal**

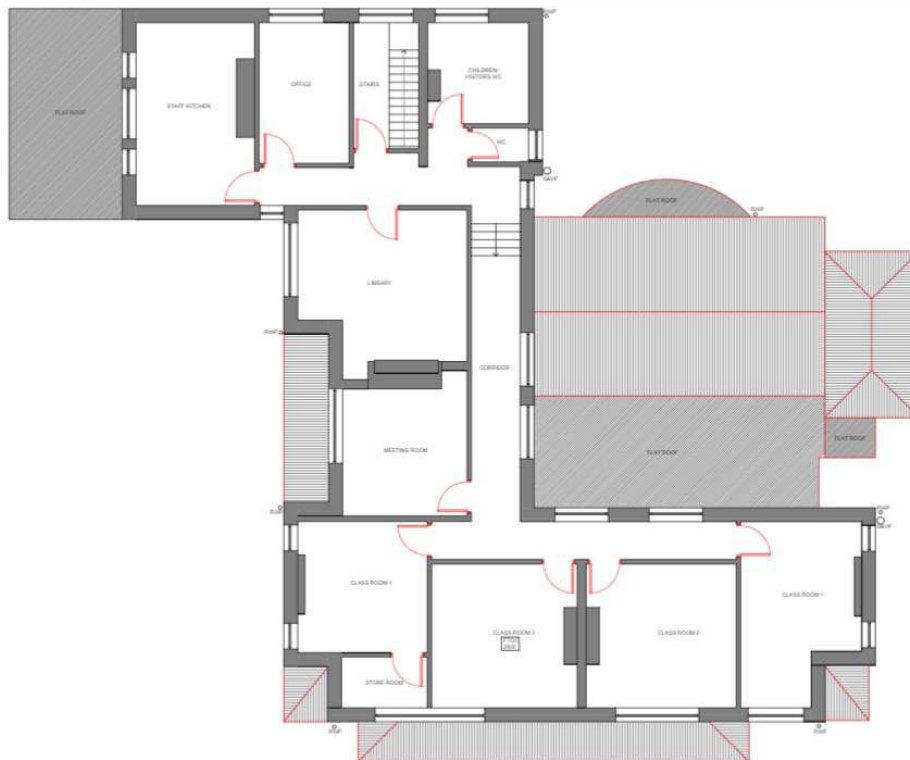
- 3.1. This application proposes the change of use of the site from a public house (Sui Generis) to a local community and education centre with a prayer facility (Sui Generis).
- 3.2. The proposal includes a number of internal alterations to change the function of existing spaces to reflect the proposed use. The changes would facilitate the creation of the following internal layout:
- Ground floor: two multiuse halls, male W.C., female W.C., disabled W.C., kitchen, staff toilets and a store.
  - First floor: four classrooms, meeting room, library, office and staff kitchen.







PROPOSED GROUND FLOOR



PROPOSED FIRST FLOOR



PROPOSED REAR ELEVATION



PROPOSED FRONT ELEVATION



PROPOSED SIDE ELEVATION



PROPOSED SIDE ELEVATION

#### 4. **Site & Surroundings**

- 4.1. Cross Keys is a locally-listed, two-storey 'arts and crafts' style building that was constructed in the early twentieth-century and retains many of its original external features. The building is constructed from red brick in a Flemish bond with a roof of slate tiles and prominent chimneys and includes a number of period features including dentilled eaves, half-timber gables and bay windows. The site is enclosed by a brick wall along the Station Road frontage and includes a historic rear 'beer garden' comprising rough vegetation.
- 4.2. The site is located at the corner of High Street and Station Road on the edge of the Erdington Local Centre, and the surrounding area is both commercial and residential in nature. Rows of shops with residential upper storeys are located to the east and west of the site with light industrial premises to the north, a nursery school to the south and a block of flats to the northwest. The surrounding street scene possesses a historic character, comprising nineteenth-century terraced dwellings of historic merit, the Grade II listed Highclare School, Grade II\* listed Church of St. Thomas and St. Edmund and Grade II listed buildings at 24 and 26 High Street to the south west of the site, currently in use as a day nursery and surgery respectively.
- 4.3. [Site location](#)



#### 5. **Planning History**

- 5.1. 14/1/2019- 2018/09207/PA- Change of use from vacant pub (Use Class A4) to create 22 bedroom HMO (House in Multiple Occupation) (Sui Generis) and erection of first floor side extensions- Refused due to:
- No justification provided for the loss of the public house as a community facility;

- Detrimental impact of the proposed extension on the appearance of the building;
  - Over intensive use/poor living environment;
  - No private amenity space;
  - Lack of information to demonstrate that the occupants would not experience disturbance from road traffic noise;
  - Lack of information to demonstrate acceptable air quality would be available;
  - Lack of information to demonstrate how the proposed parking area would be accessed, potentially leading to a detrimental impact on highway safety.
- 5.2. 29/8/2019- 2019/02151/PA- Change of use of ground floor from vacant pub (Use Class A4) to 3 no. self contained flats (Use Class C3) and installation of window to rear- Refused due to:
- No justification provided for the loss of the public house as a community facility;
  - Detrimental impact of the proposed extension on the appearance of the building;
  - Over intensive use/poor living environment;
  - No private amenity space;
  - Lack of information to demonstrate that the occupants would not experience disturbance from road traffic noise;
  - Lack of information to demonstrate acceptable air quality would be available;
  - Lack of information to demonstrate how the proposed parking area would be accessed, potentially leading to a detrimental impact on highway safety.
- 5.3. 20/11/2019- 2019/08093/PA- Application for a Certificate of Lawfulness for the existing use of public house (Use Class A4) as a residential use (Use Class C3) on first floor- Section 191 / 192 Required (Certificate Refused).
- 5.4. 1/12/2021- 2020/02902/PA- Change of use of public house (Use Class A4) to a 15 bedroom hostel (Sui Generis)- Refused due to:
- Increased fear of crime and anti-social behaviour would be detrimental to residential amenity.

## 6. **Consultation**

- 6.1. Transportation Development: No objections subject to conditions requiring submission of construction method statement, details of amended parking layout, access and pavement boundaries, parking management strategy, commercial travel plan, cycle spaces, disabled parking spaces and EV charging points.
- 6.2. Environmental Pollution Control: No objections subject to conditions preventing live music on site and restricting early morning use to prayer with limit of ten attendees.
- 6.3. Conservation Officer: No objection subject to condition requiring exterior to be retained and repaired.
- 6.4. West Midlands Police: No objections.
- 6.5. Tree Officer: No objections.
- 6.6. West Midlands Fire Service: Provided list of building control requirements.
- 6.7. Historic England: No comments.



## 7. **Third Party Responses:**

- 7.1. Ward Councillors, Residents Associations and adjoining occupiers were notified, and a site notice was displayed.
- 7.2. Thirty-six letters of support were received in addition to a petition with seven-hundred-and-one signatures. These letters raised the following points:
- Social and community benefits of the facility;
  - Lack of community facilities in the area.
- 7.3. Thirty-five objections were received, including two from Councillor Alden, in addition to a petition with two-hundred-and-forty-three signatures. These letters raised the following issues:
- Inappropriate location;
  - Loss of a public house;
  - High number of places of worship;
  - Harmful impact on heritage assets;
  - Loss of trees and vegetation;
  - Increased noise and public nuisance;
  - Excessive opening hours;
  - Impact on traffic demand and highways safety;
  - Increased littering;
  - Insufficient information submitted with application.
- 7.4. In addition to their public representation, a number of documents were submitted by or on behalf of adjacent Highclare School. These documents include:
- Parking Review and Transport and Highways Update for the Proposed Islamic Community Centre Planning Application- 2022/01909/PA Cross Keys Public House (ref no. RP001)
  - Transport and Inadequacy of Parking Report prepared by ARUP (dated 13/12/2022)
  - Transport and Highways Technical Note prepared by ARUP (dated 05/06/2023)
  - Structural Statement prepared by Sprigg Little dated 19/12/2022 (ref no. M22.286/KWB)
  - Objections and Comments by Highclare School to 2022/01909/PA (dated 11/07/2022)
  - Cross Keys Public House Proposed Islamic Community Centre (dated 15/12/2022)
  - Transport and Highways Advice to Highclare School Registered Charity (dated 26/10/2023)
  - Transport and Highways Advice to Highclare School Registered Charity BCC Strategic Highway Network & AH Structural Consultants report (dated 26/10/2023)
  - Transport and Highways Technical Note - Review of NDC Traffic Survey Report and Swept Path Analysis (ref no. 286362-00 6-02-05)
  - Transport and Highways Advice to Highclare School Registered Charity (dated 28/02/2024)

## 8. **Relevant Local and National Policy Context**

### *Local Policy:*

- 8.1. Birmingham Development Plan 2017:
- PG3 Place Making

- TP12 Historic Environment
- TP21 The Network and Hierarchy of Centres
- TP24 Promoting a Diversity of Uses Within Centres
- TP25 Tourism and Cultural Facilities
- TP44 Traffic and Congestion Management

8.2. Development Management in Birmingham DPD 2021:

- DM2 Amenity
- DM4 Landscaping and Trees
- DM6 Noise and Vibration
- DM8 Places of Worship and Faith Related Community Uses
- DM14 Transport Access and Safety
- DM15 Parking and Servicing

8.3. Supplementary Planning Documents & Guidance:

- Birmingham Design Guide (2022)
- Birmingham Parking SPD (2021)
- Planning Guidelines for Developments Involving Public Houses SPG

*National Policy:*

8.4. National Planning Policy Framework (2021)

8.5. National Design Guide (2019)

9. **Planning Considerations**

9.1. This application has been assessed against the objectives of the policies set out above. The following issues in the determination of this application are discussed forthwith:

- Principle of development
- Visual amenity
- Conservation of the historic environment
- Residential amenity
- Highways safety and parking

*Principle of Development:*

9.2. The 'Planning Guidelines for Development Involving Public Houses SPG' requires that consideration is given to the impact which the loss of a public house use would have upon the amenities available to the local population. Although this application would involve the change of use of a former public house, it meets a number of the mitigating circumstances contained within the SPG. Firstly, the proposed community facilities would perform social and community functions to mitigate the loss of the public house which has been unable to perform such functions since its closure in 2017. It is noted that two other large public houses within 200m of the site are able to perform the social functions that are exclusive to public houses. Furthermore, during the determination of application 2020/02902/PA, it was established that the loss of the public house had effectively taken place in 2017 when the Cross Keys last operated for this purpose. Although a third-party claimed that the previous efforts to market the property were insubstantial, this is not a requirement of the SPG. Given the expiration of two more years, it is considered that this previous conclusion is still applicable and that the use of the site as a public house is no

longer viable. This application therefore represents an opportunity to secure the reuse of a long-term vacant site with a community use that would deliver tangible local benefits.

- 9.3. Policy DM8 (Places of Worship) specifies that Local Centres will be the preferred locations for faith-related community facilities and provides circumstances in which such facilities outside of Local Centres would be supported. The proposals are consistent with these mitigating circumstances. Firstly, the facility is intended for the local community that would make use of the premises, and is conveniently available by walking, cycling and public transport links (there is a bus stop within 50m of the site and a rail station within 200m). Furthermore, as discussed in subsequent sections, the proposed development would not have a harmful impact on the residential amenity of surrounding occupiers or the functioning of the local highways network.
- 9.4. Policy TP21 (The Network and Hierarchy of Centres) specifies that Local Centres are the preferred locations for community facilities and requires the vitality and vibrancy of Local Centres to be enhanced by development. Although the site is located slightly beyond the boundary of Erdington District Centre, the proposal would still be beneficial to its character. Firstly, the application proposes to replace an existing town-centre use with a new town-centre use and would not worsen the existing situation in this regard. In addition, as the proposed community facilities are in such close proximity to the Local Centre, rather than drawing people away, the use of the facilities would bring people towards the centre and encourage footfall within the nearby retail uses. The proposed development would also improve the environment of the Local Centre by finding a suitable use for a prominent building which has been vacant for several years and has been subject to numerous refused applications.
- 9.5. A third-party objection claimed that the provision of parking within the rear beer garden would be contrary to Policy TP9 (Open Space, Playing Fields and Allotments). However, this is not the case. The beer garden is a small parcel of private enclosed space akin to a private residential garden or the curtilage of business premises and offers no public use or benefit. It is not visible from the street and is not a source of public visual amenity. As such, this point does not provide a substantial reason to oppose the application.
- 9.6. A third party has disputed the description of the proposed prayer facility as 'ancillary' and argued that the Council would not be able to prevent this function from expanding and the premises thereby becoming a de facto place of worship. However, the applicant has stated that the prayer function would not serve as a destination in its own right, but would be used by users of the facility and people in close proximity during prayer times. Notwithstanding this, a condition is suggested which would permit prayer to take place only within multi-use halls one and two. These conditions would limit the number of worshippers to the capacity of these room and ensure that the prayer function is not able to expand into the basement or upper storey rooms, or become a dominant use without further authority from the Council.

*Visual Amenity/ Urban Design:*

- 9.7. The proposed development would have a positive impact on the area's visual amenity. As no external alterations are proposed to the fabric of the main building, the visual benefits deriving from its architecture and materials would not change. It is considered that the soft landscaping indicated to the front of the site, and to a lesser extent along the southern boundary wall, would soften the appearance of the street scene, remove hardstanding along the site frontage that is frequently occupied by



numerous vehicles and result in a net gain for the area's visual amenity. A hard/soft landscaping condition is suggested to require the precise details of the planting and hardstanding materials in order to ensure these elements of the scheme contribute to the appearance of the site.

- 9.8. Third-party comments have argued that the provision of hardstanding within the rear beer garden would be harmful to the area's visual amenity. However, this space is obscured from public space by the existing boundary wall and is not readily visible from the perspective of the street. The application of hardstanding would therefore not have a significant visual impact. Nevertheless, as the site has been vacant for several years, the beer garden has not been maintained and is currently of little aesthetic value, as demonstrated by the images below. The application provides an opportunity to secure improvements to this space through a condition requiring details of hard and soft landscaping.



#### *Conservation of the Historic Environment:*

- 9.9. The proposed development would not be harmful to the settings of nearby listed buildings and would provide a net benefit for the conservation of the locally-listed public house. Although the proposed development would sever the building from its original use, this use is no longer viable, and the application provides an opportunity to secure the long-term future of this vacant heritage asset by bringing it back into

productive use. The proposals include some minor internal alterations to the building; nevertheless, heavy modifications to the interior in recent years have eroded much of the significance of the building, and these additional alterations would therefore not be harmful. Accordingly, the Conservation Officer did not object to the application subject to a condition requiring the exterior of the building to be retained and repaired. This condition is considered a reasonable provision to ensure that the proposed change of use secures the long-term future of the building in a manner that preserves its historic significance. It is noted that Policy TP12 specifies that the Council will be supportive of development that conserves the significance of non-designated heritage assets including locally listed buildings.



*Location of the nearby listed buildings in relation to the application site*

- 9.10. Third party comments have claimed that the provision of hardstanding within the existing rear beer garden would be detrimental to the significance of the public house and the settings of nearby listed buildings. However, as aforementioned, this space is not readily visible from any public space, while a landscaping condition would ensure that the hard surface treatments and soft landscaping would improve the appearance of this space. It is noted that the Conservation Officer did not object to this element of the scheme.
- 9.11. Third party comments have also claimed that the removal of Christian symbols and iconography, such as the existing stained-glass windows, would harm the significance of the public house by severing its link with the adjacent abbey. However, the applicant has clarified that there is no intention to remove such features, while the Conservation Officer did not object to the scheme on this basis. It is also noted that as the building is not listed, it would fall beyond the remit of the planning system to resist the application on this basis, and therefore refusal of the application on these grounds could not be sustained.





*Grade II listed Highclare School and Grade II\* listed Church of St Thomas & St Edmund, both to the north of the site*



*Cross Keys with listed buildings in background*



*Grade II listed 24 & 26 High Street*

*Residential Amenity:*

- 9.12. No external built development is proposed to take place under the current application. As such, the proposed development would not result in any overbearing, overshadowing or overlooking impacts that would be detrimental to the residential amenity of occupiers of nearby dwellings.
- 9.13. The use of the community facility would not result in environmental impacts that would be harmful to existing residential amenity, in particular that of the occupiers of the upper-storey flats of nos.8-22 High Street. It is acknowledged that the conversion of a currently vacant building into a community centre would generate a higher level of usage, including vehicular noise. Nevertheless, within the context of the site, adjacent to a District Centre and surrounded by commercial uses, the impact of the proposed use would be unlikely to be significantly greater than the baseline conditions for noise and disturbance which currently exist. It is also considered that the volume of noise emanating from the site would be comparable to the former use of the site as a public house. Although early morning and late evening prayers would take place during the summer, these would be attended by only small numbers of people. It is noted that Environmental Pollution Control did not object to the application subject to conditions limiting uses before 8am to prayer only, and prohibiting live music or amplified sound. These conditions, along with others limiting hours of operation and preventing festivals, funerals, weddings or civil partnerships from taking place onsite, would sufficiently mitigate any noise or disturbance resulting from the proposed development.

- 9.14. The proposed wording for the conditions relating to the opening hours of the community centre are specified below:

*Limits the hours of operation*

*The uses hereby approved with the exception of prayer shall only take place between the hours of 08:00-22:00 daily.*

*Reason: In order to define the permission and safeguard the amenities of occupiers of premises/dwellings in the vicinity in accordance with Policy PG3 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.*

*Limits the hours of operation for early morning and late night prayer.*

*Between the dates of 1st April until 31st August the facility may operate for prayer use between 04:00 to 23:00 daily.*

*Reason: In order to define the permission and safeguard the amenities of occupiers of premises/dwellings in the vicinity in accordance with Policy PG3 of the Birmingham Development Plan 2017, Policy DM2 of the Development Management in Birmingham DPD 2021 and the National Planning Policy Framework.*

- 9.15. Third party comments have argued that the impact of the proposed community facilities could increase if a greater number of people make use of the facilities than expected. However, it is considered that the suggested conditions, including a condition preventing the use of the basement for anything other than storage, would prevent any increase in demand for the facilities from resulting in harmful noise impacts or general disturbance.
- 9.16. Third party comments have also claimed that the adjacent school requires *great quietness*. However, in the context of an edge of centre location immediately adjacent to a busy road, it is considered that the suggested conditions would prevent the proposed use resulting in an impact that would significantly exceed the baseline

noise level.

*Highways, Traffic and Parking:*

- 9.17. While parking standards for community-centres are not provided within the Birmingham Parking SPD, the standards for a place of worship have been considered as a reasonable worst-case scenario in calculating demand for parking. According to this standard, if the 250m<sup>2</sup> floorspace of the entire premises, excluding toilets and kitchens, were to be used as a place of worship, it would result in a demand for 16.7 parking spaces. The provision of sixteen parking spaces would therefore broadly comply with the Parking SPD. The applicant has also provided a Parking Survey which shows that there is a reasonable provision of on-street parking beyond the site which could also be utilised. While a third-party has claimed that the capacity of the site could expand to increase the demand for parking, suggested conditions limiting the use of the basement and restricting space available for prayer would prevent this scenario. It is also noted that the site is well served by public transport with Erdington rail station and various bus stops located within 200m of the premises as well as a network of footpaths and pedestrian crossings immediately adjacent to the site. Accordingly, Transportation Development did not object to the application subject to the conditions referred to in paragraph 6.1. These conditions are considered reasonable precautions to ensure the development would not have an unacceptable impact on the highways network.
- 9.18. The proposed access point to the rear parking facilities is considered to be acceptable. The 5m-5.3m width of the proposed access would be sufficient to safely permit two vehicles to pass each other according to the requirements of Manual for Streets, and tracking analysis drawings have been submitted to demonstrate how this access would function. While a third party has argued that the demolition of the toilet block on the northern border of the site to facilitate this access would not be possible, the applicant has submitted a structural survey which arrives at the opposite conclusion. Notwithstanding this, a suggested condition would require the provision of this access prior to the occupation of the premises. It is also noted that the proposal would result in the removal of ad-hoc forecourt parking in close proximity to the traffic light-controlled junction, resulting in a net gain for highways safety.
- 9.19. A number of third-party comments have argued that the proposal would exacerbate the high volume of traffic that affects the area. However, the facilities are intended for use by the local community and are in proximity of excellent public transport links and footways. Furthermore, the commercial travel plan required by condition would ensure that the development would not introduce a high volume of car-borne traffic on the local highways network.
- 9.20. A third-party has made the argument that there would be a high demand for parking during the period in which Friday prayers would occur, resulting in the potential for conflict around the site access. In order to ameliorate this concern, conditions are suggested to require closure of the car park between 12.30 to 14.00 on Fridays and to limit Friday prayers to one sitting. This would remove any potential point of conflict and significantly reduce the chances of any adverse highways impacts. The below table, summarising data from the submitted Parking Survey, demonstrates that there would be sufficient on-street parking between 12:00-14:00 on Fridays to accommodate the demand for parking.

ANALYSIS OF THE RESULTS OF THE ON-STREET PARKING SURVEY CENTRED ON 15 HIGH STREET ERDINGTON						
Location		AVAILABILITY OF ON-STREET PARKING SPACES				
		TIME				
		12.00noon- 1.00pm	1.00-2.00pm			
Marsh Lane		0	0			
Barnabas Road		0	0			
Dean Road		7	5			
Edwards Road		19	15			
Gravelly Lane		4	4			
Haigh Crescent		18	16			
Hart Road		12	11			
High Steet		2	0			
Holliday Road		7	4			
Hoyle Lane		5	5			
Johnson Road		3	15			
Mason Road		6	4			
Mona Road		6	7			
New Street		16	4			
Orchard Road		25	25			
Orphanage Road		6	5			
Osbourne Road		5	5			
Short Heath Street		0	0			
Sir Ben Stone Way		36	36			
Sutton New Road		7	4			
Station Road		4	2			
Summer Road		0	0			
Sutton Road		16	16			
Swan Gardens		21	21			
Wesley Road		11	11			
Wilmot Drive		30	32			
Wilson Road		4	3			
Totals		270	250			

- 9.21. Other third-party comments expressed concern relating to the proximity of the site access to that of a Lidl food store to the northeast of the site on Sutton Road. However, it is noted that both means of access both possess a suitable standard of visibility and would be separated by 55m. Transportation Development did not express concerns on this matter.
- 9.22. Transportation Development have requested a condition requiring a Construction Method Statement. However, on the basis that the extent of construction that would take place is low, this condition is not considered necessary.
- 9.23. For the above reasons, it is not considered that the proposal would have a harmful impact on the local highways network and therefore complies with Policies DM14 and DM15 of the DMB DPD.

#### *Other Issues:*

- 9.24. A third-party objection claimed that the application conflicts with the Places of Worship SPD. However, this document is no longer adopted policy and therefore is not a material consideration.
- 9.25. Third party comments have claimed that the application requires an air-quality assessment. However, an air quality assessment for development of this type and scale which does not include built development is not necessary. Within the context of the site adjacent to a busy Local Centre, a main road and commercial premises that diffuse fumes, it is not considered that the proposed use would have any adverse impact in this respect.
- 9.26. Third party comments have also argued that the basement could provide additional floorspace for the functioning of the proposed community centre that has not been considered under this application. However, as demonstrated by the below images, the ceiling height within this basement is insufficient to perform any function other



than storage. A condition would prevent the use of the basement for any purpose other than storage.



10. **Conclusion**



- 10.1. In summary, the loss of the public house is acceptable in policy terms, while the proposed development would not result in significant harm to the area's visual amenity, the residential amenity of surrounding occupiers, the heritage assets within or in proximity of the site or the functioning of the local highways network. Significant weight is provided in favour of the application through its tangible public benefits, comprising the securing of a long-term community use for a vacant building of historic value, in addition to the removal of hazardous forecourt parking and the provision of soft landscaping to the site frontage. The proposal therefore complies with the relevant policies referred to in Section 6 above and is recommended for approval.

11. **Recommendation**

- 11.1. Approve subject to conditions.

- 
- |    |  |
|----|--|
| 1  | Implement within 3 years   |
| 2  | Requires the scheme to be in accordance with the listed approved plans |
| 3  | Repair and work to historic fabric:                                    |
| 4  | Requires the submission of hard and soft landscape details             |
| 5  | Requires the submission of a commercial travel plan                    |
| 6  | Requires the submission of the siting/design of the access             |
| 7  | Requires the submission of details of pavement boundary                |
| 8  | Requires the submission of cycle storage details                       |
| 9  | Limits the hours of operation  |
| 10 | Limits the hours of operation for early morning and late night prayer. |
| 11 | Prevents the use of amplification equipment                            |
| 12 | Prevents weddings and other major events taking place on site          |
| 13 | Requires closure of car park between 12:30-14:00 on Fridays            |
| 14 | Limits Friday prayers to one session between 12:30 and 14:00           |
| 15 | Prayer sessions to take place within multi-use halls only              |
- 

Case Officer: Jeff Badland

## Photo(s)



Front elevation



Station Road elevation





Existing access



8-22 Station Road opposite the site





Bird's eye view from the south



Bird's eye view from the west





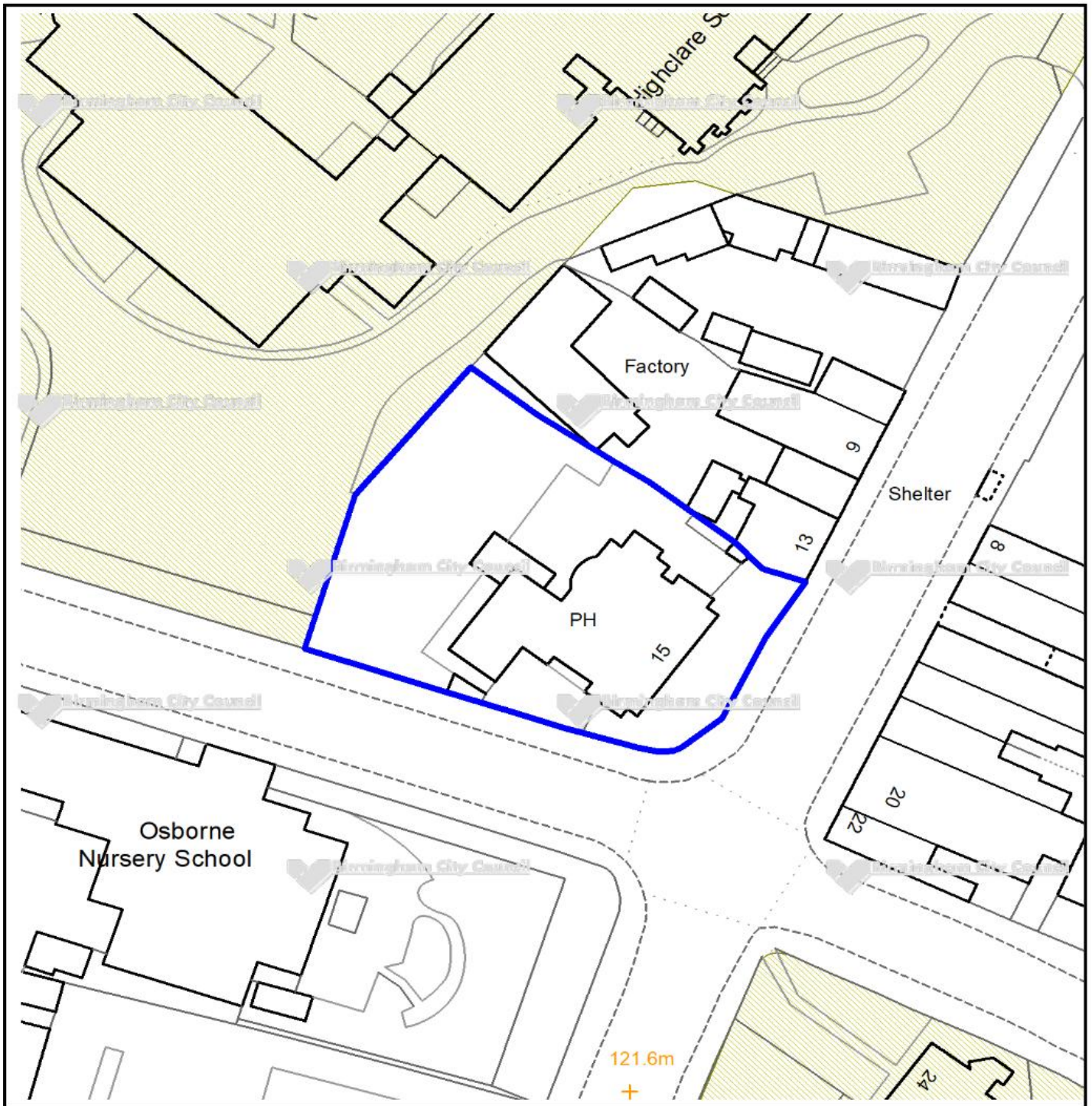
Bird's eye view from the north



Bird's eye view from the east



## Location Plan



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# **Birmingham City Council**

## **Planning Committee**

**25 April 2024**

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>
Refuse	8	<p>2024/01241/PA</p> <p>80 Broad Street City Centre Birmingham B15 1AU</p> <p>Demolition of adjacent structures, erection of a 42-storey building to provide 300 dwellings above, to the front and to the rear of the listed building with stilts to the ground; associated amenity floor space (use Class C3), provision of an internal viewing platform to create a flexible community space (Class F1 (a-f) and Class F2 (a-b) use) to include exhibition and ancillary cafe space. Refurbishment of listed building, and change of use of former nightclub to provide community facility (Class F), installation of 300 secure cycle spaces and associated public realm improvements including hard and soft landscaping, access improvements and drainage works</p>
Refuse	9	<p>2024/01256/PA</p> <p>80 Broad Street City Centre Birmingham B15 1AU</p> <p>Listed Building Consent for the demolition of non-listed structures, erection of a 42-storey building for residential use, associated amenity floor space (use Class C3), provision of an internal viewing platform to create a flexible community space (Class F1 (a-f) and Class F2 (a-b) use) to include exhibition and ancillary cafe space. Refurbishment of listed building, and change of use of former nightclub to provide community facility (Class F), installation of 300 secure cycle spaces and associated, public realm improvements including hard and soft landscaping, access improvements and drainage works.</p>

Approve – Subject to  
106 Legal Agreement

10

2023/07135/PA

Clyde Street/High Street  
Land at  
Digbeth  
Birmingham  
B12

Demolition of existing building and erection of one building of 34 storeys and one building of 10 storeys with single storey linking pavilion to provide 481 dwellings and 637m2 of ground floor commercial floorspace (Use Class E) along with associated amenity, access, parking, landscaping and infrastructure

Committee Date:	25/04/2024	Application Number:	2024/01241/PA
Accepted:	27/02/2024	Application Type:	Full Planning
Target Date:	28/05/2024		
Ward:	Ladywood		

80 Broad Street, City Centre, Birmingham, B15 1AU

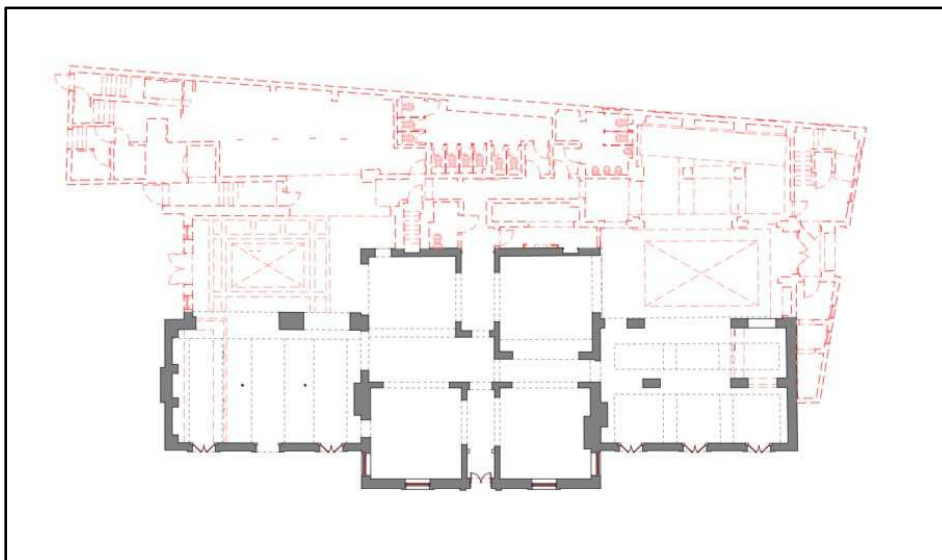
Demolition of adjacent structures, erection of a 42-storey building to provide 300 dwellings above, to the front and to the rear of the listed building with stilts to the ground; associated amenity floor space (use Class C3), provision of an internal viewing platform to create a flexible community space (Class F1 (a-f) and Class F2 (a-b) use) to include exhibition and ancillary cafe space. Refurbishment of listed building, and change of use of former nightclub to provide community facility (Class F), installation of 300 secure cycle spaces and associated public realm improvements including hard and soft landscaping, access improvements and drainage works

Applicant:	HJB Investments Ltd 9 Merus Court, Meridian Business Park, Leicester, LE19 1RJ
Agent:	Marrons Planning 1 Colmore Square, Birmingham, B4 6AA

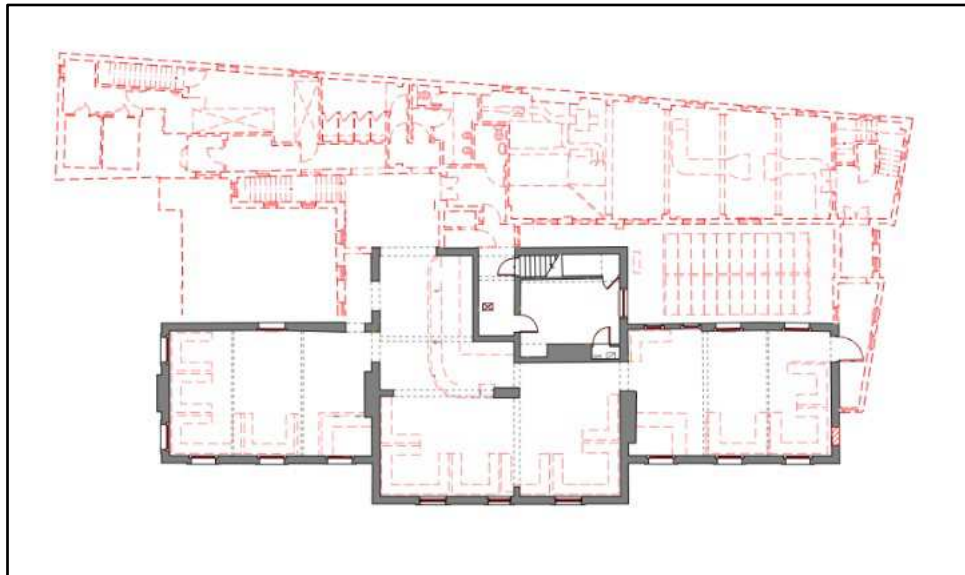
Recommendation  
**Refuse**

1. **Proposal:**

- 1.1 The parts of the existing building excluded from the listing description to the rear and sides would be demolished as indicated on the plans below.



*Image 1 – Demolition plan ground floor*

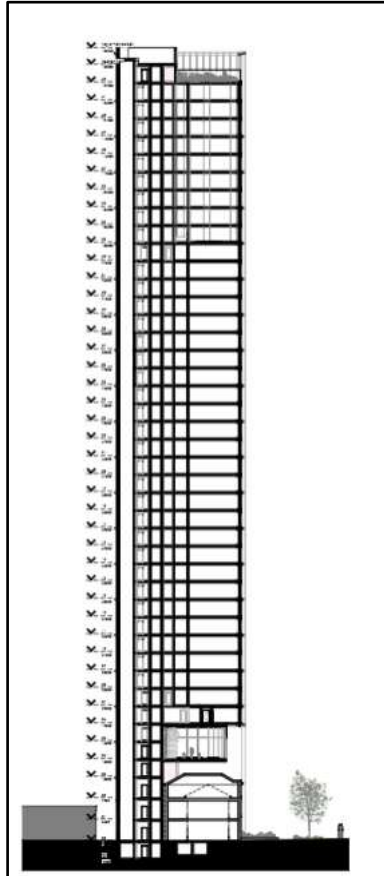


*Image 2 – Demolition plan first floor*

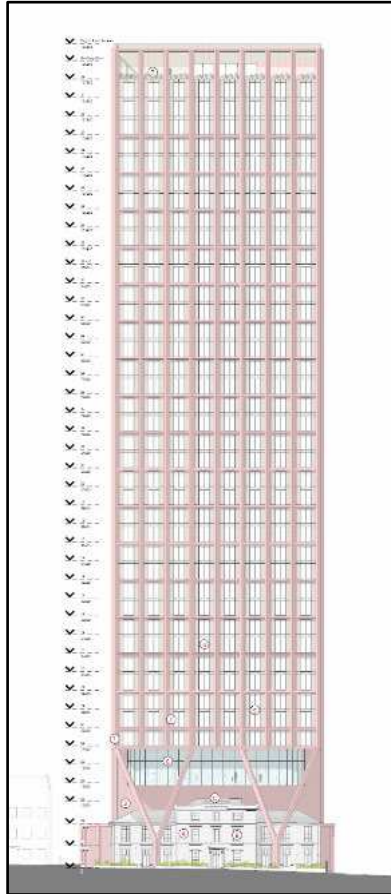
- 1.2 Repair and refurbishment of the retained building would take place in the form of removing signage, replacing a historic pediment reading 'Children's Hospital', replacement of two first floor windows to the north east elevation, reinstatement of the glazed panel below the first floor windows to the south east elevation and internal reinstatement of stairs.
- 1.3 The 42 storey tower which would be erected would be to the rear of the building and effectively cantilevered directly above it. Two stanchions would be installed to the front elevation. A site plan and elevations/sections of the proposed building are provided below.



*Image 3 – Proposed block plan*



*Image 4 – Proposed section*



*Image 5 – Proposed south east elevation fronting Broad Street.*

1.4 1117m<sup>2</sup> of community space, including a community café/potential exhibition space at 4<sup>th</sup> floor level and a community hub with a smallscale retail element in the existing building at first and second floor level, would be provided within the building. A viewing platform would be located on the fourth floor. Neither space has an identified end user at this stage and no terms for occupation, such as reduced or peppercorn rents to make the space affordable for community groups, have been provided. The applicant has, however, stated that they wish to enter into a s.106 legal agreement to secure this space for community use.

1.5 The remainder of the building would be utilised to provide 300 dwellings via a build to rent model. A residents cinema, games room, coworking lounge, gym and nursery would be provided. The mix of units would be as indicated in figure 1 below.

Number of Bedrooms	Number of units	% of units
1	207	69%
2	93	31%

Figure 1 – Table showing units size, number and % of total units

1.6 60 dwellings (representing 20% of all proposed dwellings) would be provided as affordable private rent units. 25 (42%) of these affordable dwellings would be one bedroom units and 35 (58%) would be two bedroom units.



1.7 300 cycle spaces would be provided. A 326m<sup>2</sup> communal rooftop amenity space would be provided. Improvements would also be made to the public realm and landscaping within the site.

1.8 The building would have a glass reinforced concrete frame with rede colouring and sections of metal cladding.

1.9 The following documents have been submitted in support of the application -

- Drainage information
- Biodiversity Net Gain (BNG) assessment
- Biodiversity metric calculation tool
- Economic statement
- Noise assessment
- Aerodrome Safeguarding assessment
- Television survey report
- Telecoms assessment
- Wind/Microclimate assessment
- Fire strategy
- Lighting assessment
- Flue and extraction statement
- Geo environmental phase 1 assessment
- TVIA
- Bat survey
- Preliminary Ecological Assessment
- Affordable housing statement
- Planning statement
- Energy statement
- Tall buildings assessment
- Heritage Impact Assessment
- Drawings showing elevations and floorplans
- Design and access statement
- Daylight, sunlight assessment
- Transport Assessment and Travel plan
- Air quality assessment
- Community needs assessment

1.10 [Link to documents](#)

2. **Site & Surroundings:**

- a. The site is located to the north western side of Broad Street, at the corner with Sheepcote Street.
- b. It has an area of 0.16 hectares.

- c. The surrounding area contains a mix of commercial and residential uses. A vacant listed building lies to the Broad Street frontage on the other side of Sheepcote Street at 78-79 Broad Street. There is also a 31 residential tower to the north of 78-79 Broad Street on Sheepcote Street. To the south east of the application site is 90-97 Broad Street, a three storey terrace of office buildings. The committee have recently resolved to grant consent on that site for a 47 storey tower to provide 525 dwellings.
- d. The site is occupied by a Georgian detached three storey Grade II Listed Building. The building was historically used as a hospital and most recently used as a night club, trading as 'Zara's'.
- e. The site location can be viewed here on google maps -

Google Maps – [Broad Street](#)

### 3. **Planning History:**

There is extensive planning history on the site. That which is relevant to this application is:

- 2024/01256/PA – Concurrent application for listed building consent for demolition of adjacent structures, erection of a 42-storey building to provide 300 dwellings above, to the front and to the rear of the listed building with stilts to the ground; associated amenity floor space (use Class C3), provision of an internal viewing platform to create a flexible community space (Class F1 (a-f) and Class F2 (a-b) use) to include exhibition and ancillary cafe space. Refurbishment of listed building, and change of use of former nightclub to provide community facility (Class F), installation of 300 secure cycle spaces and associated public realm improvements including hard and soft landscaping, access improvements and drainage works.
- 2024/01489/PA – EIA screening submission for the development currently before members. EIA not required.

At 90-97 Broad Street –

- 2023/01324/PA - Erection of a 47 storey tower to include 525 residential units (Use Class C3), with residential amenity space, landscaping and all associated engineering and enabling works, including site clearance. Committee have resolved to grant consent for the proposed development and we are awaiting completion of the associated s.106 legal agreement prior to issuing the decision.

### 4. **Consultation Responses:**

- 4.1 City design and landscape team – Recommendation for refusal. Inappropriate design and harm identified.

- 4.2 Conservation Team – Substantial heritage harm identified
- 4.3 Historic England – Objection. Substantial heritage harm identified
- 4.4 The Georgian Group – Objection due to heritage harm
- 4.5 The Victorian Society – Objection due to heritage harm
- 4.6 Council for British Archaeology – Objection due to heritage harm
- 4.7 The Birmingham Civic Society – Objection due to heritage harm
- 4.8 Historic Buildings and Places – Objection due to heritage harm
- 4.9 Conservation Officer, Archaeology – No comments yet received.
- 4.10 Trees team – No existing tree issues. Provision of trees as proposed is supported.
- 4.11 Regulatory Services Team – Objection due to noise/ventilation impacts.
- 4.12 LLFA – Objection due to insufficient and inconsistent drainage and flood risk information.
- 4.13 Transportation team – Further information requested, detailing vehicular access over private land, refuse collection strategy, ad hoc servicing/delivery strategy and implications of traffic management arrangement review in the area. Subsequently, refusal on the basis that the access over third party land has not been demonstrated.
- 4.14 Affordable Housing Team – Initial concerns raised regarding affordable housing mix and need to provide a greater level of discount in this area identified due to very high market rents. Support for provision of affordable private rent units given the build to rent model applied.
- 4.15 Ecology Team – Concern raised regarding completion of BNG form whereby the applicant has not identified the site as meeting an exemption criteria. The proposal is acceptable in other regards but there is a concern that the bat roost potential of the existing building has not been fully explored.
- 4.16 Employment Access Team – Queries raised regarding end use employment.
- 4.17 Health and Safety Executive (HSE) – Not within consultation distance of major hazard site or pipeline. No consultation required.
- 4.18 Canal and Rivers Trust – Outside of notification area. No comments.
- 4.19 West Midlands Fire Service – List of fire safety requirements provided.
- 4.20 Active Travel England – Recommend deferral of consideration of the application to allow the submission of additional information confirming how the development could make a greater contribution to active travel.

- 4.21 Transport for the West midlands – Whilst they do not object, requests for further information regarding active travel are made. Queries are raised with regards to the detail of the cycle store and refuse vehicle swept path analysis.
- 4.22 West Midlands Police – No objection subject to the advised security measures listed. CCTV condition requested. Barrier to rooftop amenity terrace recommended.
- 4.23 Transport for the West Midlands – Does not object but raises queries regarding active travel, including suitability of cycle storage. Raises concern regarding refuse vehicle swept path analysis.
- 4.24 Birmingham International Airport – No comments received
- 4.25 Severn Trent Water – No comments received

5. **Third Party Responses:**

- a. The application has been publicised by site and press notice in addition to letters sent to the occupiers of adjacent properties.
- b. 11 representations in total have been received.
- c. 9 were objections raising the following comments –
- Dominates, destroys and insults the listed building
  - Monstrous and grotesque, an eyesore
  - It would make Birmingham a place of international ridicule
  - The proposed one bedroom units would not meet housing need, which is for 3 bed plus units. There are already sufficient one bedroom units on Broad Street.
  - Another high rise building is not needed. High rise buildings are not conducive to zero carbon and are isolating and psychologically damaging
  - Obstruction of view from Sheepcote Street apartments
  - Concern regarding a wall effect of tall buildings on Broad Street, reducing ventilation and sunlight and creating a heat island.
  - Loss of privacy and sunlight to Tower 2, The Bank.
  - Demolition and construction will be hugely disruptive and polluting leading to air quality problems.
  - The Build to rent model is insulting to younger generations who want to stop renting and get on the housing ladder.
  - Lacking in affordable housing at only 20%.
- d. 1 was in support raising the following comments –
- Need for more apartments
  - The site has been vacant for several years

- A sustainable site near to tram, bus and cycle routes.
- The proposed community space would add to the local area.

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

a. **National Planning Policy Framework**

Paragraph 11 – Presumption in favour of sustainable development.

Paragraph 124 – Making effective use of land.

Paragraph 205 – Considering impact of development on the significance of designated heritage assets.

Paragraph 206 – Substantial harm to designated heritage assets

b. **Birmingham Development Plan 2017:**

- GA1: City Centre
- PG3: Place making
- TP3: Sustainable construction
- TP4: Low and Zero Carbon Energy Generation
- TP6: Management of Flood Risk
- TP8: Biodiversity
- TP12: Historic Environment
- TP24: Diversity of uses within centres
- 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
- TP39: Walking
- TP40: Cycling
- TP45: Accessibility standards for new development

c. **Development Management DPD:**

- DM1: Air Quality
- DM2: Amenity
- DM6: Noise and Vibration
- DM10: Standards for Residential Development
- DM14: Transport access and safety

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

- Design Guide (October 2019);
- National Planning Practice Guidance (PPG);
- Car Parking Guidelines SPG (2021)
- Affordable Housing (2001)
- Birmingham Design Guide (2022)
- Public Open Space in New Residential Development (2007)
- Housing, Economic Development Needs Assessment (2022).

## 7. **Planning Considerations:**

### 7.1 The main material considerations are:

- Principle of development
- Housing mix and tenure
- Design
- Impact on residential amenity
- Heritage
- Wind and microclimate
- Noise and pollution matters
- Transportation considerations
- Ecological considerations
- Flooding and drainage
- Sustainability

#### Principle of development

- 7.2 The Birmingham Development Plan became 5 years old on 10th January 2022 and is currently being updated. In accordance with NPPF paragraph 75, BDP policies PG1 and TP29 are considered out of date, and the Council's five-year housing land supply must be calculated against the Local Housing Need figure for Birmingham. Currently, the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11d) of the NPPF.
- 7.3 Paragraph 11 d)i) states that "where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed." The definition in footnote 7 of assets of particular importance include designated heritage assets. This is discussed in further detail in the planning balance assessment.
- 7.4 The site is within the City Centre where a mix of uses are suitable. The proposed residential use is not therefore unsuitable in this area. However, the principle of the increase in building on the site ties up with the acceptability of the impact on the designated heritage asset which is discussed further below.
- 7.5 The provision of community space would be welcomed in principle and would provide further daytime activation of the area.



## Housing mix, Tenure and Affordable Housing

- 7.6 The Council's Housing and Economic Development Needs Assessment (HEDNA) provides guidance on the mix of dwelling sizes, required in different parts of the city, and replaces the existing SHMA referred to in Policy. The proposal would not replace existing housing and would therefore add to housing choice within the area. Figure 2 'Tenure of housing' as set out in the BDP (2017) required as a percentage, a mix of housing. This has been updated by the HEDNA which suggests the following mix for the central area. 1 beds: 17% 2 beds: 37% 3 beds: 31% 4 beds 15%. The 300 dwellings proposed would comprise the following mix of unit sizes –

Number of Bedrooms	Number of units	% of units
1	207	69%
2	93	31%

Figure 2 Table showing units size, tenure and % of total units

- 7.7 There would therefore be significantly more 1 bedroom units than sought by the HEDNA and a smaller proportion of units of 2 and 3 or more beds than sought, indicating a significant divergence from the established need. The bias towards one bedroom units is substantial and unacceptable. A refusal reason is therefore recommended on this basis.
- 7.8 With regards to the provision of affordable housing, 20% is proposed to be secured by legal agreement. This would be in the form of affordable private rent within the build to rent scheme. This falls significantly short of the 35% sought by Policy TP31 of the BDP. Whilst, as members will be aware, the Council has in the past approved some residential schemes which provide levels of affordable housing lower than 20% of the proposed scheme, this has been primarily as viability evidence has been verified and confirmed that the maximum level of affordable is being provided. The current proposal, however, has not sought to advance a viability argument for the provision of less than the Policy compliant level of 35%.
- 7.9 Rather than providing viability evidence to demonstrate that the 20% offer is the maximum which the scheme can afford, they argue that Policy TP31 cannot be afforded determinative weight. They state in their opinion it is out of date because the plan is over 5 years old and that it is not in accordance with the NPPF because the NPPF states that build to rent schemes may be exempt from providing 10% affordable housing as a minimum. They refer to national guidance which states that 20% should be considered a baseline level of affordable accommodation for build to rent schemes and that this should only be varied where there is local evidence to the contrary which, the applicant argues, is not the case in Birmingham. In these circumstances, they consider that the national guidance figure of 20% takes precedence.
- 7.10 This is not an argument which is accepted by officers on a number of grounds. Policy TP31 may be considered out of date given that the plan is over 5 years old. However, the policy does not fall away and can still be afforded weight in decision making in accordance with the consistency of the Policy with the NPPF. The applicant argues

that the Policy is not consistent with the NPPF referring to paragraph 66 as a provision of greater than 10% is required for build to rent schemes. This paragraph is as follows – “66. Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development: a) provides solely for Build to Rent homes;...” The paragraph refers to “at least 10%” and therefore is providing a minimum rather than an effective ‘greater than’ maximum as portrayed by the applicant.

- 7.11 The applicant also refers to national guidance stating:  
*“Notwithstanding the above, further national guidance published by the Department for Levelling Up, Housing and Communities in conjunction with the Ministry of Housing, Communities & Local Government in September 2018 suggests that Build to Rent developments should be subjected to affordable housing provision, albeit at a lower rate than that set out within the local policy. The PPG states that “affordable housing on build to rent schemes should be provided by default in the form of affordable private rent, a class of affordable housing specifically designed for build to rent. Affordable private rent and private market rent units within a development should be managed collectively by a single build to rent landlord”. The PPG continues on to state that “20% is generally a suitable benchmark for the level of affordable private rent homes to be provided (and maintained in perpetuity) in any build to rent scheme. If local authorities wish to set a different proportion, they should justify this using the evidence emerging from their local housing need assessment, and set the policy out in their local plan”.*
- 7.12 This argument is not accepted because firstly the document is guidance, and does not have the strength of adopted Policy which TP31 does. Secondly, the guidance explicitly states that should a different proportion be required for building to rent, this should be set in local policy on the basis of evidence. The evidence that the Council presented with regards to affordable housing need in the city was accepted by the Inspector at the time of examination of the BDP. It is also clear that the policy also applies to build to rent schemes given that the Policy states that: *“The different characteristics of developments which look to longer term returns rather than short term ‘market’ gains, such as multiple units of private rented sector housing in a single ownership intended for long term rental, will be taken into account when assessing viability.”*
- 7.13 The level of affordable housing proposed therefore fails to meet the policy requirement without viability justification. This represents a reason for refusal of planning permission. Given that the application is recommended for refusal and a legal agreement has not been entered into this would also need to be referred to in the refusal reason.
- 7.15 The Council’s Housing Enabling Team has advised that they are not wholly satisfied with the mix of affordable unit sizes proposed, seeking more two bed and some three bed units. They do not object on this basis however and it is not, therefore, considered that this matter needs to be added to the refusal reason.

## Design

- 7.12 Each of the key facets of the design (townscape, layout, scale and massing, architecture and materiality and landscaping) will now be discussed individually.

### Townscape

- 7.13 The application is accompanied by a detailed townscape and visual analysis. A visual amenity assessment has been conducted through reference to viewpoints. The assessment states that the effects on townscape character, upon completion and at 15 years, are considered to be minor beneficial at a local level and beneficial at a minor/moderate level within the immediate context of the site. The visual impacts are stated as moderate to major adverse during the construction phase and moderate adverse, negligible or minor beneficial when operational. The long distance views provided within the assessment and viewpoints which do not show the base of the building indicate that in terms of wider townscape, there wouldn't be significant harm. However, officer continue to have significant concerns with the overall design approach. At all points within the local and immediate context where the dwarfed existing building is visible directly beneath the cantilevered tower, the townscape impact would be likely to be adverse. The tower would also contain an elevation with significant blank areas which is not supported in townscape and visual terms.

### Layout

- 7.14 Officers have significant concern regarding the proposed layout. This is articulated clearly within the comments of the design officer as follows: "The proposed tower sits behind and over the listed building, extending up to and on the line of the rear (northwestern) boundary. This is a concern for a number of reasons. Firstly, the organisation of towers on the north side of Broad Street is quite different from that on the southern side (where they are all slotted into the linear block at right-angles forming a continuous frontage). The towers on the northern side of the street are sat within their plots so as to facilitate space between them and other neighbouring development. In this instance the tower is hard up to the boundary with the 'Brasshouse' turning its back on this important building, looming over it and offering up little more than a blank wall screening the servicing that extends round onto the Sheepcote Street frontage. This ground floor condition, along with the windows above (sat on the boundary line) will prejudice the scope for regeneration of this adjacent site and cannot be supported. Moreover, due to the tight configuration of the site, the stair cores and lift shafts have all been pushed onto the rear elevation thereby creating a central 'dead zone' extending all the way up the building on this northern frontage, thereby turning its back on Ladywood (and approaches from the north) and not creating a truly 360-degree building as it should be."

In short, therefore, the application provides insufficient information to demonstrate that there would be no adverse impact on the development potential of the adjacent site in this regard.

### Scale and mass

- 7.15 It is noted that there are a number of tall buildings within this area of Broad Street and that the area in general may be suitable for tall buildings. This does not, however, mean that all sites on Broad Street are suitable for tall buildings. Give the constraint of the listed building, which should be protected as a designated heritage asset, the site does not present an opportunity for the development of a tall building given that limited land remains around the listed building.

#### Architecture and materiality

- 7.16 The exterior facing materials would comprise a red GRC frame and bronze metal cladding. This would appear incongruous within the context of the local area and listed building below. The architectural organisation does not follow through between the four elevations, crown and plinth. Over complicated features are proposed to the soffits and the system of construction is not confirmed. The proposal is, therefore, not supported in this regard by officers.

#### Landscaping

- 7.17 It is proposed that the forecourt to the listed building, which is currently hardstanding, would be re-landscaped with areas of soft landscaping. Whilst should consent be granted, further details of this area would need to be secured to ensure quality, the overall approach to landscaping is supported and a positive feature of the scheme.
- 7.18 The overall design, therefore, raises concern for officers at several levels of analysis.

#### Impact on residential amenity

- 7.19 The site adjoins an educational institution to the north west and an existing office building to the south west, which a resolution has been reached to grant consent for a residential tower. Consent (reference 2019/05777/PA) has been granted for a residential tower opposite at 210-211 Broad Street and there is an existing recently constructed residential tower to the immediate north east of the site, to the opposite side of Sheepcote Street at "Land Bounded By, Sheepcote Street/broad Street/Oozells Way" (reference WA/2017/09616/PA). The Mercian also lies in close proximity to the opposite side of Broad Street, at number 218. A resolution to grant has been made for a residential building at 90-97 Broad Street to the south west (reference 2023/01324/PA).
- 7.20 With regards to privacy, it is noted that the proposed tower, including upper floors, would sit in relative close proximity to other residential towers. The building to building distance would be only be approximately 10m to the scheme with a resolution to grant at 90-92 Broad Street, approximately 16m to 58 Sheepcote Street (The Bank) and 36m to 210-211 Broad Street. The Mercian lies a greater distance beyond 210-211 Broad Street. The development would contain habitable room windows to the northeast, south east and south west elevations and, therefore, there would be habitable room windows facing directly towards all of the above listed properties. Each of these schemes contain/would also contain habitable room windows facing towards the development. These distances are likely to result in a degree of compromised privacy and would not adhere to the numerical standards in the Design SPD. However, given

the high density, highly urban nature of the area, it is not considered that the levels of privacy would result in an unacceptable standard of living.

- 7.21 The submitted sunlight and daylight assessment does not consider impacts on the scheme where the committee have resolved to grant consent at 90-97 Broad Street. It is anticipated that the subsequent consent may be released prior to the committee meeting on 25<sup>th</sup> April. Members will be updated on this matter at the meeting. Given that this scheme is likely to be fully consented at the time the committee makes a decision, the current application on 80 Broad Street must consider the impact on that scheme. The failure to do so therefore represents a reason for refusal of planning permission.
- 7.22 The sunlight and daylight assessment identifies that some windows within each of the surrounding schemes with windows facing the site would fail the BRE vertical skylight component (VSC) test. Three apartments on floor 4 of 218 Broad Street are identified as failing the BRE no sky line (NSL) test. This indicates a reduction in daylight to a small number of units. A number of windows, particularly within 58 Sheepcote Street, would also as a result of the proposal fail the BRE Annual probable sunlight hours test, indicating a reduction in daylight. The BRE mirror test sunlight scenario (whereby a mirror development of that neighbouring the site is modelled onto the current application site) would result in more moderate and less windows failing the test, but is still indicative of some below standard reduction in sunlight to some windows.
- 7.23 These reductions in both sunlight and daylight represent a harm of the development. However, it is not considered that this in itself represents a reason for refusal of planning permission as this would be a relatively small number of units, the impact on which is outweighed by the public benefits of the scheme. They are commensurate with the sunlight and daylight impacts of other tall buildings, particularly in locations such as this where there is a cluster of tall buildings.
- 7.24 With regards to the residential amenity of future residents, all units would meet or exceed the Nationally Described Space Standards. Whilst the units wouldn't benefit from private amenity space, they would have access to a substantial area of communal amenity space with varied facilities including gym, nursery, cinema and co-working space. The rooftop would also provide an amenity deck which is considered an appropriate design response to the provision of amenity space on site.
- 7.25 An assessment of the internal living environment has been submitted which, through a daylight assessment for a sample of proposed units, demonstrates that a number of proposed windows would not meet BRE daylight criteria. Those to the north east/north west would not meet sunlight criteria, although this is commonplace for windows with this orientation. Whilst this situation is regrettable, it is not considered to represent a reason for refusal given the urban context and location of the proposal within a cluster of tall buildings.
- 7.26 Overall, therefore, the impact on the residential amenity of both existing/consented dwellings and the future occupiers of the development are considered acceptable on balance.

## Heritage



- 7.27 The existing building on site, above and to the rear of which the proposed tower would be constructed, is Grade II Listed. A concurrent application for Listed Building Consent has been received.
- 7.28 Section 66 of the Planning (Listed Buildings and Conservation Areas Act) 1990 states that: “ In considering whether to grant planning permission.....for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State 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.”

#### The significance of the principal impacted asset

- 7.29 The application site is the grade II listed No.80 Broad Street, listed with the boundary wall to the front. The building is an early-19<sup>th</sup> century former residence, later a hospital for women and children, and most recently a bar, restaurant, and nightclub, with 19<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup> century extensions and alterations. The English Heritage produced listing description states that the architectural interest of the building is as follows: “*as a dignified example of polite, late-Georgian architecture, skilfully enlarged with complementary symmetrical wings by John Jones Bateman in 1863, featuring high-quality materials, detailing and craftsmanship.*”

The listing goes on to state that the historical interest of the building comes from two factors, which are: “*\* for its origins as an elegant early-C19 dwelling, illustrating the development of the area of Islington in Birmingham, now Broad Street, as an industrial hub and aspirational suburb; \* for its adaptation as the first ‘lying-in’ hospital in the Midlands, specialising in obstetric care.*”

A large part of the significance of the asset is derived from its setting. The recent developments on Broad Street have had impacts on 80 Broad Street to varying degrees and yet what has been retained and remains directly unincumbered is the legibility of the building’s historic curtilage, its grand position and symmetrical prominence within this setting which. This is attributable to its set-back from Broad Street and the space that remains around and above the building. This is visible from a number of view point on Broad Street, including when viewed kinetically.

#### Impact of the proposal on this asset

- 7.30 The internal alterations and restoration of windows and historic plaque are considered to result in a minor heritage benefit to the significance of the listed building.
- 7.31 The part of the building proposed for demolition is the rear wing of the building which is excluded from the listing. The submitted Heritage Impact Assessment (HIA) considers that the removal of this rear range of buildings will not impact upon the architectural and historical interest of the building, notably as the structures are excluded from the statutory listing. However, officers note that, although architecturally modest, utilitarian and functional in comparison to its host, these structures do form part of the historical evolution of the building in its long history as a hospital. The extension has been in place for some 80 years and is historically associated to the main building in its use as part of the hospital until the 1980s. The contribution of this part of the building to the overall significance of No. 80 is to a lower level but its demolition would constitute a loss of this element of the historic development of the site. Heritage England also identifies a concern regarding this loss. Considering its lower value to the significance of the listed structure at No. 80 the harm caused would be ‘less than substantial’ and at the low end of the scale.

- 7.32 Further to concern regarding this loss through demolition, no information has been submitted to demonstrate that removal of these structures would not result in harm to the structural stability of the remaining listed fabric. In addition, and of particular concern, no information has been submitted to demonstrate that structural stability of the listed building would be retained when foundations are constructed to the necessary depth and design to support a cantilevered tower directly above the listed building. Piling may well be required and the two proposed stanchions/stilts to the front elevation would sit directly adjacent to the listed façade. Officers, therefore, have serious concerns for the structural integrity of the listed building should the proposed new development be constructed.
- 7.33 The submitted HIA accepts that the easterly setting of the listed building is an important element of the building's setting and significance but does not consider it to be a fundamental or key element of the building's setting and as such its loss or significant alteration can fairly be considered as bring about a less than substantial degree of harm rather than substantial degree of harm to the Grade II listed building.
- 7.34 The position of the HIA, however, is not supported by officers. The large 42-storey tower would attach directly to the listed building, rising high directly behind, oversailing directly above and over the building, significantly overwhelming the three-storey building and severely compromising any legible appreciation and understanding of how this building sat historically in its immediate curtilage setting on Broad Street, including the appreciation of its architectural and historic form and the continued experience of this through the retained space around and behind the building which reinforces its significance as a rare survival of Georgian Broad Street.
- 7.35 The development would also severely damage the significance of the relationship between the asset and its former front grounds through the introduction of the two large Y-shaped supporting structures directly in front of the principal elevation of the building to Broad Street, which would support the tower as it cantilevers over it. The set back position of No. 80 which gives the building its own particular type of significance in Broad Street and the sustained space of its former front gardens currently allows for a retained understanding of its origins as a domestic Georgian residence. This important element of the building's setting which contributes to its significance would be severely compromised through the large structures placed in front of and above it where they would dominate in the foregrounds of the listed building. In addition, these structures would disrupt the street-level experience of the historic relationship between No. 80 and the Former Barclays Bank, eroding the appreciation of the historic context and the contribution that the Bank makes to the significance of No. 80.
- 7.36 In summary, therefore, the development would almost wholly destroy key attributes of setting which have been identified as fundamental to the legibility, understanding and appreciation of the significance of the grade II listed No. 80 Broad Street and which are experienced in primary and key views of the building. As these attributes of setting would no longer be appreciable or understood the development would cause substantial harm to the significance the heritage asset derives from its setting. This view has also been reached through Heritage England's assessment. In accordance with paragraph 207 of the NPPF, support for development which has a substantial adverse impact on a Grade II listed building should be exceptional. The heritage harm, weighed against the public benefits of the scheme, is discussed further below in the planning balance.

Impact on the adjacent listed building, 78-79 Broad Street

- 7.37 The development would harm the setting of the grade II listed former Barclays Bank through a further reduction of evidence of historic scale and through the erosion of the appreciation of the historic context and contribution that No. 80 makes to the significance of the former bank. The harm would be 'less than substantial' at the low end of the scale. This adds to the heritage harm which is weighed against the public benefits of the scheme in the planning balance below.

#### Wind and microclimate

- 7.38 The application is accompanied by a Wind and Microclimate assessment. This indicates that wind levels around the development would increase as a result of the proposed development, but that in isolation from nearby consented schemes conditions would generally be suitable for pedestrian use. It is, however, identified that some areas, and particularly an area of Sheepcote Street, would be unsafe for frail people and mounted cyclists. Whilst when proposed mitigation measures are applied this would be reduced, it would not be wholly resolved. Further mitigation is identified as necessary but no details of this are given and no surety that suitable conditions can be provided is achieved. What's more, the wind impacts are increasingly unacceptable when the development is considered in the cumulative scenario, which is when other consented schemes are taken into account. Whilst 90-97 Broad Street is considered alongside other consented schemes in this scenario, the resultant wind position is one which would be detrimental, again with no surety that sufficient mitigation could be achieved for the development as proposed. This therefore represents a harm of the development.

#### Noise and pollution matters

- 7.39 The application is accompanied by an Air Quality Assessment and ground investigation to appreciate contamination risk. Subject to conditions to ensure that this matters were fully resolved, these matters are both considered acceptable.
- 7.40 The Regulatory Services Team, however, raise concern with regards to the noise and ventilatory environment which would be provided for future occupiers, having considered the submitted noise report. The noise assessment identifies a significant noise impact from nearby entertainment premises, particularly Heidi's Bar. The report sets out an outline mitigation scheme. This relies on a large proportion of the dwelling units having to rely upon closed/sealed windows to prevent noise ingress. The means of ventilation/cooling is unclear and a full overheating assessment has not been undertaken. The noise report discusses the use of trickle ventilators, which are unlikely to be adequate to provide cooling. It is also suggested that a mechanical ventilation solution may be adopted, although no details are presented. Given the proposal for sealed window units and the lack of an overheating assessment to show an acceptable level of amenity, it has not been demonstrated that a suitable internal living environment for future residents with regards to noise and ventilation would be provided.

#### Transportation considerations

- 7.41 The proposal is for a car free development, which is supported given the highly central location of the site. 1 cycle parking space per unit would be provided within the basement, which is also supported.

- 7.42 The Transportation Team have raised a number of queries for the applicant. It is anticipated that the majority of these matters could be addressed by way of condition, were consent to be granted. However, there is significant concern that the servicing strategy for the operational development, including the refuse collection strategy, is reliant on large vehicles passing through third party land. This land is believed to be associated with the Premier Inn site. Whilst the applicant may have a right of access over this, this has not been demonstrated to the Council and it has not been demonstrated that there are no restriction on the access, if there is a right over it. Without this information, the submitted servicing strategy cannot be considered sound. It is recommended that the application is refused on this basis.
- 7.43 It is noted that Active Travel England and Transport for the West Midlands have raised queries regarding the sustainable and active travel measures which would support the development. Given the highly sustainable and well connected location of the site, however, it is not considered that the absence of the requested details at this stage represents a reason for refusal of planning permission. Matters regarding sustainability and active travel could be secured by condition.

#### Ecological considerations

- 7.44 The application is accompanied by a Biodiversity Net Gain (BNG) assessment, Preliminary Ecological Appraisal (PEA) and Preliminary Roost Assessment (PRA) which considers bat roost suitability. It is demonstrated that the existing site does not provide any habitat units in terms of BNG assessment. The resultant biodiversity improvements in the form of street level and rooftop planters therefore result in a significant gain.

The ecology officer has raised concern that the submitted PRA does not consider the detailed design of the existing building, and the roost opportunities it provides, in sufficient detail. It is anticipated, however, that this matter can be addressed prior to the committee meeting. Members will be updated on this matter at the meeting.

The Council's ecology officer has found that the development is acceptable in all other regards relating to ecology, subject to a number of conditions which could be applied to address remaining ecological matters, should consent be granted.

#### Flooding and drainage

- 7.45 The site is within flood zone 1 and therefore not likely to experience fluvial (river) flooding.
- 7.46 The LLFA have stated that they object to the proposal. The information provided in the supporting Drainage Strategy document fails to assess surface water flood risk, despite the Environment Agency's indicative surface water flood mapping highlighting surface water flood risk to the rear of the site and from Broad Street. The report also states that based on a desk study there is high groundwater levels suspected on the site, but no assessment of groundwater flooding has been included within the drainage report despite a proposed basement level area being included within the design. Furthermore, the assessment of the proposed drainage infrastructure makes contradictory assumptions in relation to site area and infiltration which could result in

insufficient surface water attenuation volumes or system surcharging that could cause flooding. There has not been an assessment of exceedance flows, which are flows (greater than 1 in 100 year plus climate change rainfall events). No evidence has been provided to ensure that the surface water flood risk associated with exceedance events has been mitigated on- and off-site. The 1 in 500-year storm has not been assessed using software simulation.

- 7.47 In summary, therefore, the submission does not provide sufficient information to demonstrate that surface water and ground water flood risk has been adequately mitigated and that the proposed drainage would be suitable.

#### Sustainability

- 7.48 The application is accompanied by an Energy Statement. This states that the scheme would provide a 72% improvement in carbon dioxide emissions over the Target Emission Rate (TER), through the use of interventions include fabric performance, air source heat pumps and electric storage heaters. Sufficient energy efficiency measures are identified to comply with the requirement of Policies TP3 and TP4.

#### 7.49 Other issues

The CAA and Birmingham International Airport were consulted and have not yet returned comments. It is anticipated that comments will be received from the airport prior to the committee meeting. Members will be updated on these comments to allow the full assessment on the impact on aerodrome safety.

#### The planning balance

- 7.50 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'.

- 7.51 Paragraph 11 d) states that:

"Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

- 7.52 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.

- 7.53 The Birmingham Development Plan became 5 years old on 10th January 2022. In



accordance with NPPF paragraph 75, 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)ii) of the NPPF is engaged and the tilted balance applies for decision taking. This means that planning permission should be granted, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

- 7.54 This is only the case, however, when Paragraph 11d)i) is not engaged i.e. there is no harm which provides a clear reason for refusal to a protected asset or area of importance. Footnote 7 clarifies that designated heritage assets are considered to be protected assets of importance for the purposes of paragraph 11d)i). Therefore, where there is a clear reason for refusal, because of harm to designated assets, the tilted balance described above is not engaged.
- 7.55 Considerable importance and weight should be applied to the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990, as well as the degree of accord with BDP policy TP12 and the relevant paragraphs in the NPPF.
- 7.56 Substantial harm has been identified to the Listed Building on site, by officers, Historic England, and a large number of historic environment specialist advisors within the amenity societies. Harm is also identified to the setting of the adjacent Listed Building at 78-79 Broad Street.
- 7.57 Paragraphs 206 and 207 of the NPPF states that:

*“206. 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. Substantial harm to or loss of: a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional; b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional<sup>72</sup>. 207. Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply: a) the nature of the heritage asset prevents all reasonable uses of the site; and b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and d) the harm or loss is outweighed by the benefit of bringing the site back into use.”*

- 7.58 The principal public benefits of the scheme would be the provision of space for use by a community group and the provision of 300 dwellings. The provision of housing is considered to be a significant benefit, particular so for the 60 units (20%) offered for affordable private rent. The provision of community space is afforded moderate weight as a public benefit. This is tempered by the fact that no end user has been identified and there is no certainty that one will be identified for units of substantial scale, with two units combining to in excess of 1000m<sup>2</sup>. Should a suitable end user be identified, there is nothing before me to indicate that it would be viable for them afford the space.

There would also be other more minor public benefits which I afford less weight, such as construction and economic benefits, as well as a relatively small number of employment opportunities at the operational phase. Whilst there would be some limited heritage improvements through refurbishment of the asset (including the restoration of the 'Children's Hospital' plaque), these are minor and are afforded only limited weight.

- 7.59 Notwithstanding all of the above public benefits of the scheme, I do not consider that any of these benefits, or all benefits in combination, would outweigh the substantial identified harm to the significance of the listed building at 80 Broad Street, alongside harm to the setting of The Bank. The test outlined in NPPF paragraph 206 is that development resulting in substantial harm to Grade II Listed buildings should be exceptional. The circumstances of this planning application and associated public benefits are not exceptional and do not provide a clear and convincing justification for the harm.
- 7.60 NPPF para.11(d)i is therefore engaged and there is a clear reason for refusing the development to protect an asset of particular value.
- 7.61 There are also other harms associated with the development, including by reason of poor design, unsuitable housing mix, affordable housing below policy levels without justification, and insufficient information to demonstrate that there would not be harm for a large number of matters, including flood risk, servicing, noise and ventilation and impacts on future residents of the consented scheme at 90-97 Broad Street. Whilst I have indicated that I do not consider it to be a refusal reason in itself, I have also identified harm with regards to loss of privacy, and sunlight and daylight impacts to some habitable rooms of some surrounding existing residencies.

## 8. **Conclusion**

The proposed development would result in harm by reason of substantial harm to the listed building (80 Broad Street), harm to the significance of the adjacent listed building (78-79 Broad Street) through development within its setting and poor design. There would also be harm by reason of insufficient affordable housing and inappropriate housing mix. It is also the case that insufficient information has been submitted to demonstrate acceptability of the development on a number of other grounds, which cannot be reserved in their entirety by condition. The heritage harm represents a clear reason for refusal for the protection of an asset of particular importance. Given all of the above considerations, it is therefore recommended that planning permission is refused.

## 9. **Recommendation:**

- 9.1 That application 2024/01241/PA be REFUSED, for the reasons outlined below.

### **Reasons for Refusal**

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- |   |   |
|---|---|
| 1 | The development would almost wholly destroy key attributes of setting which have been identified as fundamental to the legibility, understanding and appreciation of the significance of the grade II listed No. 80 Broad Street and which are experienced in primary and key views of the building. As these attributes of setting |
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would no longer be appreciable or understood the development would cause substantial harm to the significance the heritage asset derives from its setting. Further, it has not been demonstrated that the necessary engineering for the proposed two would allow the continued structural integrity of the listed building. The public benefits of the scheme would not outweigh the substantial harm. The proposal would therefore be contrary to Policy TP12 of the Birmingham Development Plan (2017) and paragraphs 206 and 207 of the NPPF.

- 2 The development would harm the setting of the grade II listed former Barclays Bank through a further reduction of evidence of historic scale and through the erosion of the appreciation of the historic context and contribution that No. 80 makes to the significance of the former bank. The public benefits of the scheme would not outweigh this harm in combination with other identified heritage harm. The proposal would thereby fail to comply with Policy TP12 of the Birmingham Development Plan (2017) and paragraph 208 of the NPPF.
  - 3 Insufficient information has been submitted to demonstrate that the development would not prejudice the future development and reuse of the Brasshouse site. The proposal is thereby contrary to policy PG3 of the Birmingham Development Plan (2017).
  - 4 The proposed development, by virtue of integrating a retained historic building into its base results in an incongruous fusion of new and old fabric that is ad hoc and bears no reflection of proportions, connections, materials, detailing or relationship between architectural components. The existing building bears an awkward relationship between its entire external envelope and the cantilevered form of the tower that extends over it. The proposal therefore fails to accord with policy PG3 of the Birmingham Development Plan (2017), Design Principle 14 (Architectural cohesion and quality), 19 (Creating tall buildings) and 26 (Fulfilling design quality), as well as City Notes LW-40 (Architectural Quality) of the Birmingham Design Guide SPD.
  - 5 The proposed development, by virtue of the inconsistent architectural elements failing to link the body of the tower with the base and crown, makes for a poor architectural concept that comprises of a number of disjointed design elements that are unrelated and draw on a range of differing materials. The expressed stair and lift cores as well as the incongruous roof floor and disproportionate supporting columns are inconsistent with the wider design of the building. The proposal therefore fails to accord with policy PG3 of the Birmingham Development Plan (2017), Design Principle 14 (Architectural cohesion and quality), 19 (Creating tall buildings) and 26 (Fulfilling design quality), as well as City Notes LW-40 (Architectural Quality) of the Birmingham Design Guide SPD.
  - 6 The development would fail to provide 35% affordable housing and no viability justification for this has been presented. Furthermore, a legal agreement has not been entered into to secure provision of the 60 units offered for affordable private rent. The proposal is therefore contrary to Policy TP31 of the Birmingham Development Plan (2017).
  - 7 Insufficient information has been submitted to demonstrate that the proposal would have an acceptable impact on the daylight, sunlight and privacy of future residents
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of the redevelopment scheme at 90-97 Broad Street (reference 2023/01324/PA). The proposal is thereby contrary to Policy DM2 of the Development Management in Birmingham Development Plan Documents (2021).

- 8 The proposed development would provide a mix of housing units of different numbers of bedrooms which would not meet identified housing need or support the creation of balanced and mixed communities. The proposal would thereby be contrary to Policies TP27 and TP30 of the Birmingham Development Plan (2017).
- 9 Insufficient information has been submitted to demonstrate that the development would be acceptable with regards to surface and ground water flood risk. The proposed mitigation has not been evidenced and the drawings and written information provided are inconsistent. The proposed scheme therefore fails to meet the minimum requirements of Planning Policy TP2, Policy TP6 and Policy TP7 of the Birmingham Development Plan (2017) and the minimum requirements of paragraphs 173 to 175 of the NPPF.
- 10 It has not been demonstrated that the applicant has legal access over the third party land upon which it is reliant to service the development. It has not, therefore, been demonstrated that suitable servicing could be achieved on site and the proposal is contrary to Policy DM15 of the Development Management in Birmingham Development Plan Documents (2021).
- 11 Insufficient information has been submitted to demonstrate that the proposed development would provide an acceptable internal noise and ventilation environment for future residents. The proposal is therefore contrary to Policies DM2, DM6 and DM10 of the Development Management in Birmingham Development Plan Documents (2021).
- 12 It has not been demonstrated that acceptable wind conditions for all users would be provided surrounding the site and with proposed mitigation, including in the cumulative scenario. The proposal is therefore contrary to Policy DM2 of the Development Management in Birmingham Development Plan Documents (2021).

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Case Officer: Kate Edwards

## Photo(s)

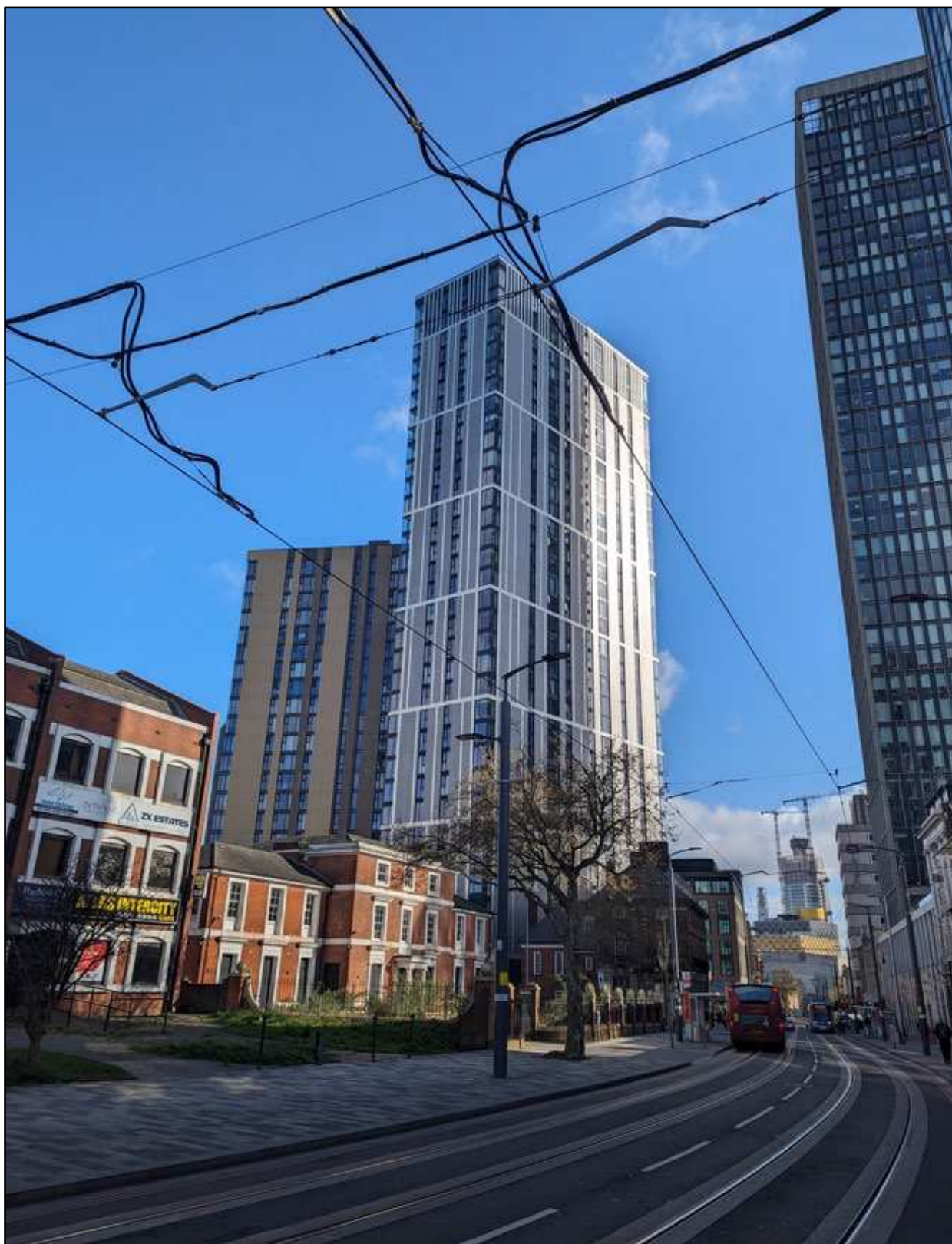


Photo 1 – Broad Street view – looking into town





Photo 2 – rear elevation



Photo 3 – looking along the site frontage





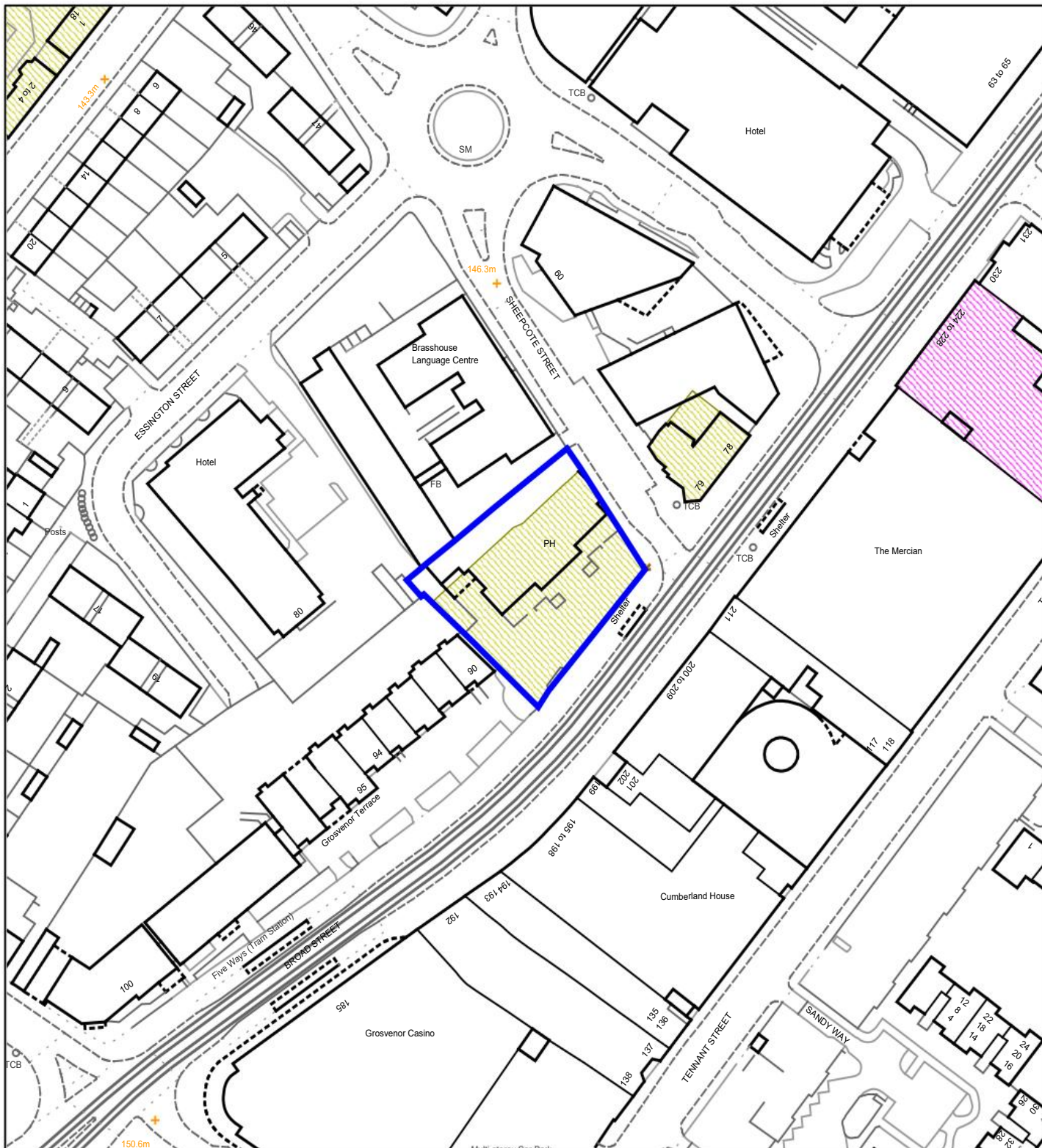
Photo 4 – listed building adjacent to the former Brasshouse Language Centre



Photo 5- frontage of listed building



## Location Plan



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Committee Date:	25/04/2024	Application Number:	2024/01256/PA
Accepted:	27/02/2024	Application Type:	Listed Building
Target Date:	28/05/2024		
Ward:	Ladywood		

80 Broad Street, City Centre, Birmingham, B15 1AU

Listed Building Consent for the demolition of non-listed structures, erection of a 42-storey building for residential use, associated amenity floor space (use Class C3), provision of an internal viewing platform to create a flexible community space (Class F1 (a-f) and Class F2 (a-b) use) to include exhibition and ancillary cafe space. Refurbishment of listed building, and change of use of former nightclub to provide community facility (Class F), installation of 300 secure cycle spaces and associated, public realm improvements including hard and soft landscaping, access improvements and drainage works.

Applicant: HJB Investments Ltd  
9 Merus Court, Meridian Business Park, Leicester, LE19 1RJ  
Agent: Marrons Planning  
1 Colmore Square, Birmingham, B4 6AA

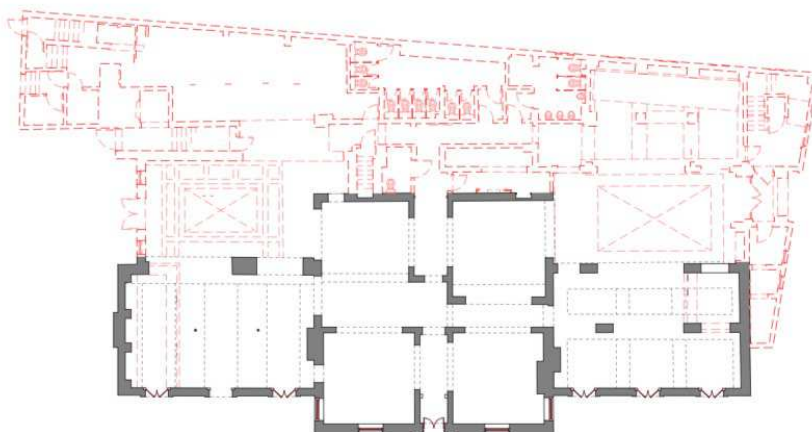
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Recommendation

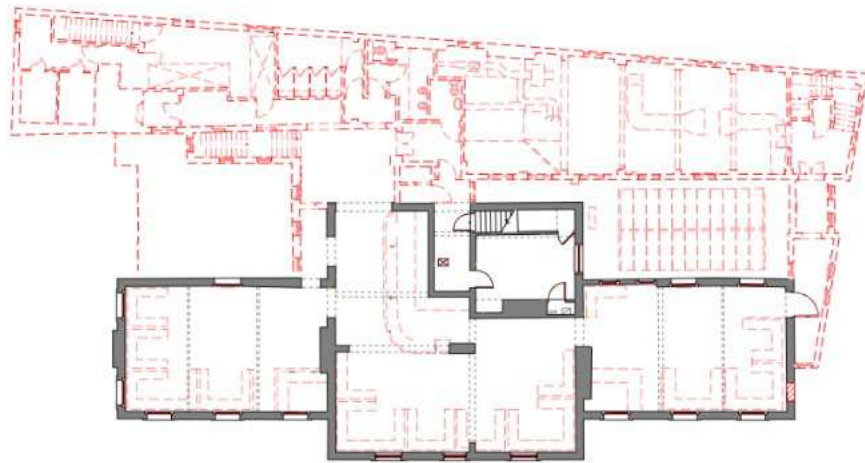
**Refuse**

1. **Proposal:**

- 1.1 The parts of the existing building excluded from the listing description to the rear and sides would be demolished as indicated on the plans below.



*Image 1 – Demolition plan ground floor*

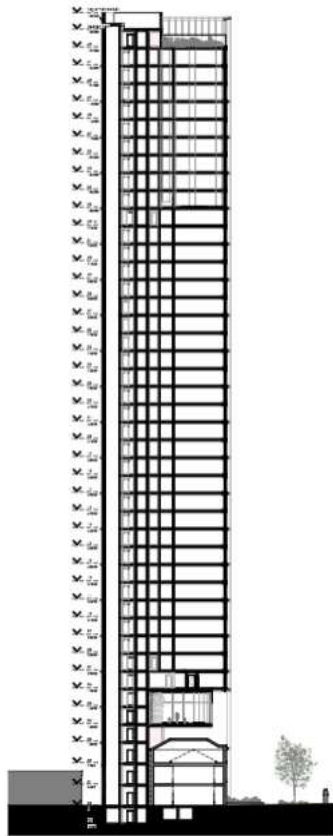


*Image 2 – Demolition plan first floor*

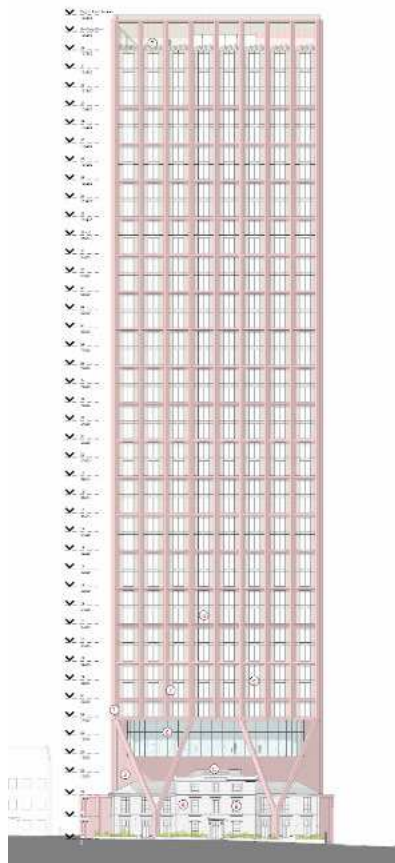
- 1.2 Repair and refurbishment of the retained building would take place in the form of removing signage, replacing a historic pediment reading 'Children's Hospital', replacement of two first floor windows to the north east elevation, reinstatement of the glazed panel below the first floor windows to the south east elevation and internal reinstatement of stairs.
- 1.3 The 42 storey tower which would be erected would be to the rear of the building and effectively cantilevered directly above it. Two stanchions would be installed to the front elevation. A site plan and elevations/sections of the proposed building are provided below. The tower would provide residential accommodation.



*Image 3 – Proposed block plan*



*Image 4 – Proposed section*



*Image 5 – Proposed south east elevation fronting Broad Street.*

1.4 The existing listed building would be utilised to provide community space. Improvements would also be made to the public realm and landscaping within the site.

1.5 The following documents have been submitted in support of the application -

- Drainage information
- Biodiversity Nett Gain (BNG) assessment
- Biodiversity metric calculation tool
- Economic statement
- Noise assessment
- Aerodrome Safeguarding assessment
- Television survey report
- Telecoms assessment
- Wind/Microclimate assessment
- Fire strategy
- Lighting assessment
- Flue and extraction statement
- Geo environmental phase 1 assessment
- TVIA
- Bat survey
- Preliminary Ecological Assessment
- Affordable housing statement
- Planning statement
- Energy statement
- Tall buildings assessment
- Heritage Impact Assessment
- Drawings showing elevations and floorplans
- Design and access statement
- Daylight, sunlight assessment
- Transport Assessment and Travel plan
- Air quality assessment
- Community needs assessment

1.6 [Link to documents](#)

2. **Site & Surroundings:**

- a. The site is located to the north western side of Broad Street, at the corner with Sheepcote Street.
- b. It has an area of 0.16 hectares.
- c. The surrounding area contains a mix of commercial and residential uses. A vacant listed building lies to the Broad Street frontage on the other side of Sheepcote Street at 78-79 Broad Street. There is also a 31 residential tower to the north of 78-79 Broad Street on Sheepcote Street. To the south east of the application site

is 90-97 Broad Street, a three storey terrace of office buildings. The committee have recently resolved to grant consent on that site for a 47 storey tower to provide 525 dwellings.

- d. The site is occupied by a Georgian detached three storey Grade II Listed Building. The building was historically used as a hospital and most recently used as a night club, trading as 'Zara's'.
- e. The site location can be viewed here on google maps -

Google Maps – [Broad Street](#)

### 3. **Planning History:**

There is extensive planning history on the site. That which is relevant to this application is:

- 2024/01241/PA – Concurrent planning application for demolition of adjacent structures, erection of a 42-storey building to provide 300 dwellings above, to the front and to the rear of the listed building with stilts to the ground; associated amenity floor space (use Class C3), provision of an internal viewing platform to create a flexible community space (Class F1 (a-f) and Class F2 (a-b) use) to include exhibition and ancillary cafe space. Refurbishment of listed building, and change of use of former nightclub to provide community facility (Class F), installation of 300 secure cycle spaces and associated public realm improvements including hard and soft landscaping, access improvements and drainage works.
- 2024/01489/PA – EIA screening submission for the development currently before members. EIA not required.

At 90-97 Broad Street –

- 2023/01324/PA - Erection of a 47 storey tower to include 525 residential units (Use Class C3), with residential amenity space, landscaping and all associated engineering and enabling works, including site clearance. Committee have resolved to grant consent for the proposed development and we are awaiting completion of the associated s.106 legal agreement prior to issuing the decision.

### 4. **Consultation Responses:**

- 4.1 The following consultee comments have been received:
- 4.2 Conservation Team – Substantial heritage harm identified
- 4.3 Historic England – Objection. Substantial heritage harm identified

- 4.4 The Georgian Group – Objection due to heritage harm
- 4.5 The Victorian Society – Objection due to heritage harm
- 4.6 Council for British Archaeology – Objection due to heritage harm
- 4.7 The Birmingham Civic Society – Objection due to heritage harm
- 4.8 Historic Buildings and Places – Objection due to heritage harm

5. **Third Party Responses:**

- a. The application has been publicised by site and press notice in addition to letters sent to the occupiers of adjacent properties.
- b. 207 representations in total have been received.
- c. 41 were objections raising the following comments –
  - Insensitive to heritage and the local area and an insult to the listed building
  - Would dominate and overshadow the listed building
  - No regard for outdoor amenity space or the provision of balconies
  - No more skyscrapers needed
  - No jobs for future residents
  - Doesn't support community spirit and will be a future slum in the air.
  - Schools and facilities for future residents are needed
  - Could become an unwanted trend for other areas of the UK
  - The scheme is not an appropriate way out of bankruptcy for the Council
  - The harm to the listed building will be near permanent as future removal of the tower would risk the original building
- d. 140 were in support raising the following comments –
  - Looks really good
  - Times are changing and we need to adapt to this
  - Would provide needed new homes
  - The heritage of the site will be protected and even improved
  - Projects like this are needed to make housing affordable for communities and young families
  - Would be a real landmark
  - This part of Broad Street needs regeneration
  - Efficient use of land
- e. 26 were comments raising the following matters were received –
  - Will preserve the heritage asset
  - Exciting and audacious architecture



- Support for retrofitting
- Birmingham has been hollowed out by NIMBY's and we need to regenerate it
- Traffic congestion, noise pollution and negative impact on quality of life
- Air quality concerns
- Doesn't align with the aesthetics of the neighbourhood
- May affect house prices
- Environmental concerns regarding ecosystems and water sources
- The application should include an Environmental Impact Assessment to allow full consideration.
- Insufficient community engagement and public input
- A beautiful example of how existing heritage can be preserved and blended together with new buildings
- The lighting and front approach of the listed building considerably contributes to its architectural integrity
- The interest provided by the building will encourage people to spend in the city
- The building will come to be admired like Hearst Tower in New York.

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

a. **National Planning Policy Framework**

Paragraph 205 – Considering impact of development on the significance of designated heritage assets.

Paragraph 206 – Substantial harm to designated heritage assets

b. **Birmingham Development Plan 2017:**

- TP12: Historic Environment

c. **Development Management DPD:**

n/a

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

- Design Guide (October 2019);
- National Planning Practice Guidance (PPG);
- Birmingham Design Guide (2022)

7. **Planning Considerations:**

- 7.1 The main material consideration is the impact of the proposal on the significance of the heritage asset.
- 7.2 The existing building on site, above and to the rear of which the proposed tower would be constructed, is Grade II Listed. A concurrent application for planning permission has been received.
- 7.3 Section 66 of the Planning (Listed Buildings and Conservation Areas Act) 1990 states that: “ In considering whether to grant planning permission.....for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State 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.”

#### The significance of the principal impacted asset

- 7.4 The application site is the grade II listed No.80 Broad Street, listed with the boundary wall to the front. The building is an early-19<sup>th</sup> century former residence, later a hospital for women and children, and most recently a bar, restaurant, and nightclub, with 19<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup> century extensions and alterations. The English Heritage produced listing description states that the architectural interest of the building is as follows: “*as a dignified example of polite, late-Georgian architecture, skilfully enlarged with complementary symmetrical wings by John Jones Bateman in 1863, featuring high-quality materials, detailing and craftsmanship.*”
- 7.5 The listing goes on to state that the historical interest of the building comes from two factors, which are: “*\* for its origins as an elegant early-C19 dwelling, illustrating the development of the area of Islington in Birmingham, now Broad Street, as an industrial hub and aspirational suburb; \* for its adaptation as the first ‘lying-in’ hospital in the Midlands, specialising in obstetric care.*”
- 7.6 A large part of the significance of the asset is derived from its setting. The recent developments on Broad Street have had impacts on 80 Broad Street to varying degrees and yet what has been retained and remains directly unincumbered is the legibility of the building’s historic curtilage, its grand position and symmetrical prominence within this setting which. This is attributable to its set-back from Broad Street and the space that remains around and above the building. This is visible from a number of view point on Broad Street, including when viewed kinetically.

#### Impact of the proposal on this asset

- 7.7 The internal alterations and restoration of windows and historic plaque are considered to result in a minor heritage benefit to the significance of the listed building.
- 7.8 The part of the building proposed for demolition is the rear wing of the building which is excluded from the listing. The submitted Heritage Impact Assessment (HIA) considers that the removal of this rear range of buildings will not impact upon the architectural and historical interest of the building, notably as the structures are excluded from the statutory listing. However, officers note that, although architecturally modest, utilitarian and functional in comparison to its host, these structures do form part of the historical evolution of the building in its long history as a hospital. The

extension has been in place for some 80 years and is historically associated to the main building in its use as part of the hospital until the 1980s. The contribution of this part of the building to the overall significance of No. 80 is to a lower level but its demolition would constitute a loss of this element of the historic development of the site. Heritage England also identifies a concern regarding this loss. Considering its lower value to the significance of the listed structure at No. 80 the harm caused would be 'less than substantial' and at the low end of the scale.

- 7.9 Further to concern regarding this loss through demolition, no information has been submitted to demonstrate that removal of these structures would not result in harm to the structural stability of the remaining listed fabric. In addition, and of particular concern, no information has been submitted to demonstrate that structural stability of the listed building would be retained when foundations are constructed to the necessary depth and design to support a cantilevered tower directly above the listed building. Piling may well be required and the two proposed stanchions/stilts to the front elevation would sit directly adjacent to the listed façade. Officers, therefore, have serious concerns for the structural integrity of the listed building should the proposed new development be constructed.
- 7.10 The submitted HIA accepts that the easterly setting of the listed building is an important element of the building's setting and significance but does not consider it to be a fundamental or key element of the building's setting and as such its loss or significant alteration can fairly be considered as bring about a less than substantial degree of harm rather than substantial degree of harm to the Grade II listed building.
- 7.11 The position of the HIA, however, is not supported by officers. The large 42-storey tower would attach directly to the listed building, rising high directly behind, oversailing directly above and over the building, significantly overwhelming the three-storey building and severely compromising any legible appreciation and understanding of how this building sat historically in its immediate curtilage setting on Broad Street, including the appreciation of its architectural and historic form and the continued experience of this through the retained space around and behind the building which reinforces its significance as a rare survival of Georgian Broad Street.
- 7.12 The development would also severely damage the significance of the relationship between the asset and its former front grounds through the introduction of the two large Y-shaped supporting structures directly in front of the principal elevation of the building to Broad Street, which would support the tower as it cantilevers over it. The set back position of No. 80 which gives the building its own particular type of significance in Broad Street and the sustained space of its former front gardens currently allows for a retained understanding of its origins as a domestic Georgian residence. This important element of the building's setting which contributes to its significance would be severely compromised through the large structures placed in front of and above it where they would dominate in the foregrounds of the listed building. In addition, these structures would disrupt the street-level experience of the historic relationship between No. 80 and the Former Barclays Bank, eroding the appreciation of the historic context and the contribution that the Bank makes to the significance of No. 80.

- 7.13 In summary, therefore, the development would almost wholly destroy key attributes of setting which have been identified as fundamental to the legibility, understanding and appreciation of the significance of the grade II listed No. 80 Broad Street and which are experienced in primary and key views of the building. As these attributes of setting would no longer be appreciable or understood the development would cause substantial harm to the significance the heritage asset derives from its setting. This view has also been reached through Heritage England's assessment. In accordance with paragraph 207 of the NPPF, support for development which has a substantial adverse impact on a Grade II listed building should be exceptional. The heritage harm, weighed against the public benefits of the scheme, is discussed further below in the planning balance.

#### The planning balance

- 7.14 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'.
- 7.15 The harm identified to the significance of designated heritage assets needs to be weighed against the considerable importance and weight to be applied to the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990, as well as the degree of accord with BDP policy TP12 and the relevant paragraphs in the NPPF.
- 7.16 Substantial harm has been identified to the Listed Building on site, by officers, Heritage England, and a large number of historic environment specialist advisors within the amenity societies.
- 7.17 Paragraphs 206 and 207 of the NPPF states that:  
*"206. 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. Substantial harm to or loss of: a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional; b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional<sup>72</sup>. 207. Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply: a) the nature of the heritage asset prevents all reasonable uses of the site; and b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and d) the harm or loss is outweighed by the benefit of bringing the site back into use."*
- 7.18 The principal public benefits of the scheme would be the provision of space for use by

a community group and the provision of 300 dwellings. The provision of housing is considered to be a significant benefit, particularly so for the 60 units (20%) offered for affordable private rent. The provision of community space is afforded moderate weight as a public benefit. This is tempered by the fact that no end user has been identified and there is no certainty that one will be identified for this substantial scale, with two units combining to in excess of 1000m<sup>2</sup>. Should a suitable end user be identified, there is nothing before me to indicate that it would be viable for them afford the space. There would also be other more minor public benefits which I afford less weight, such as construction and economic benefits, as well as a relatively small number of employment opportunities at the operational phase. Whilst there would be some limited heritage improvements through refurbishment of the asset (including the restoration of the 'Children's Hospital' plaque), these are minor and are afforded only limited weight.

- 7.19 Notwithstanding all of the above public benefits of the scheme, I do not consider that any of these benefits, or all benefits in combination, would outweigh the substantial identified harm to the significance of the listed building at 80 Broad Street. The test outlined in NPPF paragraph 206 is that development resulting in substantial harm to Grade II Listed buildings should be exceptional. The circumstances of this planning application and associated public benefits are not exceptional and do not provide a clear and convincing justification for the harm.

8. **Conclusion**

The proposed development would result in substantial harm to the listed building (80 Broad Street). It is therefore recommended that listed building consent is refused.

9. **Recommendation:**

- 9.1 That application 2024/01256/PA be REFUSED, for the reason outlined below.

**Reason for Refusal**

- 
- 1 The development would almost wholly destroy key attributes of setting which have been identified as fundamental to the legibility, understanding and appreciation of the significance of the grade II listed No. 80 Broad Street and which are experienced in primary and key views of the building. As these attributes of setting would no longer be appreciable or understood the development would cause substantial harm to the significance the heritage asset derives from its setting. Further, it has not been demonstrated that the necessary engineering for the proposed two front supports would allow the continued structural integrity of the listed building. The public benefits of the scheme would not outweigh this harm and there is no evidence that an exception should be made to allow substantial harm to a grade II listed building. The proposal is therefore contrary to Policy TP12 of the Birmingham Development Plan (2017) and paragraphs 206 and 207 of the NPPF.
- 

Case Officer: Kate Edwards

## Photo(s)

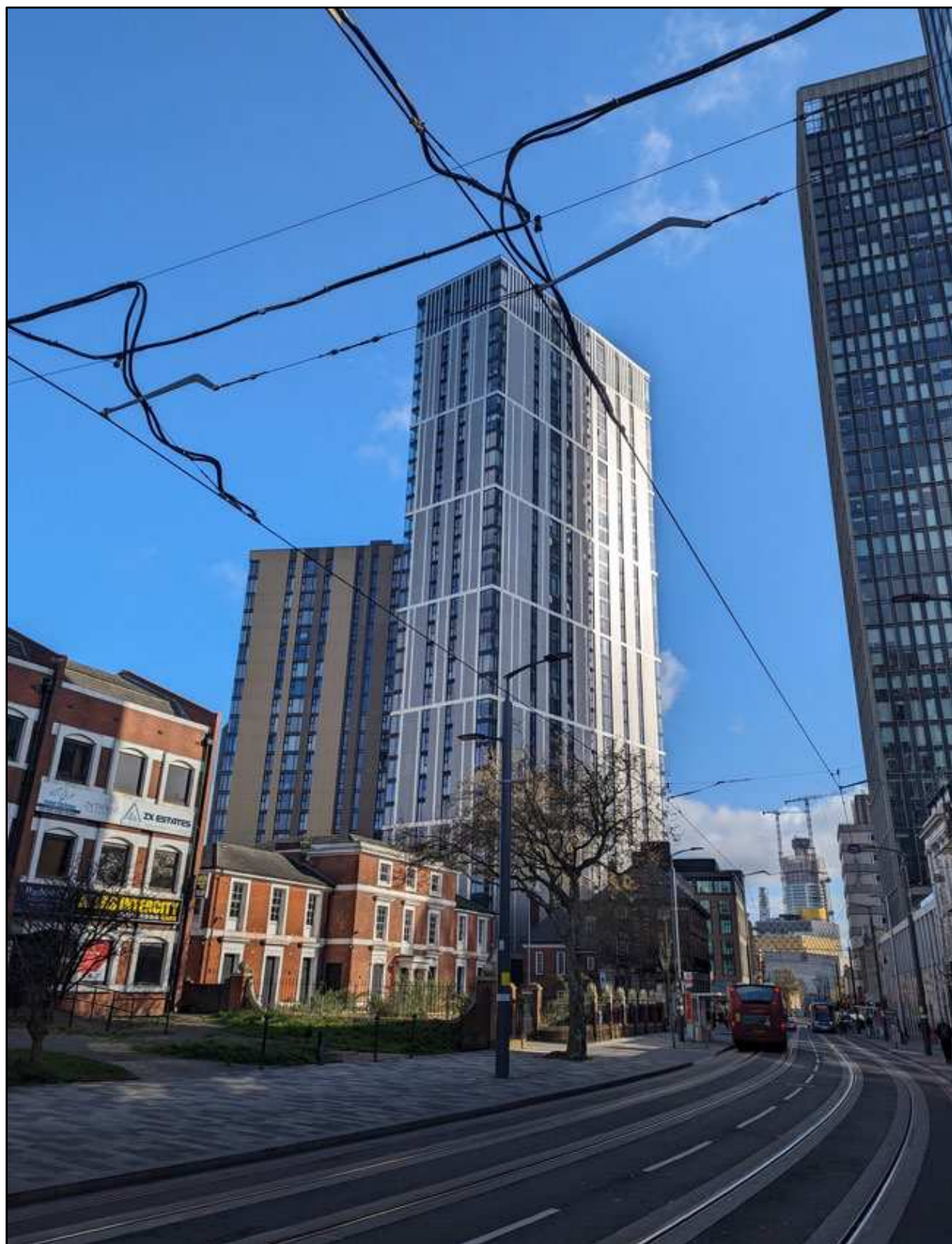


Photo 1 – Broad Street view – looking into town





Photo 2 – rear elevation



Photo 3 – looking along the site frontage





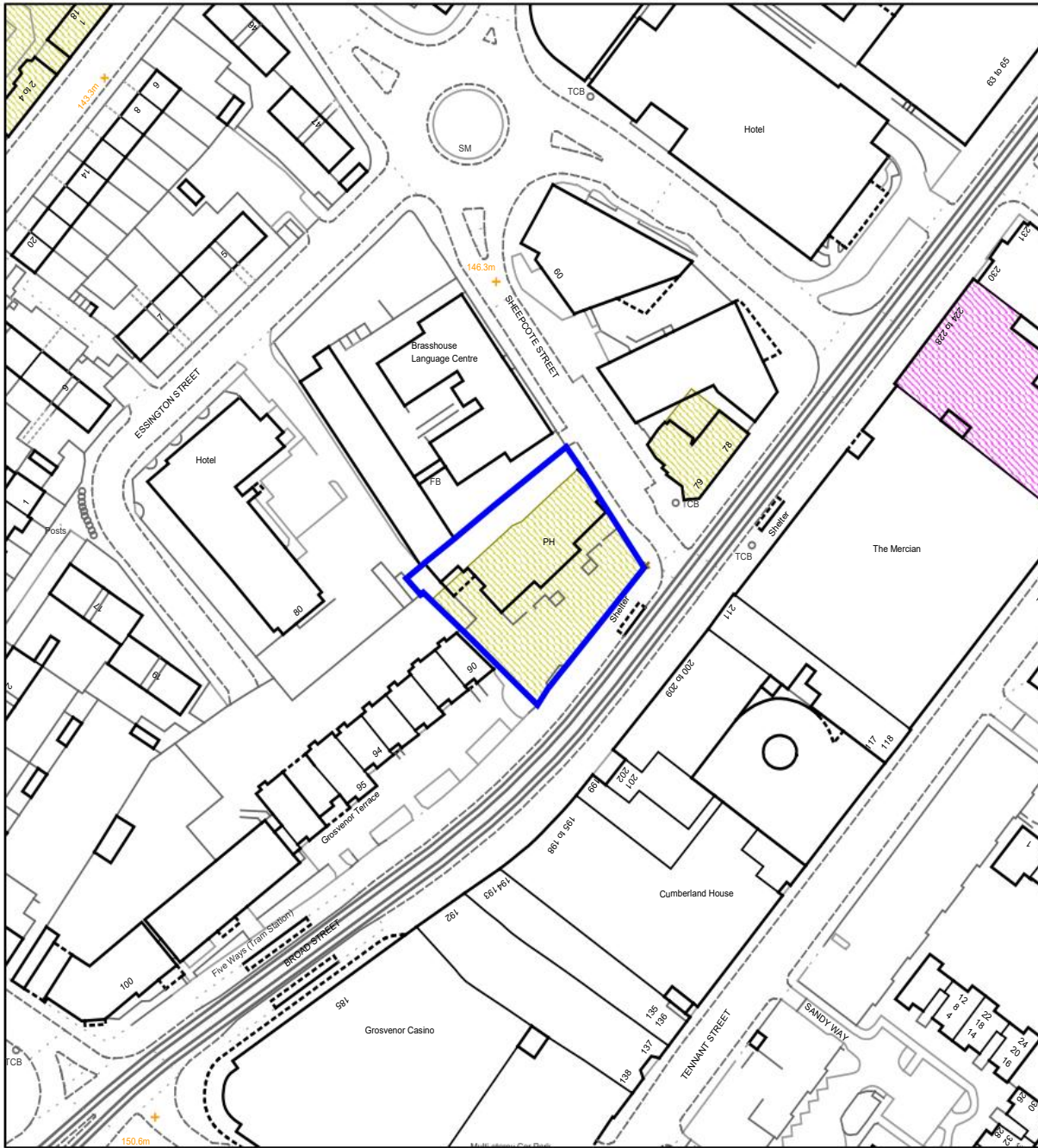
Photo 4 – listed building adjacent to the former Brasshouse Language Centre



Photo 5- frontage of listed building



## Location Plan



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Committee Date:	25/04/2024	Application Number:	2023/07135/PA
Accepted:	23/10/2023	Application Type:	Full Planning
Target Date:	27/05/2024		
Ward:	Bordesley & Highgate		

Clyde Street/High Street, Land at, Digbeth, Birmingham, B12

Demolition of existing building and erection of one building of 34 storeys and one building of 10 storeys with single storey linking pavilion to provide 481 dwellings and 637m<sup>2</sup> of ground floor commercial floorspace (Use Class E) along with associated amenity, access, parking, landscaping and infrastructure

Applicant: Latimer Developments Ltd  
C/o Agent  
Agent: DPP Planning  
11-13 Penhill Road, Pontcanna, Cardiff, CF11 9PQ

---

Recommendation

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

## 1.0. Report Back

1.1. Members will recall discussing this application at your meeting on 14<sup>th</sup> March and raising concerns regarding the lack of affordable housing to be secured via legal agreement and regarding a request received from Birmingham Airport for further assessment information to be received prior to determination.

1.2. In response to your concerns, the applicant has offered the following proposals:

- The applicant confirmed that they agree to enter into a S106 legal agreement for the application (with detailed wording to be confirmed).
- The agreement would include a viability review mechanism whereby the financial viability of the development is re-assessed prior to occupation of a certain proportion of the residential apartments. The viability review would follow the same principles and methodology as the application stage appraisal whereby a reasonable developers profit is set in percentage terms. In the event that the viability review identifies a surplus profit, 50% of that surplus will either be paid to the Council as a financial contribution towards off-site affordable housing, or (at the developer's discretion) the developer may in lieu submit an Affordable Housing Scheme for approval by the Council demonstrating how 50% of the surplus will be utilised by delivering on-site affordable housing.
- The applicant has also offered to use the legal agreement to secure a Travel Plan, monitoring costs, on site infrastructure and Highway works.

1.3. Additional correspondence has also been received from Birmingham Airport confirming that the submission of an Instrument Flight Procedure Assessment (IFP) can be secured

as a pre-commencement condition (i.e. that no further information is needed prior to determination).

- 1.4 No amended plans have been received and further notification and consultation is not, therefore, required.
- 1.4. Further information and context are set out below to assist your Committee in determining the application.

## **2.0. The legal agreement offer in relation to affordable housing**

- 2.1. BDP policy TP31 states, "The City Council will seek 35% affordable homes as a developer contribution on residential developments of 15 dwellings or more. The developer subsidy will be established taking account of the above percentage and the types and sizes of dwellings proposed." It also allows developers to submit a Financial Viability Appraisal (FVA) when they consider affordable housing of 35% cannot be provided. The NPPF is clear that viability is a material consideration in the assessment of a planning application.
- 2.2. To recap, as detailed in the previous report, the applicant was proposing that no affordable housing would be secured in the legal agreement. They have also stated that they will seek to build out the scheme to provide 56% of units as affordable accommodation, with the benefit of grant funding which cannot be secured on units included within a legal agreement. This offer is not binding in planning terms.
- 2.3 The previously submitted FVA indicated that no affordable housing could be provided, which has been confirmed as a reasonable conclusion following rigorous testing by the Council's independent assessor.
- 2.4 The applicant now proposes a review mechanism to allow reassessment of the viability position at an advanced stage of development. This would mean that there would be a possibility that the Council may be able to secure the provision of some affordable if, for example, the market conditions were appropriate and the development were to proceed under a different financial model such as build to rent. Whether the scheme would result in the provision of any affordable, however, would be dependant on the conditions and business model at the time the review takes place.
- 2.5 The above provision is considered to provide sufficient additional reassurance that some affordable may be secured on site should the current applicant not undertake their expressed wish to deliver the scheme as 56% 'additional' (i.e. not secured by legal agreement) affordable with grant funding.

## **3.0. Aviation safety**

- 3.1 Birmingham Airport has confirmed that the Instrument Flight Procedure Assessment (IFP) previously requested prior to determination, can now be secured as a pre-commencement condition.
- 3.2 The Airport also recommends conditions to secure a construction management strategy, a bird hazard management plan, a permanent obstacle lighting scheme and a CAA crane notification condition. It is recommended that these 5 conditions replace conditions 30 and 31 of the original recommendation.
- 3.3 Subject to the conditions Birmingham Airport has recommended, the application is now considered to be acceptable with regards to impact on aviation safety.

#### **4.0 Other matters relevant to the planning assessment**

- 4.1 The applicant has offered legal agreement provisions to secure a Travel Plan, monitoring costs, on site infrastructure and Highway works. However, the Travel Plan and Highway works can be secured by condition as previously recommended. Any necessary on-site infrastructure (e.g. amenity space) is also recommended to be secured by condition. The legal agreement would, however, also need to secure monitoring costs.
- 4.2 Members queried whether Heritage England were consulted on the application. They were not and are not a statutory consultee.
- 4.3 The update presented at the meeting included additional information for members consideration, as follows –
- A subsequent representation has been received from the LLFA confirming that they no longer hold an objection based on amended information received and that they are satisfied with the SUDs position. Following confirmation of the necessary conditions, it is recommended that condition 12 as originally stated in the schedule at the bottom of the report is replaced with three conditions requiring 1. A SUDs strategy, 2. A SUDs operation and maintenance plan and 3. Compliance with the stated flood mitigation measures.
  - An additional representation was received from Clarion stating that Latimer are a subsidiary business of Clarion and that Clarion expect to take on all of the affordable units resulting from the scheme (noting this is beyond any affordable secured in the legal agreement).
  - The Council's Transportation Team have confirmed that they have no objection to the scheme but note that coordination of highway works will be required with the eventual SUDs design.

#### **5.0 Conclusion**

- 5.1 The Council's independent assessor has confirmed that the current scheme and viability model would not support the inclusion of affordable housing directly in the legal agreement. The applicant has, however, offered to secure a review mechanism to re-evaluate the position should this change following the grant of consent. The questions regarding aviation safety have been confirmed following receipt of comments from Birmingham Airport. The proposal is therefore considered acceptable in planning terms.

#### **6.0 Recommendation**

- 6.1 That application 2023/07135/PA be APPROVED subject to the conditions listed in the original report and subject to the amendments described above (that may be amended, deleted or added to providing that the amendments do not materially alter the permission) and pending the completion of a Section 106 Legal Agreement to secure the following:
- i) Provision of affordable housing review mechanism
  - ii) A financial contribution of £1,500 for the administration and monitoring of this deed to be paid upon completion of the legal agreement.
- 6.2 In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by 24 May 2024, 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 an affordable housing review mechanism, the heritage harm resultant from the development would not be outweighed by the public benefits of the scheme.

6.3 That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.

6.4 That in the event of an appropriate legal agreement being completed to the satisfaction of the Local Planning Authority by 24 May 2024, 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).

[End of report back]

## **1. Proposal:**

1.1 The existing warehouse building, operating as a safe store, would be demolished.

1.2 Two new buildings, one of 34 storeys and one of 10 storeys would be erected. They would be linked by a single storey pavilion building. A CGI of the proposed scheme (within the context of other nearby consented schemes) and the site plan are reproduced below for ease of reference.



*Image 1 – Proposed Site Plan*



*Image 2 – CGI of the proposed development with consented schemes shown*

- 1.3 481 dwellings would be provided. The mix of units would be as indicated in figure 1 below.

Unit size*	Number	% of total units (rounded)
1B2P	168	35%
2B3P	241	50%
2B4P	69	14%
3B5P	3	1%
Total	481	100%

\* B denotes number of bedrooms. P denotes number of bedspaces (e.g. 2P = double or twin bedroom)

Figure 1 – Table showing units size, number and % of total units

- 1.4 Whilst the applicant has expressed a desire to provide 55% of the dwellings proposed as affordable housing this would not be secured via the planning permission. Given that there is no certainty this provision would come forward, the provision of affordable housing cannot be considered as a material planning consideration or given weight as a public benefit in the planning balance. 0% is proposed to be secured given the viability constraints of the site.
- 1.5 The ground floor of the buildings would be occupied by commercial space and residential access and storage space.
- 1.6 New public realm is proposed to be provided along the High Street.



- 1.7 Two accessible car parking spaces would be provided for future residents alongside 1 car club space and 5 motorcycle spaces. 277 cycle spaces in total would be provided, including some short stay spaces serving the commercial element of the scheme.
- 1.8 A residents' courtyard would be provided to the opposite side of the rear of the building when viewed from the High St. Communal roof terraces amounting to 246m<sup>2</sup> would also be provided.
- 1.9 The following documents have been submitted in support of the application -
- Flood Risk Assessment
  - Drainage information
  - Biodiversity Net Gain (BNG) assessment
  - Aerodrome Safeguarding assessment
  - Television survey report
  - Contaminated land assessment
  - Wind/Microclimate assessment
  - Topological survey
  - Fire statement
  - TVIA
  - Bat survey
  - Preliminary Ecological Assessment
  - Affordable housing statement
  - Planning statement
  - Sustainable construction statement
  - Tall buildings assessment
  - Archaeology and Heritage Statement
  - Drawings showing elevations and floorplans
  - Financial viability statement (A report produced by LSH evaluating the applicant's statement is also available)
  - Design and access statement
  - Landscape strategy
  - Daylight, sunlight and overshadowing assessment
  - Tree survey and arboricultural impact assessment
  - Transport Statement
  - Framework Travel plan

1.10 [Link to Documents](#)

**2. Site & Surroundings:**

- a. The site is located to the south western side of High Street Bordesley, to the corner with Clyde Street. This is in the south eastern section of the City Centre.
- b. It has an area of 5545m<sup>2</sup> or 0.5545 hectares.

- c. The remainder of the buildings within the same urban block as the application site (including fronting Warwick Street and Warner Street) are in commercial use. The adjacent block to the north west on the High Street, number 75-80, has been cleared and benefits from consent for 517 apartments with ground floor commercial use (reference 2017/07277/PA).
- d. The site is occupied by large warehouse building which, the Planning Statement indicates, hasn't been in use for a number of years. The level of the site is lower than that of Clyde Street.
- e. The site location can be viewed here on google maps - [Clyde St - Google Maps](#)

### **3. Planning History:**

- 2022/06977/PA – Pre-application enquiry regarding a proposed development of 466 dwellings. Advice issued.
- 2005/01262/PA – Change of use of units 3 and 4 from B2 (general industry) to B8 (self storage unit) and alterations to elevations including new shop front. Approved 26/05/2005.
- 2001/00398/PA – Alterations to elevations and layout to allow division of industrial unit into smaller units. Approved 30/03/2001.
- Adjacent site at 75-80 High Street (Lunar Rise, opposite side of Clyde Street) – 2017/07207/PA – Permission granted for demolition of existing buildings and the development of 517 residential apartments (including a 25 storey tower) with commercial units (Class A1-A5 and Class D2) at ground floor level and parking. Consent extant due to start on site within 3 years.
- Adjacent site at 193 Camp Hill (opposite side of High Street)- 2021/10845/PA - Proposed redevelopment of the site to provide 550 homes and flexible business / commercial floorspace of 1,480sqm (Use Classes E (a, b, c, e, f, g), F1, B2 and B8) in 6 new blocks (A-F) ranging from 3-26 storeys, together with car parking, landscaping.
- Adjacent site at 193 Camp Hill (opposite side of High Street)- 2023/03081/PA - Section 73 application for the Variation of Conditions 2 (approved plans), 3 (approved plans) and 22 (landscape plan) attached to planning permission 2021/10845/PA to accommodate design and landscape amendments. Permission granted.

### **4. Consultation Responses:**

- 4.1 City design and landscape team - No objection. Conditions not recommended as not able to offer support (rather than 'no objection') to the scheme without reassurance around building method and contractor.
- 4.2 Conservation Team - Heritage harm identified.

- 4.3 Conservation Officer, Archaeology - Development acceptable subject to condition requiring archaeological investigation
- 4.4 Trees team – No existing tree issues.
- 4.5 Regulatory Services Team - No objection subject to conditions to secure –
- Air quality study and management plan
  - Noise mitigation scheme
  - Contamination remediation scheme
  - Contaminated land verification report
  - Construction Environmental Management Plan
- 4.6 LLFA - Concerns expressed regarding SUDs and attenuation calculations, overland flows off site and flood proofing to ground floor. This matter is outstanding and will be reported to committee as an update.
- 4.7 Transportation team - Amendments required to layout to provide footway. This matter is outstanding and will be reported to committee as an update.

Recommended conditions

- highway works provided before occupation; provision of layby, new footway and TROs on Clyde Street
  - closure of redundant crossings on other frontages.
  - boundary treatment measures to prevent illegal forecourt parking.
  - cycle parking before occupation.
  - Demolition and Construction Management Plan before works start.
  - doors on Warner Street to open into the building and not out onto the footway.
- 4.8 Affordable Housing Team - No affordable housing is to be provided. The Affordable Housing Team support the applicants indicative proposal that they will seek to provide 55% affordable with external funding.
- 4.9 Ecology Team - Acceptable subject to conditions to secure:
- Scheme for ecological enhancement measures
  - details of bird/bat measures
  - implementation of mitigation and enhancement
  - Biodiversity roof condition
  - Precautionary working method statement
- 4.10 Employment Access Team - Acceptable subject to either condition or legal agreement to ensure Employment Access Plan.
- 4.11 Health and Safety Executive (HSE) - Content with fire safety design to the extent that it affects land use planning considerations.
- 4.12 Canal and Rivers Trust – No comments to make on the proposal.
- 4.13 West Midlands Fire Service - Comment submitted outlining matters with which the development would need to comply.

- 4.14 Active Travel England - ATE recommended deferral of the application stating: "ATE is not currently in a position to support this application and requests further assessment, evidence, revisions and/or dialogue as set out in this response." They state that there are several issues which require further consideration and enhancement to ensure that suitable provision for active travel is made. These are:
- Insufficient cycle parking
  - Travel plan must be secured by condition
  - Would like to see a quantitative assessment of the routes residents would take to access the cycle network, train stations and facilities such as schools
  - The applicant must explore opportunities to make a developer contribution towards either the creation or upgrade of relevant routes identified in the LCWIP.
- 4.15 West Midlands Police - No objection subject to conditions/recommendations. Request for development to meet Secured by Design standards and for conditions requiring CCTV and limiting hours of commercial units. Concerns raised about security during development phase and suicide prevention to rooftop amenity space.
- 4.16 Network Rail - Information provided regarding controls which the applicant will need to meet given proximity to the railway. A Basic Asset Protection Agreement will be necessary and should cover matters such as crane safety in proximity of the railway.

**5. Third Party Responses:**

- a. The application has been publicised by site and press notice in addition to letters sent to the occupiers of adjacent properties.
- b. 5 representations have been received making the following comments:
- Insufficient parking and increased pressure on existing off street parking.
  - Will there be social housing?
  - No green space provided for future and existing residents
  - Does not fit in with the historic area
  - Increased traffic will be harmful to children attending the two nearby schools
  - Loss of light from the tower
  - The building work will reduce access to public transport
  - No roadside trees
  - Poor architectural design
  - Does not encourage sustainable development
  - Should be restricted to 6-8 storeys because it is out of the city centre.
  - No infrastructure such as doctors and dentists exist to support the flats.
  - Erodes the heritage of the area.
  - Increase in anti social behaviour
  - Want quality homes for a mix of families as well as apartments
  - The developer should contribute to mitigate the impact on health and education.

- A comments was also made stating that the plans do not show whether there will be any windows overhanging Mcc House, Warner Street.

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

### **a. National Planning Policy Framework**

Paragraph 11 – Presumption in favour of sustainable development.

Paragraph 124 – Making effective use of land.

Paragraph 205 – Considering impact of development on the significance of designated heritage assets.

### **b. Birmingham Development Plan 2017:**

- i. GA1: City Centre
- ii. PG3: Place making
- iii. TP3: Sustainable construction
- iv. TP4: Low and Zero Carbon Energy Generation
- v. TP6: Management of Flood Risk
- vi. TP8: Biodiversity
- vii. TP12: Historic Environment
- viii. TP20: Protection of employment land
- ix. TP21: Hierarchy of Centres
- x. TP24: Diversity of uses within centres
- xi. TP27: Sustainable neighbourhoods
- xii. TP28: The location of new housing
- xiii. TP29 The housing trajectory
- xiv. TP30: The type, size and density of new housing
- xv. TP31: Affordable Housing
- xvi. TP39: Walking
- xvii. TP40: Cycling
- xviii. TP45: Accessibility standards for new development

### **c. Development Management DPD:**

- i. DM1: Air Quality
- ii. DM2: Amenity
- iii. DM6: Noise and Vibration
- iv. DM10: Standards for Residential Development
- v. DM14: Transport access and safety

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



- Rea Valley Urban Quarter Supplementary Planning Document (2020)
- Design Guide (October 2019);
- National Planning Practice Guidance (PPG);
- Car Parking Guidelines SPG (2021)
- Loss of Industrial Land to Alternative Uses Supplementary Planning Document (2006)
- Affordable Housing (2001)
- Birmingham Design Guide (2022)
- Public Open Space in New Residential Development (2007)
- Housing, Economic Development Needs Assessment (2022).

## **7. Planning Considerations:**

### **7.1 The main material considerations are:**

- Principle of development
- Housing mix and tenure
- Design
- Impact on residential amenity
- Heritage
- Wind and microclimate
- Noise and pollution matters
- Transportation considerations
- Ecological considerations
- Flooding and drainage
- Sustainability

#### Principle of development

7.2 The Birmingham Development Plan became 5 years old on 10th January 2022 and is currently being updated. In accordance with NPPF paragraph 75, BDP policies PG1 and TP29 are considered out of date, and the Council's five-year housing land supply must be calculated against the Local Housing Need figure for Birmingham. Currently, 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.

7.3 Paragraph 11 d)ii) 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. Footnote 7 notes the specific policies which protect important areas or assets, and these include policies relating to designated heritage assets. This is discussed in further detail in the planning balance assessment.

- 7.4 The site is within the City Centre where a mix of uses are suitable. The proposal is for the redevelopment of a brownfield site currently accommodating a building which the applicant states is vacant. It is also within the River Rea Urban Quarter Supplementary Planning Document ("the SPD") area, where a transition from predominantly industrial uses to include more residential accommodation is identified. As identified in the SPD, the site is within the High Street frontage neighbourhood, where development of ground floor active uses and high density city living is identified as a future aspiration. The redevelopment of the site for a residential led, mixed use scheme could therefore present an efficient use of land with the ability to make a significant contribution to meeting Birmingham City Council's identified housing need.
- 7.5 It is noted that Policy TP20 of the BDP states that employment land should be retained for this use unless it is a non-conforming use or it is evidenced that the site has been actively marketed for alternative employment generating uses. However, the Loss of Industrial Land to Alternative Uses SPD makes the following statement– "City Centre Sites - Within the City Centre it is recognised that a more flexible approach towards change of use from industrial to residential is required to support regeneration initiatives. The boundary of the City Centre is defined in the UDP by the Ring Road – A4540. The 2003 industrial land review recognises the contribution of industrial land towards City Centre housing development. Proposals involving the loss of industrial land will be supported, however, only where they lie in areas which have been identified in other planning policy documents, that have been approved by Birmingham City Council, as having potential for alternative uses." (para 5.6). Given that the River Rea Urban Quarter is identified as suitable for a transition from industrial to residential, it is considered that the proposed loss of the employment use on this site can be supported regardless of the lack of marketing information.
- 7.6 The provision of flexible commercial space (use class E) at ground floor level is supported and would facilitate activation of this stretch of the High Street.
- 7.7 Given all of the above considerations, it is considered that national and local policy and guidance weigh in favour of the principle of the redevelopment of the site for residential use with active ground floor use, as proposed.

#### Housing mix, Tenure and Affordable Housing

- 7.6 The Council's Housing and Economic Development Needs Assessment (HEDNA) provides guidance on the mix of dwelling sizes, required in different parts of the city, and replaces the existing SHMA referred to in Policy. The proposal would not replace existing housing and would therefore add to housing choice within the area. Figure 2 'Tenure of housing' as set out in the BDP (2017) required as a percentage, a mix of housing. This has been updated by the HEDNA which suggests the following mix for the central area. 1 beds: 17% 2 beds: 37% 3 beds: 31% 4 beds 15%. The 481 dwellings proposed would comprise the following mix of unit sizes –

Unit size*	Number	% of total units (rounded)
1B2P	168	35%
2B3P	241	50%
2B4P	69	14%
3B5P	3	1%
Total	481	100%

\* B denotes number of bedrooms, P denotes number of bedspaces (e.g. 2P = double or twin bedroom)

Figure 2 'Tenure of housing'

As set out in the BDP (2017) specifies a housing mix by percentage of the total number of dwellings provided. This has been updated by the HEDNA which requires the following mix for the central area.

1 beds: 17%                      2 beds: 37%                      3 beds: 31%                      4 beds 15%

7.7 There would therefore be more 1, and particularly 2 beds than sought by the HEDNA and a smaller proportion of units of 3 or more beds than sought. Overall, however, given the high density of the development, and that the greatest proportion of units would have two bedrooms rather than one, it is considered that the mix proposed is appropriate for this location.

7.8 With regards to the provision of affordable housing, 0% is proposed to be secured by either planning obligation or condition. This falls significantly short of the 35% sought by Policy TP31 of the BDP. However, in line with national policy in this regard, Policy TP31 does allow for a lower level of affordable housing to be secured if it is evidenced that the maximum viable level of affordable housing is being proposed. A viability statement was submitted with the application and this has been independently verified by the specialist viability team at LSH. They have confirmed that the scheme cannot viably afford to provide any affordable housing. The primary reasons for the lack of scheme viability which they have outlined are –

- The scheme is very large for a build for sale scheme and therefore carries very high cost liability
- Sales values of around £450 per sq ft are expected and there is no comparable evidence to justify higher in the proposed location
- Finance cost is significant for this type of scheme.

The assessment has been adjusted to improve values by increasing off plan sales figures, incorporating a 7.5% reduction in overall cost, and attributing higher value for the commercial element, alongside lower finance cost. However, even with these adjustments, the scheme is not generating enough profit to support the provision of affordable housing secured within a legal agreement. This is highly regrettable but in accordance with the established viability assessment and Policy principles.

- 7.9 The applicant, Latimer is a subsidiary business of Clarion Housing, a Registered Provider of affordable housing. It is of note, as background information only, that Clarion have stated that they will be seeking to deliver the scheme to provide 55% affordable housing which would not be secured in the legal agreement and would instead come forward through the potential award of grant following the grant of planning permission. Whilst this would be a very positive scenario, the committee can have no certainty that this will come to fruition. 100% of the scheme could be delivered as private market units. On this basis, the offer of potential affordable housing is not a material planning consideration which can be taken into account in the decision making process. The provision of affordable housing which is not guaranteed by legal agreement cannot be considered as a public benefit of the proposed scheme in the planning balance.
- 7.10 Whilst officers have discussed a number of options to facilitate the provision of some secured affordable housing in order to increase the level of public benefits associated with the scheme, this has not been achieved.
- 7.11 Overall, given the independently assessed viability situation, this is considered acceptable.

#### Design

- 7.12 Each of the key facets of the design (townscape, layout, scale and massing, architecture and materiality and landscaping) will now be discussed individually.

#### Townscape

- 7.13 The application is accompanied by a detailed townscape and visual analysis. A visual amenity assessment has been conducted through reference to viewpoints, including various points on the High Street and 132 Bradford Street (Grade II listed Mosely Arms), the canal and Highgate Park. The assessment states that the development would result in a neutral or negligible visual impact the majority of viewpoints other than 132 Bradford Street, the hill at Kingston Hill Park and looking for the bridge at Small Heath Highway and the Grand Union Canal. Adverse townscape is also identified, particularly to the High Street. Visual mitigation is proposed in the form of landscaping and high quality materials (to be secured at condition stage.) Some of the views at produced below for reference.



Application Site Boundary

*Image 3 - From 132 Bradford Street baseline*



Application Site Boundary

*Image 4 - From 132 Bradford Street with proposed scheme*





*Image 5 - From Grand Union canal baseline*



*Image 6 - From Grand Union Canal with the proposed scheme and wirelines of other consented schemes*

- 7.14 The buildings and particularly the taller building would have a significant townscape and visual impact due to their scale. This represents a harm of the development which needs to be considered against the public benefits of the scheme. There is a significant new housing need within Birmingham and thus a significant need for new built form. The site is on a major thoroughfare and in an area identified as suitable for intensification and potentially a tall building within an adopted SPD. Balanced against these factors, the townscape and visual impacts are considered proportionate to the extent of new housing being provided and acceptable. It is, however, noted that achieving high quality design and materials is essential to ensure that these impacts are mitigated to the largest extent possible.

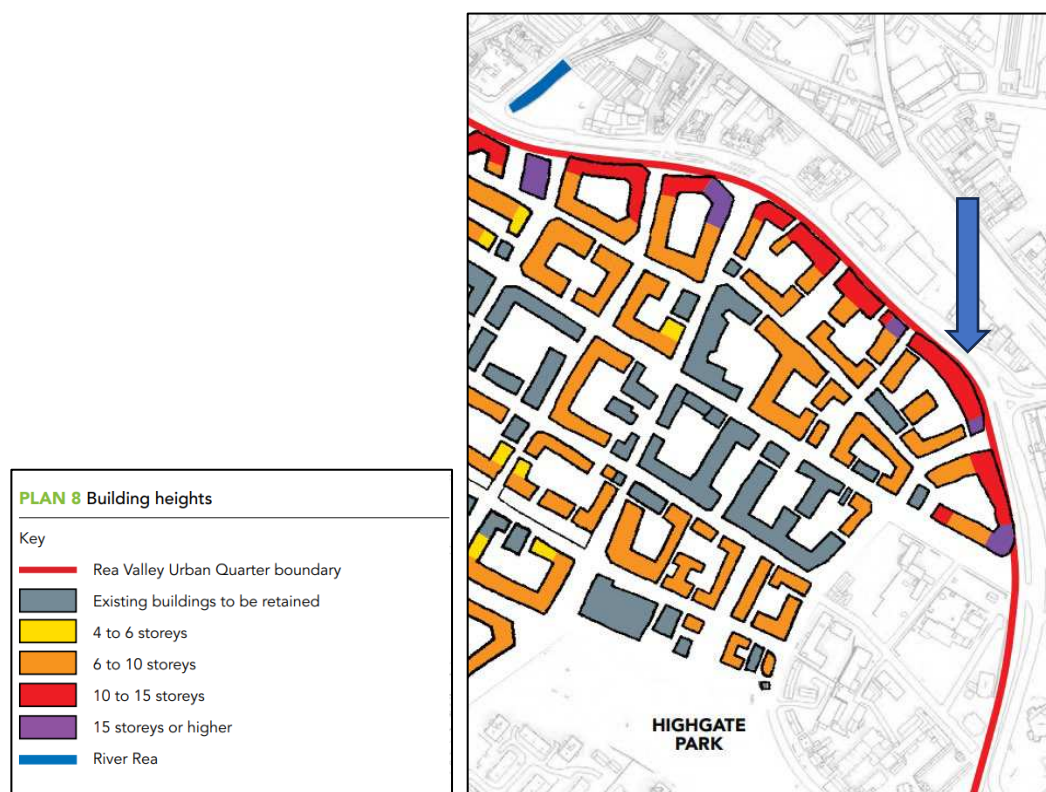
#### Layout

- 7.15 The proposed layout, with one L shaped building and one more rectilinear building would in affect represent two side of a courtyard. This is considered an appropriate layout for the site and an opportunity to maximise useable amenity space for future

residents. This is also in line with the perimeter block approach outlined for both this site and the surrounding area in the SPD.

#### Scale and mass

- 7.16 The Rea Valley Urban Quarter SPD height proposal plan identifies the site as suitable for a 10-15 storeys fronting the High Street, with a slender taller element of more than 15 storeys to the corner as shown in the images below, with the site denoted by a blue arrow.



*Image 7 – Rea Valley SPD Plan*

- 7.17 The proposal is in line with the approach to building height and massing outlined in the SPD. The height is focused adjacent to the High Street. The 34 storey building would appear as a slender tower whilst the lower 10 storey building would provide an appropriate shoulder course. This massing would also appear appropriate within the emerging surrounding context of consented schemes.

#### Architecture and materiality

- 7.18 The architecture takes reference from the historic industrial buildings of Digbeth with equal apertures and expressed lintel and cill details. A bay study of the lower building is provided below.



*Image 8 – Bay Study*

- 7.19 This is considered an appropriate approach for the scale of the buildings and the context of the site. Details ensuring deep recesses and window reveals to ensure the façade is appropriately articulated are proposed. The use of high quality materials which are appropriate for the locality will also be essential for the scheme to achieve a high quality appearance. This matter would be secured by condition. A pre-cast system would be most appropriate. Detailed visual mock ups will also be necessary.
- 7.20 Whilst the Design officer has expressed concern that there is not sufficient surety at this stage to ensure appropriate mitigation of the townscape and visual impacts of the mass and height, it is considered that these matters can be secured by condition.

#### Landscaping

- 7.21 The provision of an expanded and improved area of public realm to the front of the site adjacent to the High Street is appropriate and represents a public benefit of the scheme. The initial information regarding the landscaping of the proposed courtyard space, with expansive areas of soft landscaping, is supported and will support the greening aims of the SPD whilst providing a more comfortable and usable environment for future residents than a primarily hard landscaped area. This aspect of the scheme is wholly supported.
- 7.22 The overall design, therefore, is considered acceptable in relation to each level of analysis outlined above.





*Image 9 – High Street View*

#### Impact on residential amenity

- 7.23 There is not currently residential accommodation in close proximity to the site and it is not considered that the proposed scheme is likely to have an adverse impact on the outlook or privacy of existing residences. The submitted sunlight and daylight assessment does identify that some nearby residences would experience a perceivable reduction in daylight and sunlight as a result of the proposal. The most noticeable impact would be at 117-122 High Street. However, the overall resultant levels at this dwelling and others are considered acceptable for an urban area.
- 7.24 There is a consented residential scheme which has been commenced to the north west at 75-80 High Street (Ref 2017/07207/PA). That scheme shows a tower adjacent to Clyde Street with a small set back from the Highway and residential accommodation with habitable rooms facing towards the current application site. The proposed building would be set back by approximately 2m, whilst the existing highway is approximately 7m in width. Whilst this habitable room to habitable room separation distance of approximately 10m is significantly lower than the separation we would generally expect as a rule of thumb, it is considered acceptable given that the outlook would be over the highway where habitable rooms could already be overlooked to a certain extent.
- 7.25 With regards to the sunlight and daylight impacts on the consented scheme at 75-80 High Street, the majority of facing habitable room windows would meet BRE sunlight/daylight tests. However, a number would not and would experience significant reductions as a result of the proposal. However, given the urban nature of the site and

the pressing housing need to build at higher densities on appropriate brownfield sites such as the application site, this impact is considered acceptable.

- 7.26 Overshadowing would not result in a material adverse impact. Overall, therefore, it is considered that the impact on the residential amenity of adjoining occupiers would be acceptable.
- 7.27 With regards to the residential amenity of future residents, all units would meet or exceed the Nationally Described Space Standards. Whilst the units wouldn't benefit from private amenity space, they would have access to communal amenity space within the courtyard which would be for residents only. The internal layouts would allow sufficient privacy between habitable rooms in different dwellings within the development.
- 7.28 An assessment of the internal living environment has been submitted which demonstrates at 90% of habitable rooms would meet suggested daylight standards in the cumulative scenario (i.e. if the consented schemes are built out.) 64% of habitable rooms would meet the suggested sunlight criteria within the same cumulative scenario. These levels of sunlight and daylight are considered acceptable.
- 7.29 Overall, therefore, the impact on the residential amenity of both existing/consented dwellings and the future occupiers of the development are considered acceptable.

#### Heritage

- 7.30 The proposal is for a tall building located within the setting of a large number of designated and non-designated heritage assets. The application is accompanied by a Heritage Assessment which identifies a low level of less than substantial harm to the significance of the various listed building through development within their setting and to the significance of the Conservation Area through impact on character and appearance.
- 7.31 The Council's Conservation Officer identifies less than substantial harm to multiple assets. Taking each assets in turn, the following levels of less than substantial harm have been identified -
- Holy Trinity Church- low level
  - 132 Bradford Street- moderate level
  - Clements Arm P. H. – moderate level
  - Moseley Arms P. H. – moderate level
  - Digbeth, Deritend and Bordesley High Streets Conservation Area- low to moderate level in various locations but low to the conservation area as a whole
  - Warwick Bar Conservation Area- low level
- 7.32 The Conservation Officer also identifies that the proposed development will cause harm to the following non-designated heritage assets through development in their settings:



- No. 123 High Street- moderate level
- Bradford Court- moderate level
- No. 70 Warwick Street- moderate level

7.33 In accordance with NPPF paragraph 205, this harm is afforded significant weight within the planning balance and weighs against the development. Whether the identified harm is outweighed by the public benefits of the scheme is discussed further below in the planning balance assessment.

#### Wind and micro climate

- 7.34 The application is accompanied by a wind microclimate assessment report, produced following wind tunnel testing. The assessment makes the following conclusions –
- The development would not result in any significant wind safety risks at ground level
  - The proposal would result in a beneficial wind microclimate impact on the Bordesley Station bus stops under the railway bridge. They currently experience unsuitable conditions which would become suitable with the building in place.
  - Without mitigation, there would be a localised area of uncomfortable conditions to the south easter corner of the development. This could be mitigated by the provision of screen within the proposed landscaping.
  - The proposed amenity spaces would have suitable wind conditions for their intended use.
  - Screens and planters would be required to mitigate the wind impact on the proposed amenity terraces, including that to the roof. With this mitigation, however, they would provide suitable wind environments for amenity space and not subject to wind safety risks.
  - There would be a negligible wind impact on consented schemes in the vicinity of the site.
- 7.35 These conclusions indicate that the wind environment which would be experienced within the site for future residents and passers by/users of surrounding functions such as the bus stops, would be acceptable. The wind impacts on consented schemes would be negligible when considered against the impacts which those schemes themselves would generate. The proposal is therefore considered acceptable with regards to the resultant wind impacts.

#### Noise and pollution matters

- 7.36 The proposed development would be acceptable with regards to all air quality, land contamination risk and noise matters, subject to conditions as recommended. Noise mitigation will be required. The development is therefore considered acceptable in this regard.

#### Transportation considerations

- 7.37 In accordance with adopted Policy, there would be very limited parking associated with the development. The resultant impact on Highway safety and efficiency through car journey generation would therefore be negligible.

- 7.38 A number of conditions would be necessary to ensure that the scheme is acceptable with regards to transportation impacts, including to ensure the provision of cycle parking and a Travel Plan.
- 7.39 The applicant has been asked to produce an amended plan to ensure that the width of the proposed footway is increased to an acceptable figure. The outcome of this request will be presented at committee.
- 7.40 It is noted that Active Travel England, who are a statutory consultee on the planning application, have recommended that the application is deferred. This would be to allow the submission of further assessment information and further discussions regarding potential planning obligations to fund improved cycle routes and similar. The committee are obliged to consider these comments in the decision but are not obliged to determine the application in line with them.
- 7.41 Officers consider that deferral on the matters raised is not necessary. Whilst concerns have been raised that insufficient cycle parking would be provided, the Highway Authority do not object on this basis. Officer's also support the applicant's statement that cycle stores are seldom used to capacity and that this saved space could be used for more efficient purposes. A Travel plan can be secured by condition, as recommended. Whilst a quantitative assessment of the routes residents would take to access the cycle network, train stations and facilities such as schools could be produced, this would be unlikely to have a material impact on the outcome of the decision as to whether the proposal is acceptable with regards to sustainable travel. It is located within a highly accessible location in close proximity to major transport nodes. The Highway Authority has not requested a developer contribution towards either the creation or upgrade of relevant routes identified in the Local Cycling and Walking Infrastructure Plan (LCWIP). On the basis that no directly relevant section of work has been identified, such a contribution would not be necessary to make the development acceptable.
- 7.42 The proposal is therefore considered acceptable with regards to transportation impacts (subject to receipt of a plan showing a minor amendment to the proposed footway width.)

#### Ecological considerations

- 7.43 The application is accompanied by a Bat Report outlining a survey of sound methodology. The building was identified as having low bat roost potential and no bat activity was identified during the survey. Roosting birds may be present on site but no suitable habitat is currently provided for other species. The proposal is therefore not likely to result in harm to protected species, subject to the conditions as recommended by the Council's Ecologist.
- 7.44 Whilst the application was submitted before 12<sup>th</sup> February 2024 and therefore is not subject to a statutory requirement to provide Biodiversity Net Gain (BNG) the application has been accompanied by a full assessment. As there are no habitat units currently on site (i.e. the baseline conditions) the landscaping proposed result in a

substantial biodiversity nett gain of 100%. It is proposed that this would be secured by condition.

- 7.45 The proposal is thereof reconsidered acceptable with regards to ecological matters.

#### Flooding and drainage

- 7.46 The site is within flood zone 1 and therefore not likely to experience flooding, despite relative proximity to the River Rea.
- 7.47 Achieving suitable SuDS for the site is essential given the highly built-up nature of the surrounding area. The LLFA have outstanding concerns regarding the proposal in this regard and have a holding objection. The applicant is seeking to address these prior to the committee meeting. The officer recommendation is subject to information addressing the LLFA's comments being forthcoming and giving the LLFA sufficient comfort that their objection can be removed. This information will be presented at the committee meeting.

#### Sustainability

- 7.48 The application is accompanied by a Sustainable Construction Statement. This states that the development will maximise energy efficiency by measures such as air tightness, solar glass and efficient lighting. An air source heat pump would be used for energy generation, alongside some solar panels to the rooftop area. Sufficient energy efficiency measures are identified to comply with the requirement of Policies TP3 and TP4.

#### 7.49 Other issues

- The proposal is considered acceptable with regards to aerodrome impacts. The CAA and Birmingham International Airport were consulted and did not return comment. The application is accompanied by a Technical Aerodrome Safeguarding Assessment. This notes that a warning light may be necessary and that cranes may be tall enough to come vertically within the Outer Horizontal Surface of Birmingham Airport. It is recommended that these matters are controlled by condition.
- The application is also accompanied by a television baseline survey report. This identifies that whilst there might be a slight decrease in signal strength within the reception 'shadow zone' of the tower, the effects are unlikely to be noticeable given that there is a very good baseline strength. The proposal is therefore acceptable in this regard.
- Representations have raised concern that there is insufficient social infrastructure, such as dentist and doctors, in the locality of the application site to support the new development. CIL funding is available through the bid process should local services identify a need for investment due to the proposed development. The proposal is therefore acceptable in this regard.
- Representations have raised concerns regarding anti-social behaviour. However, there is no reason to suspect that the proposed scheme would result in an increase in

anti-social behaviour and no objection has been received from the police.

- Representations have raised concern that there may be windows over-hanging the site. No such windows have been identified.

#### The planning balance

- 7.50 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'.
- 7.51 Paragraph 11 d) states that:
- “Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”
- 7.52 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.
- 7.53 The Birmingham Development Plan became 5 years old on 10th January 2022. In accordance with NPPF paragraph 75, 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)ii) of the NPPF is engaged and the tilted balance applies for decision taking. This means that planning permission should be granted, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 7.54 This is only the case, however, when Paragraph 11d)i) is not engaged i.e. there is no harm which provides a clear reason for refusal to a protected asset or area of importance. Footnote 7 clarifies that designated heritage assets are considered to be protected assets of importance for the purposes of paragraph 11d)i). Therefore, where there is a clear reason for refusal, because of harm to designated assets, the tilted balance described above is not engaged.
- 7.55 The harm identified to the significance of designated heritage assets needs to be weighed against the considerable importance and weight to be applied to the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990, as well as the degree of accord with BDP policy TP12 and the relevant paragraphs in the NPPF.
- 7.56 The identified harm was as follows;

#### Designated assets

- Holy Trinity Church- low level
- 132 Bradford Street- moderate level
- Clements Arm P. H. – moderate level
- Moseley Arms P. H. – moderate level
- Digbeth, Deritend and Bordesley High Streets Conservation Area- low to moderate level in various locations but low to the conservation area as a whole
- Warwick Bar Conservation Area- low level

#### 7.57 None designated heritage assets:

- No. 123 High Street- moderate level
- Bradford Court- moderate level
- No. 70 Warwick Street- moderate level

#### 7.58 Using the three strands of sustainable development the public benefits of the scheme are identified as

##### *Economic*

- Temporary construction jobs over the construction period
- Limited employment within the commercial units
- Additional residents adding to the economy
- Limited level of employment for staff managing the residential aspects of the buildings.

#### 7.59 Para. 85 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” However, I also note that many of the new jobs would only be for a temporary period, and that whilst some permanent jobs would be created, the figure is not significant. However, given the scale of development, moderate weight is attached to these economic benefits.

#### 7.60 Social

- The provision of 481 new homes

Taking account of the extent of the 5YHLS shortfall, substantial weight is attributed to the provision of housing using brownfield land in sustainable locations to deliver homes.

#### 7.61 Environmental

- The site would enhance the ecological and biodiversity offer at the site and contribute to the greening and biodiversification of the city centre.
- Public realm improvements
- Using suitable brownfield land within settlements for homes.

#### 7.62 Moderate weight is afforded to the sustainability credentials of the built development, I note the carbon impact of demolition, however given the existing BDP Policies, this



carries limited weight in this context. The site has very limited ecological value and the proposal does provide ecological gains. This is afforded moderate weight.

- 7.63 Set against these benefits is the less than substantial harm identified to designated heritage assets, identified as low or moderate levels of less than substantial harm in all cases. In accordance with TP12 and the NPPF, great weight should be given to the impact on heritage assets in the planning balance. In addition, a balanced judgement is required with the high degree of harm resulting from the complete loss of and adverse impact to the setting of non-designated heritage assets.
- 7.64 The designated heritage assets hold considerable historic significance and the less than substantial harm which would be caused to their significance by the development is considered by conservation colleagues to reach low or moderate levels. The level of harm is also broadly commensurate with other consented schemes on Digbeth High Street and the site is identified within an adopted SPD for larger buildings with a corner building of more than 15 storeys. Therefore, on balance, I consider there are enough benefits associated with this proposal to outweigh the heritage harm, with particular reference to the delivery of homes on brownfield land within a sustainable urban context. The test within the NPPF is therefore favourable to the proposal. In reaching this conclusion on heritage matters it follows that I can find no clear reason for refusal based on policies, as referenced by NPPF para.11(d)i and Footnote 7. The tilted balance is therefore engaged.
- 7.65 There are also other harms associated with the development. There would be a loss of light to some habitable rooms of some surrounding existing residencies and some reduction in available light within consented schemes nearby. I attribute this moderate weight in the planning balance. There would also be a degree of inevitable townscape harm given the scale of the building, as acknowledged in the applicants submitted TVIA. I attribute this low weight in the planning balance, however, given that a number of other tall buildings have been consented to the High Street and that the site is identified by the SPD as an area of change.
- 7.66 Overall, I conclude that the cumulative adverse impacts would not be such that they would significantly and demonstrably outweigh the benefits of the scheme. In accordance with para. 11(d)ii) of the NPPF, I recommend the application is approved subject to the conditions set out below.

## **8. Conclusion**

The proposed development would result in some harms, most notably to townscape and visual factors, heritage assets and the lighting conditions within some habitable rooms of surrounding existing and consented dwellings. However, it would result in significant public benefits. Not least of these would be the provision of 481 new dwellings to make a contribution towards meeting significant housing demand in the city. There would also be public benefits in terms of the provision of significant biodiversity nett gain, improved wind conditions to the bus stops and the provision of a greater offer of larger (i.e. two bedroom unit) dwellings. Overall, therefore, the proposal is considered to be acceptable in planning terms.

## **9. Recommendation:**

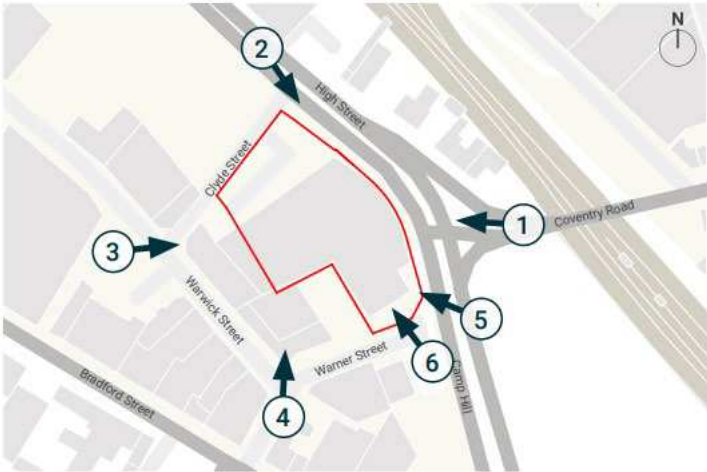
- 9.1 That application 2023/07135/PA be APPROVED, subject to the applicant successfully addressing the LLFA's objection and the objection being removed, and the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

- 
- |    |  |
|----|--|
| 1  | Implement within 3 years   |
| 2  | Build in accordance with approved drawings                                     |
| 3  | Archaeological investigation   |
| 4  | Air quality study and management plan  |
| 5  | Noise mitigation scheme  |
| 6  | Contamination remediation scheme   |
| 7  | Contaminated land verification report  |
| 8  | Construction Environmental Management Plan                                     |
| 9  | Provision of materials samples and panels                                      |
| 10 | Provision and maintenance of landscaping                                       |
| 11 | Visual mock ups for both buildings   |
| 12 | TBC Conditions regarding SUDS  |
| 13 | Travel plan  |
| 14 | Highway works provided before occupation.                                      |
| 15 | Closure of redundant crossings on other frontages.                             |
| 16 | Boundary treatment measures  |
| 17 | Cycle parking before occupation.   |
| 18 | Demolition and Construction Management Plan before works start.                |
| 19 | Doors on Warner Street to open into the building and not out onto the footway. |
| 20 | Scheme for ecological enhancement measures                                     |
| 21 | Details of bird/bat measures   |
| 22 | Implementation of biodiversity mitigation and enhancement                      |
| 23 | Biodiversity roof condition  |
| 24 | Precautionary working method statement (ecology)                               |
| 25 | Construction Employment Plan   |
-

- 
- 26 Crime prevention strategy
  - 27 Limiting hours of commercial units to close to the public 11pm to 6am
  - 28 Scheme for wind mitigation, including to terrace areas
  - 29 Compliance with sustainable construction statement.
  - 30 Aviation Warning light
  - 31 Control of cranes
- 

Case Officer: Kate Edwards

**Photo(s)**



Key plan



View from Coventry Road



View from High Street



View from corner of Clyde Street and Warwick Street



View from Warner Street



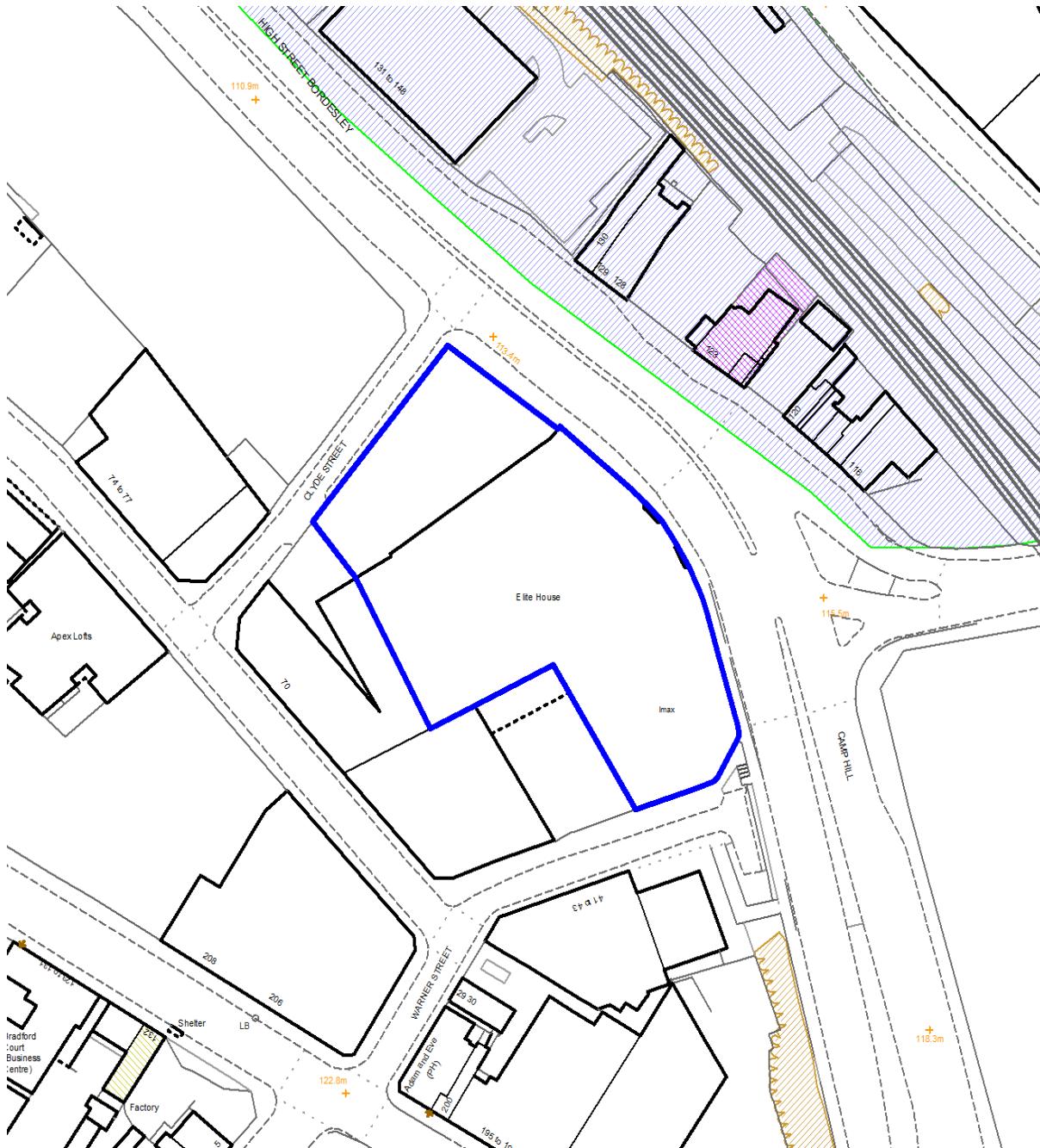
View from Camp Hill



View from Warner Street



## Location Plan



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# **Birmingham City Council**

## **Planning Committee**

**25 April 2024**

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	11	2023/00652/PA  235 Victoria Road Aston Birmingham B6 5HP  Outline application for the erection of a 40 unit apartment block with external works (amenity and car parking areas) detailing access, appearance, layout and scale (landscaping is a reserved matter)
Approve – Conditions	12	2023/05593/PA  St Chads Court 213 Hagley Road Edgbaston Birmingham B16 9RG  The conversion of St Chads Court and St Chads House from vacant office space (Class E) to student accommodation (Sui Generis) together with the installation of roof lights and the erection of three new purpose-built student accommodation blocks, with communal amenity space, landscaping, parking, and associated infrastructure
Approve – Conditions	13	2023/05620/PA  St Chads Court 213 Hagley Road Edgbaston Birmingham B16 9RG  Listed Building Consent for internal alterations to Grade II listed St Chads Court and St Chads House together with the installation of roof lights in conjunction with the conversion of St Chads Court and St Chads House from vacant office space (Class E) to student accommodation (Sui Generis) and the erection of three new purpose-built student accommodation blocks, with communal amenity space, landscaping, parking, and associated infrastructure

Committee Date:	25/04/2024	Application Number:	2023/00652/PA
Accepted:	14/02/2023	Application Type:	Outline
Target Date:	01/04/2024		
Ward:	Aston		

235 Victoria Road, Aston, Birmingham, B6 5HP

Outline application for the erection of a 40 unit apartment block with external works (amenity and car parking areas) detailing access, appearance, layout and scale (landscaping is a reserved matter)

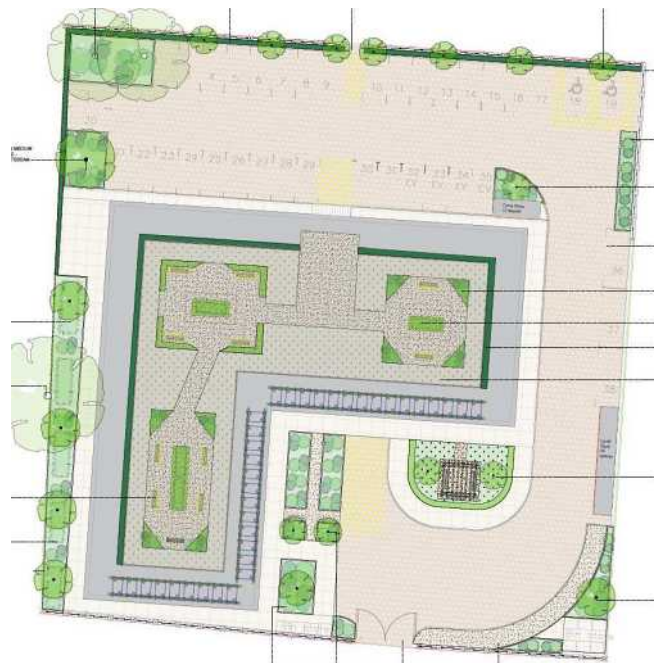
Applicant:	K and N Real Estate Aston Ltd Unit 7 365 Park Road, Hockley, Birmingham, B18 5SR
Agent:	Architecture and Interior Design Ltd 51 Coleshill Road, Hodge Hill, Birmingham, B36 8DT

#### Recommendation

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

#### **1. Proposal:**

- 1.1 The proposal is to develop 40 self-contained apartments with associated amenity space and parking on a current vacant, brownfield site in Aston. The site would be served by vehicular access from Clifton Road, with an additional pedestrian access from Victoria Road.
- 1.2 The proposal would provide 38 no. car parking spaces and facilities to park and store 40 no. cycles provision on site. These facilities have been incorporated into the layout as shown below –



*Proposed layout*

- 1.3 The 40 apartments would deliver, further to negotiation with Officers, 18 x 1 bed; 12 x 2 bed; and 10 x 3 bed self-contained units with open plan kitchen/living space and bathrooms.
- 1.4 The overall building is L shape in plan as shown below, and has a height of 10.5 metres, with central access tower with a height of 13.5 metres. The block measures 45.8 x 40.5 metres across its maximum elevational extents.
- 1.5 An indicative materials schedule shows the use of red brickwork, cedar cladding, render for external surfaces, with aluminium glazing and rainwater goods fixtures.



*Proposed Victoria Road elevation*

- 1.6 [Link to Documents](#)

## 2. **Site & Surroundings:**

- 2.1 The site is the location of a former social club (now demolished) in Aston, fronting Victoria Road close to its junction with the Aston Expressway. Since removal of the building, the site has been colonised by self-set shrubby and ruderal vegetation and rough grassland characteristic of urban brownfield sites. There are significant piles of debris, including building rubble and fly tipped waste. The surrounding area is a mix of residential and commercial uses.
- 2.2 The area was comprehensively redeveloped in the 1960s, predominantly for residential. The 3500m2 approx. The site is roughly square in shape and was formerly occupied by a social club. Planning permission was granted in 2015 for a conference / banqueting centre, however this was not built.
- 2.3 Neighbouring development along Victoria Road features non-residential uses occupying large plots: to the east is the 1-2 storey Masjid-E-Noor Mosque and its associated carpark; and to the west is a 2-storey Medical Centre. Vehicle access to the site is from the south, utilising a road that also serves the Mosque.
- 2.4 The site is identified edged red on the aerial below and by the red pin on the digital map, and can be accessed on Google Maps here – [235 Victoria Rd - Google Maps](#)



3. **Planning History:**

2021/03517/PA – *Outline application, with access and landscaping reserved, for erection of 3 storey building containing 40 apartments* – Withdrawn.

2015/10147/PA – *Erection of two storey detached building as conference/banqueting suite* – Approved subject to Conditions.

4. **Consultation Responses:**

- 4.1 The **Council's Transportation Manager** recommends a number of conditions to secure suitable on site access and parking provision and facilities.
- 4.2 The **Council's Design Officer** further to amended plans and clarification on design points raised, has no objection subject to conditions securing a high quality finish, appropriate materials, boundary treatments and landscaping.
- 4.3 The **Council's Ecologist** has no objection subject to conditions securing landscaping and biodiversity details and enhancements.
- 4.4 The **Council's Arboriculturist** notes the proposal requires the removal of a B category London plane tree which is in a publicly visible location.
- 4.5 The **Council's Planning Policy Team** comments *the principle of the proposed residential development scheme can be considered as acceptable*.
- 4.6 **Regulatory Services** have no objection to this application subject to recommended conditions securing and protecting health and amenity.
- 4.7 **Severn Trent Water** has no objection subject to conditions securing details of foul and surface water drainage details.
- 4.8 **West Midlands Police** have no objection, however recommends a number of conditions to increase security including CCTV, secure access details, and lighting details.

5. **Third Party Responses:**

- 5.1 Public consultation included the displaying of a Site Notice. The appropriate five Ward Members and local MP were notified in writing. A total of 52 adjoining local properties, and Perry Hall Community Association were consulted by notification letter. Further to this the following comments were received –
- 5.2 **Councillor Mumtaz Hussain** *strongly objects* to the proposals; however no specific grounds of objection are disclosed.
- 5.3 A petition with 130 named and signed signatories has been received whereby signees *'object to the planning application due to adverse impact this may have on local parking provision, increased traffic and the risk of anti social behaviour'*.
- 5.4 Three letters of objection have been received, these comments are summarised as follows –
- Concerns over traffic and parking
  - Concerns over anti social behaviour and crime
  - The area is already overpopulated



- Considers too much parking provision is provided
  - There should be more residential units and less parking
- 5.5 A letter of support has been received from a representative from **Victoria Road Medical Centre**, who comments '*We are happy for an apartment block to be built. The site is currently derelict and infested with rats and mice. We are a purpose built GP Practice who have the capacity to take on additional patients. We believe the new block will make the environment safer, cleaner and have an overall positive impact on our area*'.
- 5.6 A letter of support from a local resident comments –
- Having more houses built in the middle of a housing crisis is objectively a good thing.
  - This is a proposal for a high density housing, which actually saves space compare to build equivalent houses that will be needed to house this many people.
  - Making sure houses are affordable to buy and rent through increase supply (like this application will do) is beneficial to both the existing community and the working people of this city.
- 5.7 A further representation welcomes the incorporation of a green roof and encourages the use of 'swift bricks' to provide nesting opportunities for mitigation of biodiversity loss by making provision for swifts.

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

### a. National Planning Policy Framework:

Although read as a whole, the following sections and paragraphs are particularly relevant:

Section 2: Achieving sustainable development  
 Section 5: Delivering a sufficient supply of homes  
 Section 8: Promoting healthy and safe communities  
 Section 9: Promoting sustainable transport  
 Section 11: Making effective use of land  
 Section 12: Achieving well-designed places  
 Section 15: Conserving and enhancing the natural environment

### b. Birmingham Development Plan 2017:

Policy PG3: Place making  
 Policy GA3: Aston, Newtown and Lozells  
 Policy TP1: Reducing the Cities Carbon Footprint  
 Policy TP2: Adapting to climate change  
 Policy TP3: Sustainable construction  
 Policy TP6: Management of flood risk and water resources  
 Policy TP7: Green Infrastructure  
 Policy TP8: Biodiversity and Geodiversity  
 Policy TP9: Open space, playing fields and allotments  
 Policy TP27: Sustainable neighbourhoods  
 Policy TP30: The type, size and density of new housing  
 Policy TP31: Affordable housing  
 Policy TP38: A sustainable transport network  
 Policy TP39: Walking  
 Policy TP40: Cycling  
 Policy TP44: Traffic and congestion management

Policy TP45: Accessibility standards for new development

Policy TP47: Developer contributions

c. Development Management DPD:

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

DM14 Transport access and safety

DM15 Parking and servicing

d. Supplementary Planning Documents and Guidance

*Birmingham Design Guide SPD (2022)*

- Design Principles Document
- Birmingham ID Manual
- Streets & Spaces Manual
- Landscape & GI Manual
- Healthy living & Working Manual
- Efficient & Future-ready Manual

7. **Planning Considerations:**

7.1 *Principle*

7.2 The site is located within the Aston, Newtown and Lozells Growth Area (GA3) as set out in the Birmingham Development Plan which suggests that the area has the potential to accommodate in the region of 700 new dwellings. This goal has been met however these 40 dwellings would make a positive contribution to achieving the 51,000 new dwellings that are required in Birmingham by 2031. The site is identified in the 2022 HELAA (Ref 2487), inclusion in the HELAA is no guarantee of planning approval, merely that the site is suitable for residential development subject to meeting local plan policy requirements.

7.3 Policy TP28 stipulates that new residential development should *Be located outside flood zones 2 and 3a (unless effective mitigation measures can be demonstrated) and 3b.*\* The site is located in flood zone 1 and is suitable for residential development.

7.4 *Housing Land Supply*

7.5 Paragraph 11 of the NPPF states that plans and decisions should apply a presumption in favour of sustainable development. For decision taking, P.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 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.

7.6 The *Birmingham Development Plan* became five years old on 10th January 2022 and is currently being updated. In accordance with Paragraph 75 of the NPPF, Policies PG1 and TP29 of the Birmingham Development Plan are considered out of date, and

the Council's five-year housing land supply must be calculated against the Local Housing Need figure for Birmingham. Currently, 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.

#### 7.7 *Affordable Housing*

- 7.8 Policy TP31 states, *"The City Council will seek 35% affordable homes as a developer contribution on residential developments of 15 dwellings or more. The developer subsidy will be established taking account of the above percentage and the types and sizes of dwellings proposed."* It also allows developers to submit a Financial Viability Appraisal (FVA) when they consider affordable housing of 35% cannot be provided.
- 7.9 Furthermore, the NPPF makes clear that viability is a material consideration in the assessment of a planning application.
- 7.10 Lambert Smith Hampton (LSH) were instructed by the Council (at the applicant's expense) to carry out a Financial Viability Assessment of the proposals.
- 7.11 The fundamental issue with this scheme is the low value nature of the location. Aston is more of a traditional family housing location and not an established apartment location, with regards the open market. As a result, the value of the apartments will be relatively low and there will also be a value ceiling linked to the price of houses in the location, which many purchasers considering the location will prefer. The build costs will be similar as for other apartment schemes but as the end values are low, the viability is challenged.
- 7.12 In terms of whether the scheme will be built out as there is a viability deficit, an investor may accept a lower level of return or build out the units for a long term investment hold, sacrificing the initial profit in exchange for an annual return. Alternatively, the scheme may be built out for affordable housing or sold to an affordable housing provider for which the location is better suited. Such details have been provided to the applicant's agent. Whilst officers have outlined a number of options to facilitate the provision of some secured affordable housing in order to increase the level of public benefits associated with the scheme, this has not been achieved.
- 7.13 The assessment of costs by LSH was based on evidence which is reflective of local market conditions. The output of the appraisal was based on LSH's reasonable development costs. The assessment demonstrated there is a significant negative residual land value, which confirms that the scheme is unable to sustain any affordable housing or Section 106 contributions. Overall, given the independently assessed viability situation, this is considered acceptable.
- 7.14 Notwithstanding the above, and mindful of the importance of securing affordable housing on site as part of schemes of these size and the potential for viability to change positively, a S106 legal agreement (with detailed wording to be confirmed) is proposed which would include a viability review mechanism whereby the financial viability of the development is re-assessed prior to or on occupation of a certain proportion of the residential units.
- 7.15 The viability review would follow the same principles and methodology as the application stage appraisal whereby a reasonable developer's profit is set in percentage terms. In the event that the viability review identifies a surplus profit, 50% of that surplus will either be paid to the Council as a financial contribution towards off-site affordable housing, or (at the developer's discretion) the developer may in lieu submit an Affordable Housing Scheme for approval by the Council demonstrating how 50% of the surplus will be utilised by delivering on-site affordable housing.

7.16 *Housing Mix*

7.17 The Council's Housing and Economic Development Needs Assessment (HEDNA) provides guidance on the mix of dwelling sizes, required in different parts of the city, and is referred to policy TP30. The proposal would not replace existing housing and would therefore add to housing choice within the area.

7.18 Whilst it is not expected that every proposal would provide the exact mix and noting the wider demand for family sized units in the City, Officers through negotiation have secured an increase in the provision of 3 bed units to 10 units.

7.19 The identified *open market housing* modelled size requirements for Perry Barr, as set out within the HEDNA are;

1 bed: 5%, 2 bed: 30%, 3 bed: 47%, and 4 bed:17%.

7.20 The negotiated provision provides an overall split of 45% 1 bed, 30% 2 bed, and 25% 3 bed units. Overall, given the density of the development, and that the greatest proportion of units would have two or more bedrooms rather than one, it is considered that the mix proposed is appropriate for this location. This mix better contributes to the aim of creating a more varied supply of family homes in the Perry Barr sub-area, suggested in the HEDNA and is considered to be acceptable.

7.21 *Design*

7.22 With regards to layout, scale and massing, the L-shaped apartment block follows the established building line along Victoria Road and returns along the western edge of the site, where it is set back about 4.6m from the boundary with a medical centre's surface car park. This is acceptable in current context.

7.23 Buildings around the site are 2-storeys and the neighbouring medical centre and mosque are large footprint buildings. The 3-storey scale and the massing of the proposed apartment block sit comfortably within this context.

7.24 The CGI images below show a well-proportioned building with a strong architectural frame and rhythm to the facades. The reasonably-sized windows and recessed balconies have potential to deliver a good level of visual interest. The provisional materials list is acceptable in principle, with conditions recommended for all external materials, finishes and details to ensure a suitable and high quality appearance to the development.



*View of the proposal from Victoria Road*

- 7.25 The proposed units, in totality, have broad conformity with minimum Nationally Described Space Standards, as required by Policy DM10 of the Development Management in Birmingham DPD, with 1 bed units ranging from 43.62 – 66.73 sq metres in floor area; 2 bed units ranging from 66.97 – 71.73 sq metres; and 3 bed units ranging from 76.83 – 95.4 sq metres.
- 7.26 Each unit benefits from significant glazing, providing natural light and passive solar gain. Units on second and third floors have small internal balconies as can be viewed on the above CGI and as detailed below, providing amenity space to complement the on-site offer (which includes the 690 sq metres of amenity space/ garden on the roof and 295 sq metres of functional amenity space/ garden at ground level) and nearby Aston Hall Park.



- 7.27 In summary, the proposed development will relate well with the neighbouring buildings, with a resultant enhancement to the site and surrounding area in aesthetic and amenity terms. The proposed is therefore compliant with Policies PG3, TP9 and TP27 of the Local Plan and principles set out in the Design Guide SPD.



## 7.28 *Ecology*

7.29 A roof top terrace provides amenity space, provision of 15 no. PV panels, and biodiversity and landscaping opportunities which will complement the wider landscaping strategy.

7.30 The indicative landscape scheme includes a good range of native/ornamental, ecologically beneficial planting (trees, large shrubs, hedging and herbaceous planting), which is supported in principle. The inclusion of a green roof as part of the scheme design is welcomed and contributes to the requirement to compensate for habitat losses and to deliver a biodiversity gain. The detailed planting plan and long-term management arrangements are secured by condition.

7.31 The *Sustainability Statement* advises efforts to improve the ecological value of the site will also include provision of bird boxes suitable for species present in the local area. Bird boxes for species associated with nesting around built structures, such as swift and house sparrow, will also be prioritised. Further details and implementation and retention of these habitat features are secured by condition.

## 7.32 *Arboriculture*

7.33 There are three trees within the development boundary and two further trees in close proximity to it. The two London Planes (T1 and T2) located near to the Victoria Road (north) boundary are in good condition with no visible defects. A Sycamore (T5) is a self-set tree rooted into a retaining wall on the south boundary.

7.34 A Field Maple (T3) is in the adjacent property to west of the site. It is a young tree, in good condition with no obvious defects. A cherry (T4) appears to be a self-set cherry in the neighbouring property. It has a poor form but does not show any obvious defects.

7.35 The trees in their existing context are shown below –



7.36 The proposed development will not require the removal of any trees, however it is recommended T5 should be removed due to its position growing in a retaining wall next to an electricity sub station.

- 7.37 Mitigation planting within the new landscape scheme is required using a mix of species with emphasis on native and high biodiversity value trees suitable for the setting. The proposed Landscape Scheme provides full mitigation for the loss of T5 with 17 new small to medium trees indicated along the north and west boundaries and within the landscape amenity and utility spaces. The proposed new tree planting along Vicarage Road will significantly contribute to the street scene. Suitable conditions secure delivery of this.
- 7.38 The retained trees (T1, T2 and T4) will require protection during the construction period and a suitable condition is recommended.
- 7.39 Overall with regards to ecology and trees, the proposal is considered to accord with Policy TP6, TP7 and TP8 of the Local Plan and Paragraph 136, 180 and 186 of the NPPF.
- 7.40 *Transportation*
- 7.41 Whilst the site is currently vacant, it is noted the last lawful use was as a social club. It is considered that the proposal is likely to increase the traffic to/from the site compared to the current vacant site, however considering the previous use of social club and the previous approved use as a conference/banqueting suite and restaurant with associated caretakers flat, the increase in traffic would not be considered to be significant and to have severe impact on surrounding highways.
- 7.42 The proposed level of parking provision (38 no. spaces) is within the specified maximum provision. The site has a relatively good level of accessibility to public transport. Waiting is prohibited by Traffic Regulation Order (TRO double yellow) on Victoria Road within this location, however waiting is unrestricted on some of the other roads to the south side of the site, adjacent to the site access. Accordingly, it is considered the proposal adequately mitigates parking through on site provision (and it is noted cycle storage is also provided on site and within the building itself).
- 7.43 The site has good accessibility to local services and facilities, with a Primary School and religious institutions well under 5 minutes walk from it, and Aston Manor Academy ten minutes walk to the South. The train stations at Witton (15 minutes) and Aston (17 minutes) are also readily walkable. The site itself has an additional pedestrian access on to Victoria Road, complementing the main access to the South, off Clifton Road.
- 7.44 Noting the BCC Transport Development Officer comments, which raise no objection the subject to a number of conditions, the proposals are considered acceptable in highway terms and satisfy the test of NPPF paragraph 115 as there would not be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network will not be severe. The proposals would facilitate sustainable transport and help foster a change in patterns of behaviour. Accordingly, Development Plan policies TP38 and TP44, and policy DM14 of the Development Management in Birmingham DPD are satisfied.
- 7.45 *Environmental Health*
- 7.46 The application includes a noise assessment which recommends that glazing should have a minimum acoustic performance of 31 dB Rw. Regulatory Services has no issue with this position however notes the applicant needs to demonstrate that the development will incorporate these recommendations. As such a condition requiring the submission of a Noise Insulation Scheme to establish residential acoustic protection is recommended demonstrating habitable rooms are serviced by glazing and doors which will provide a weighted sound reduction index (Rw) of at least 31 dB.

Any ventilation to habitable rooms shall be provided by means of acoustic vents achieving weighted element normalised level difference (D<sub>ne,w</sub>) of at least 36 dB.

- 7.47 The Air Quality Assessment report has used dispersion modelling and site specific air quality monitoring to assess air quality impacts of the proposal. The report concludes that *"based on the assessment outputs, the location is considered suitable for the proposed end use from an air quality perspective without the inclusion of mitigation"* and also that *"due to the relatively low number of vehicle movements generated by the proposals, road traffic impacts were predicted to be not significant"*. As such Regulatory Services have no objection to the proposal on air quality grounds.
- 7.48 The site is a brownfield site that has been subject to several previous phases of development. The land may therefore be affected by contamination. A site assessment will be required to determine if any remedial measures are required. These matters are secured by conditions.
- 7.49 *Drainage*
- 7.50 The site is located in Flood Zone 1 as identified by Environment Agency mapping.
- 7.51 It is proposed that the foul drainage is to be reconnected to the existing network on site, the pipes should be designed to Building Regulations Part H to ensure sufficient diameter and capacity. The use of soakaways has been discounted and there are no watercourses in the vicinity therefore it is proposed to discharge to the public sewer for the surface water and for the foul. However, the following SUDS features have been deemed viable and are incorporated in the proposals (and secured by conditions):
- Rainwater Harvesting
  - Water Butts
  - Green Roof
  - Proprietary Treatment Systems
  - Bioretention
  - Permeable Paving
- 7.52 The building has been designed with a green roof that will take the rainfall before it discharges to the rainwater down pipes, it also is being used as a roof garden for the residents of the building, this is one of the most versatile of the SUDS elements as this is offering 3 of the 4 pillars (quantity, amenity, biodiversity) of a SUDS scheme. Attenuation is being provided in the sub base of the permeable paving equating to 115.2 m<sup>3</sup> of storage. The block paved surface and then the granular layers beneath assist in removing petrochemicals from the water before it is stored in the subbase offering both Water Quantity and Water Quality benefits on the site.
- 7.53 Severn Trent Water has no objection to the proposed drainage arrangements subject to conditions, which secure appropriate details and maintenance arrangements.
- 7.54 As such it is considered Policy TP6 – *Management of Flood Risk and Water Resources* is complied with. The proposed drainage strategy demonstrates that the disposal of surface water from the site will not exacerbate existing flooding and incorporates achievable SuDS within the development.
- 7.55 *Sustainable Development, Energy Generation and Efficiency*
- 7.56 Compliance with Policy TP3 – *Sustainable construction* is important to ensure that developments will be designed in ways that maximise energy efficiency, reduce energy consumption, minimise the use of carbon and can be resilient and adapt to the effects of climate change. 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.

- 7.57 The development intends to maximise energy efficiency by using a *fabric first approach* to improve insulation and reduce thermal bridging, which will be used alongside low level lighting to reduce energy demands. The applicant will use the building research establishment green guide to acquire materials that are responsibly sourced. A waste site management plan will be produced based on the principles of reduce, reuse, recycle.
- 7.58 An *Energy Statement* has been carried out for the proposal which shows how the residential units will go beyond current building regulations Part L1a 2013. The development incorporates;
- Low fabric element u-values, External wall u-value 0.20W/m<sup>2</sup>k, Floor 0.11W/m<sup>2</sup>k, Roof 0.12W/m<sup>2</sup>k
  - Gas heating system with combi boilers
  - Time and temperature zone control
  - Solar PV system
- 7.59 The energy statement demonstrates the dwellings can make an improvement over building regulations Part L1a 2013 baseline, by achieving a potential of 19.40% improvement in CO<sub>2</sub> emissions, which equates to a saving of 9,003 Kg/year CO<sub>2</sub>.
- 7.60 Water efficient fixtures, fittings and appliances will be provided to ensure that internal water use targets are achieved to comply with *Building Regulations Approved Document G*.
- 7.61 Accordingly, it is considered the proposals have addressed how the scheme will meet the individual requirements listed under policy TP3 and TP4 within the submitted documents. A condition requiring the energy efficiency measures, renewable energy, sustainable design principles and climate change adaptation measures into the design and construction of the development is recommended to ensure they are delivered and benefits achieved.
- 7.62 *Heritage*
- 7.63 An assessment of potential impacts on heritage assets that has been carried out concludes there is a very low chance of archaeology to be encountered at the Site and no issues related to the setting of designated heritage assets are identified. Officers agree with this assessment and that no heritage centric mitigation is required.
- 7.64 *Other Matters*
- 7.65 There is no evidence to indicate that the proposal would result in an increase in crime or anti social behaviour. It is noted West Midlands Police have no objection and furthermore the general security arrangements are welcomed by them. West Midlands Police recommendation is the development is built to *Secure by Design standards*. An informative reflecting this is recommended to complement conditions requiring approval of an external lighting scheme and CCTV provision. These conditioned features not only benefit the development itself, however provide a further sense of security and safety for the immediate local area.
- 7.66 *Summary and planning balance*
- 7.67 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows "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.”* The development plan is the Birmingham Local Plan.

7.68 In accordance with s.38 (6) of the 2004 Act, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Birmingham Local Plan constitutes a spatial strategy and policies designed to achieve sustainable development under the three objectives; social, economic and environmental. As concluded above the proposals are considered to accord with the development plan through meeting the criteria of policy and other relevant plan policies. The NPPF, a material consideration, also seeks sustainable development through the economic, social and environmental objectives for planning.

7.69 To enable a conclusion to be reached on whether the application proposals are in accordance with the development plan and to take account of material considerations, I now consider the benefits and impacts of the proposals against each of the three roles or dimensions of sustainable development in turn.

#### 7.70 *Economic Objective*

7.71 A key aspect of the economic role played by the planning system is to ensure that sufficient land of the right type is available in the right places and at the right time to support growth.

7.72 In this context, the proposals score, in economic terms at least, positively. The proposal could help to support economic growth arising from:

- employment and supply of associated materials, goods and services in the construction phase
- support to local services and facilities arising from the new resident population
- economic benefits to the Council through the payment of New Homes Bonus

7.73 The positive economic benefits arising from the scheme is of an appreciable scale, and will include direct economic betterment for local shops and businesses. On the basis of the scale and nature of the development I attach significant weight to these benefits.

#### 7.74 *Social Objective*

7.75 Planning's social role incorporates providing support to strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment.

7.76 The proposal delivers a mix and range of housing which helps meet identified local demand now and for the future along with providing on site facilities and landscaping in a readily accessible location to existing services and facilities and on a brownfield site. The delivery of these houses will also contribute to the social wellbeing and investment in the Aston area of the city. Furthermore, the proposal will make an important contribution to rectifying the Council's housing land supply position.

7.77 Making the best use of land, and redeveloping this brownfield site will have a positive impact on the local community, removing an eyesore and acting as a catalyst for further regeneration in the area.

7.78 As such the *social* objective is considered to be satisfied and I attribute significant weight to the benefits in community terms, particularly to the delivery of housing, establishing sustainable communities, a sense of place the development will secure and delivering the planned growth of the city.



7.79 *Environmental objective*

7.80 The environment objective requires consideration of how the development contributes to protecting and enhancing the natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution and mitigating climate change (low carbon economy).

7.81 The proposal delivers new housing in a sustainable location on a vacant brownfield site. Significant biodiversity and landscape gains are secured which enhance the immediate environment. The proposal also utilises sustainable construction and technological methods, including the use of renewables.

7.82 As such the *environmental* objective is considered to be satisfied and I attribute significant weight to the benefits the proposal will deliver having regard to its context and particularly the effective re-use of a brownfield site in a sustainable location, delivering proportionally significant biodiversity enhancements.

7.83 *Summary*

7.84 Taking all of the above into account, it is considered that the public benefits arising from the proposals, as outlined above are positive. There is very limited evident harm arising in relation to other technical matters as discussed above, and officers do not feel that the impacts of the development should tip the planning balance in favour of refusal. The application delivers a sustainable, high quality development that meets wider housing delivery aspirations of Birmingham. As such I attach positive weight to the proposals.

8. **Conclusion**

8.1 The proposals would provide an acceptable mix of units and has clearly demonstrated the provision of affordable housing would render the development unviable and further to this, a s106 agreement reviewing this position protects the Council's position should viability change; therefore, I do not consider a reason for refusal based on the proposed mix and lack of affordable housing is sustainable at appeal.

8.2 Further to the local plan policy compliance described above, it is also noted the Council does not have an up to date 5 year supply of housing land and as such planning permission should be granted without delay. On the basis of the clear direction from NPPF paragraph 11, the local plan policy and NPPF aims and objectives compliance, and there being no technical reasons or demonstrable harm to dictate otherwise, approval is recommended as the proposal represents sustainable development.

9. **Recommendation:**

9.1 That the consideration of planning application 2023/00652/PA should be approved subject to the completion of a legal agreement to secure the following:

- a) Payment of a new viability assessment upon an agreed level of occupancy being reached
- b) Provision of a financial contribution towards off site affordable housing or provision on site based on the new viability assessment identifying surplus profit
- c) Payment of the administration and monitoring fee associated with the legal agreement.

- 9.2 In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 24th May 2024 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 provision of affordable housing (on or off site) the proposal would be contrary to policy TP27, TP31 and TP47 of the Birmingham Development Plan and relevant housing aims and objectives of 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 a suitable legal agreement being completed to the satisfaction of the Local Planning Authority on or before 24<sup>th</sup> May 2024, or such later date as may be authorised by officers under delegated powers, planning permission for application 2023/00652/PA be approved, subject to the conditions listed below (that may be amended, deleted or added) –

- 
- 1 Requires the submission of reserved matter details following an outline approval
  - 2 Implement within 3 years (outline)
  - 3 Development in accordance with approved plans
  - 4 Foul and Surface Water Disposal Details
  - 5 Requires a Construction and Ecological Management Plan
  - 6 Requires the prior submission of a contamination remediation scheme
  - 7 Requires the submission of a Noise Insulation Scheme to establish residential acoustic protection.
  - 8 Approval of External Materials
  - 9 Requires the submission of a contaminated land verification report
  - 10 Incorporation of Energy Efficiency and Sustainability Measures
  - 11 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
  - 12 Green Roof Details
  - 13 Requires the prior submission of details of bird/bat boxes
  - 14 Formation and provision of Parking Spaces
  - 15 Cycle storage provision
  - 16 Lighting Plan
  - 17 CCTV implementation and management
  - 18 Boundary Treatments
-

- 
- |    |  |
|----|--|
| 19 | Requires the submission of a landscape management plan |
| 20 | Gates to open inwards                                  |
| 21 | Protection of retained trees                           |
- 

Case Officer: Carl Brace

## Photo(s)



*View South into site from Victoria Road from existing access.*



*View South West across site towards Victoria Road Medical Centre.*





*View South East across the site towards Masjid –E– Noor Mosque.*



*View across Victoria Road frontage towards Park Circus junction A38(M).*



## Location Plan



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Committee Date:	25/04/2024	Application Number:	2023/05593/PA
Accepted:	05/09/2023	Application Type:	Full Planning
Target Date:	26/04/2024		
Ward:	North Edgbaston		

St Chads Court, 213 Hagley Road, Edgbaston, Birmingham, B16 9RG

The conversion of St Chads Court and St Chads House from vacant office space (Class E) to student accommodation (Sui Generis) together with the installation of roof lights and the erection of three new purpose-built student accommodation blocks, with communal amenity space, landscaping, parking, and associated infrastructure

Applicant: Cassidy Group (St Chads) Ltd  
C/o Agent  
Agent: DPP Planning  
11-13 Penhill Road, Pontcanna, Cardiff, CF11 9PQ

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## Recommendation

### **Approve subject to Conditions**

#### **1. Proposal:**

- 1.1. Planning permission is sought for the conversion of St Chads Court and St Chads House from vacant office space (Use Class E) to student accommodation (Sui Generis) together with the installation of roof lights and the erection of three new purpose-built student accommodation blocks, with communal amenity space, landscaping, parking and associated infrastructure at St Chads Court, Hagley Road, Edgbaston.
- 1.2. The proposal would provide 236 student bedspaces (across 227 units) in a range of accommodation types, including: 5 no. one-bedroom apartments, 9 no. two-bedroom apartments, 103 no. studio apartments, 18 no. premium studio apartments, 12 no. accessible studios and 80 no. cluster blocks with en-suite bedrooms and shared kitchen.
- 1.3. The student accommodation would be provided across 5 blocks which includes 3 new-build blocks (A, B and C) and the conversion of two existing Grade II listed buildings on site - St Chad's Court (Block D) and St Chad's House (Block E).

Building	Units	Bedrooms
Block A <i>New</i>	40	5-Bed Cluster: 15 6-Bed Cluster: 12 7-Bed Cluster: 7 Studio: 6
Block B <i>New</i>	24	6-Bed Cluster: 24
Block C <i>New</i>	27	6-Bed Cluster: 6 8-Bed Cluster: 16 Studio: 5
Block D <i>Existing</i>	128	6 x 2B3P Apartment: 12 Accessible Studio: 12 Prem Studio: 18 Studio: 92
Block E <i>Existing</i>	8	1B1P Apartment: 5 3 x 2B3P Apartment: 6
<b>Total</b>	<b>227</b>	<b>236</b>

(accommodation schedule per block)



(Proposed site plan)

- 1.4. **Block A** – would be a new-build 3 and 4-storey building located within the site's northwestern corner and would front Stirling Road. It would sit between the existing residential apartment block – Stirling Court and the end -terraced property on Stirling Road.



*(Block A- north elevation)*



*(Block A- indicative image/Stirling Road)*

- 1.5. **Block B** – would be a new-build group of 4 no. mews houses located at the north end of the site, opposite of the existing Grade II listed St Chad's Court.



*(Block B- north elevation)*



*(Block B – indicative image- courtyard/ south elevation)*

- 1.6. **Block C** – would be a new-build 4-storey building located at the west side of the site, adjacent to the existing Grade II listed St Chad's House (Block E), fronting Stirling Road.



*(Block C- west elevation and indicative image of St Chad's House and Block C)*

- 1.7. **Block D**- comprises the existing Grade II listed building – St Chad's Court and minimal works to the external fabric of the building are being proposed. These would include repair and repoint existing brickwork and/or architectural metalwork as required, renovation of original timber windows and roof repair as/if required. The building would be re-configured internally to provide mainly studios with a number of 2 - bedroom apartments.





*(Block D- St Chad's Court - existing building on site)*

- 1.8. **Block E** – comprises the existing Grade II listed building- St Chad's House. The building is in a good condition and minimal works to the external fabric of the building are being proposed. The building would be re-configured internally to provide a mix of 1- and 2-bedroom apartments. 2 no. roof lights would be installed on rear slope of the roof.



*(Block E- St Chad's House - existing building on site)*

- 1.9. A total of 27 no. car parking spaces would be retained on site which would consist of 16 no. regular car parking spaces, 3 no. accessible car parking spaces and 8 no. drop-off parking spaces. The submitted Planning Statement states that 100% of the spaces would have provision for EV charging. 2 no. secure and enclosed cycle shelters are being proposed, each providing space for 40 no. bikes. Additional visitor hoops for 12 no. bikes would be provided to the front of Block D.
- 1.10. The existing gated vehicle and pedestrian accesses would be retained from Hagley Road. The existing brick walls which surround the area would also be retained. The top courses of bricks on existing brick walls along Stirling Road would be removed and replaced with railings.
- 1.11. The proposal also includes additional soft landscape and planting to increase the amenity and biodiversity value of the site. 3 no. secure refuse stores would be provided which have been designed to accommodate a number of containers.
- 1.12. The following documents have been submitted with the application: Planning Statement Including Statement of Community Involvement, Student Accommodation Statement and Student Need Assessment, Design and Access Statement, Air Quality Assessment, Noise Climate Report, Preliminary Ecological Appraisal, Topographical Survey, Transport Statement, Framework Travel Plan, Arboricultural Implications Assessment and Arboricultural Method Statement, Tree Protection Plan, Tree Retention/Removal Plan, Internal Daylight and Sunlight Report, Daylight/ Sunlight Assessment Effects Report (Neighbouring Properties), Energy Statement, Phase I Geo-Environmental Desk Study Report, Drainage Strategy Plan, Heritage Statement, Office Feasibility Report, Structural Appraisal, Sustainable Construction Statement and BREEAM Pre-Assessment.



1.13. This application is accompanied by an application for Listed Building Consent reference 2023/05620/PA which is elsewhere on the agenda.

1.14. [Link to Documents](#)

## 2. **Site & Surroundings:**

- 2.1. The application site fronts Hagley Road and Stirling Road and includes two Grade II listed Georgian buildings: four - storey building former St Chad's Hospital dating from around 1800 ( with wings from 1990s) and part two and part three-storey St Chad's House at the corner of Hagley Road and Stirling Road. The buildings are surrounded principally by hard landscaping comprising mostly of private car parking area with 149 car parking spaces. The site has been occupied by the NHS from 1915 and is currently vacant. Along Stirling Road, the site wraps around the back of Stirling Court which is a four-storey 1930s mansion block apartment building.
- 2.2. The site is not located within a conservation area, however, is within the setting of the Edgbaston Conservation Area and further Grade II listed buildings at 154-166 Hagley Road.
- 2.3. The surrounding area is a mix of residential and commercial uses including offices and restaurants, student accommodation and hotels along Hagley Road and with Ivy Bush – Local Centre/Primary Shopping area located approximately 60m to the east of the site. The site adjoins residential properties along Striling Road and Wyndham Road.
- 2.4. The application site is located directly west to the site on the opposite side of Stirling Road (former Clarendon Suites) which benefits from planning approval for redevelopment to form a Care Village. The existing building on site has been demolished and the site is currently cleared and the works on the main buildings for the Care Village have not yet begun.



(Aerial view of the application site when viewed in context from Hagley Road)

2.5. [Site location](#)

### **3. Planning History:**

- 3.1. The site has a long planning history ( including listed building consents) with the most relevant being:
- 3.2. 1990/00024/PA- Part demolition of 213 and 215 Hagley Road to use as offices, three storey extension to 213, new car park and access – Approved subject to condition – 10/5/1990
- 3.3. 1990/03720/PA- Part demolition of existing buildings and refurbishment and extension of 2 Grade II listed buildings to provide offices – 17/8/1990
- 3.4. 1991/01831/PA – use as offices, demolition of part of the building, internal/external alterations, erection of extension and parking – Approved subject to conditions – 13/6/1991
- 3.5. 1993/04450/PA- construction stair links, security and chiller building, refuse store, boundary walls and entrance gates and alterations to car park – Approved subject to conditions – 6/1/1994
- 3.6. 2008/01920/PA- Erection of freestanding glazed walkway – Approved subject to conditions – 09/06/2008
- 3.7. Relevant Listed Building Consent application:
- 3.8. 2023/05620/PA- Listed Building Consent for internal alterations to Grade II listed St Chads Court and St Chads House in conjunction with the conversion of St Chads Court and St Chads House from vacant office space (Class E) to student accommodation (Sui Generis) and the erection of three new purpose-built student accommodation blocks, with communal amenity space, landscaping, parking, and associated infrastructure – elsewhere on the agenda
- 3.9. Other relevant planning history at 2 Stirling Road (former Clarendon Suites)
- 3.10. The application site is located directly west to the site on the opposite side of Stirling Road ( former Clarendon Suites) which had a planning permission granted as follows:
- 3.11. 2017/04158/PA- Detailed planning application for demolition of existing building and erection of care village (Use Class C2) comprising 62-bed care home, 45 assisted living units, 103 care apartments and associated communal facilities for senior citizens, including car parking – Approved subject to conditions – 01/09/2017
- 3.12. 2019/02315/PA- Variation of condition number 1 (accordance with the listed approved plans) attached to planning approval 2017/04158/PA for the submission of amended plans; alongside alterations to floor three Block C, in order to create an additional care apartment – Approved subject to conditions -14/06/2019
- 3.13. 2021/01246/PA- Erection of a four-storey detached building to house 33no. Care Apartments (Use Class C2) and associated works; as part of wider Care Village development – Approved subject to conditions – 27/05/2021

### **4. Consultation Responses:**

- 4.1. Employment Access – recommended employment condition/employment obligation to be attached.

- 4.2. West Midlands Police- No objection and provided recommendations/conditions in the interest of safety and security.
- 4.3. Trees – No objections and recommended conditions in relation to arboricultural method statement and tree protection area.
- 4.4. Transportation Development – No objections and recommended conditions in relation to parking spaces and secure and covered cycle parking.
- 4.5. City Design and Landscaping – No objections subject to conditions in relation to external materials, architectural detailing, sample panel on site, levels, hard and soft landscape details, boundary treatment details and landscape management plan.
- 4.6. Conservation – No objections subject to conditions in relation to repair and work to historic buildings, architectural and specification details and mechanical and electrical systems strategy and water utilities strategy.
- 4.7. Historic England – Wished to make no comments on the application.
- 4.8. Regulatory Services – No objections subject to conditions in relation to contamination remediation scheme, verification report, construction method statement/management plan, lighting scheme and noise mitigation scheme.
- 4.9. Local Lead Flood Authority( LLFA) – No objections subject to conditions in relation to sustainable drainage scheme and sustainable drainage operation and maintenance plan.
- 4.10. Ecology – No objections subject to conditions in relation to scheme for ecological/biodiversity enhancement and bird/bat boxes.
- 4.11. WM Fire Service – No objections and recommend the use of WMFS standards.
- 4.12. Severn Trent Water – No objections subject to a condition in relation to drainage plans for the disposal of foul and surface water flows.

## **5. Third Party Responses:**

- 5.1. Press and Site notice were displayed and local ward Councillors, MP, residents' associations and the occupiers of surrounding properties notified.
- 5.2. 8 no. representations received from local residents raising the following issues (in summary):
  - That swift bricks form part of the fabric of the building
  - That developers don't damage viburnum bushes and rowan trees along the back wall and along Stirling Road
  - The noise from student accommodation may affect the quality of life of adjoining residents
  - There is a shortage of affordable housing and that should be a priority
  - Insufficient parking
  - Noise from the construction and from proposed use
  - Traffic congestion
  - Increase in anti-social behaviour
  - Placement of bin stores will encourage rats
  - Impact on privacy and loss of light

- Increased security risk
- Increase in rent and tax prices

5.3. Preet Kaur Gill MP- enquired whether there is an evidence of need for student accommodation.

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

6.1. National Planning Policy Framework:

- *Chapter 2: Achieving Sustainable Development*
- *Chapter 4: Decision-making*
- *Chapter 5: Delivering a sufficient supply of homes*
- *Chapter 8: Promoting healthy and safe communities*
- *Chapter 9: Promoting sustainable transport*
- *Chapter 11: Making effective use of land*
- *Chapter 12: Achieving well-designed and beautiful places*
- *Chapter 14: Meeting the challenge of climate change, flooding and coastal change*
- *Chapter 15: Conserving and enhancing the natural environment*
- *Chapter 16: Conserving and enhancing the historic environment*

6.2. Birmingham Development Plan 2017:

- *PG1 (Overall levels of growth)*
- *PG3 (Place making)*
- *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)*
- *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)*
- *TP33 (Student Accommodation)*
- *TP39 (Walking)*
- *TP40 (Cycling)*
- *TP44 (Traffic and congestion management)*

6.3. Development Management DPD:

- *DM2 (Amenity)*
- *DM3 (Land affected by contamination, instability and hazardous substances)*
- *DM4 (Landscaping and trees)*
- *DM6 (Noise and vibration)*
- *DM14 (Highway safety and access)*
- *DM15 (Parking and servicing)*

6.4. Supplementary Planning Documents & Guidance:

- *Birmingham Parking SPD (2021)*
- *Birmingham Design Guide SPD (2022)*
- *Sustainable management of urban rivers and floodplains SPD*

## **7. Planning Considerations:**

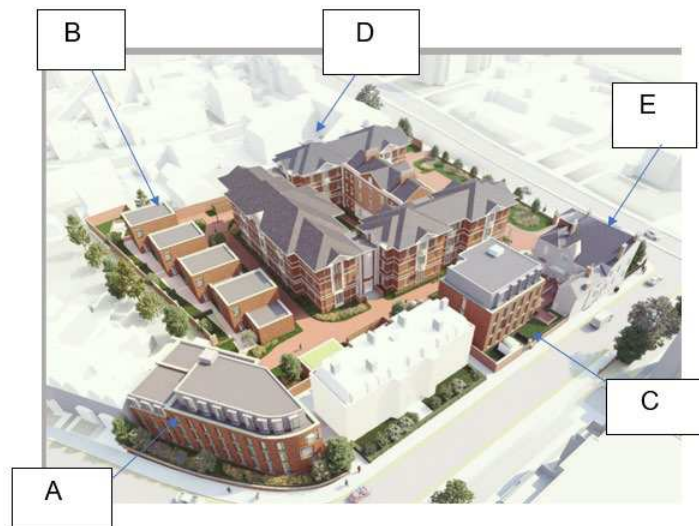
### **Principle**

- 7.1. BDP Policy TP33 sets out the criteria for assessment of off-campus purpose-built student accommodation (PBSA) which relate to need; location; impact on the local neighbourhood and residential amenity; scale, massing and architecture; and the resulting living environment.
- 7.2. A Planning Statement has been submitted with the application which contains Student Accommodation and Needs Assessment. The statement relies on the Council's Student Accommodation Supply and Demand Paper dated 16<sup>th</sup> March 2023 in demonstrating the need for the development. The Statement concludes that Selly Oak/ Edgbaston have the largest shortfall in accommodation due to unmet demand arising from the University of Birmingham. There are around 9,000 existing bedspaces in the Selly Oak/ Edgbaston area and a further 1,386 consented but not yet started, against a current need of 23,095 and future need of up to 25,407 bedspaces. The proposal would provide 236 bedspaces in a range of student accommodation types. I consider that the need for the further PBSA in this location had been demonstrated in this instance.
- 7.3. With regards to the second consideration of the Policy TP33; the site is considered to be very well located to Birmingham City University South Campus (13 minutes foot, 6 minutes cycling). Other institutions are located at a further distance but considered accessible:
- University of Wales, Trinity St David (Birmingham Campus) (29 minutes foot, 10 minutes cycling, 16 minutes bus)
  - University College Birmingham (38 minutes foot, 13 minutes cycling, 12 minutes bus)
  - University of Birmingham (43 minutes by foot, 14 minutes by cycling, 36 minutes bus)
  - Aston University (55 minutes foot, 16 minutes cycling, 25 minutes bus)
  - Birmingham City University Central (55 minutes foot, 16 minutes cycling, 25 minutes bus)
- 7.4. There are a number of bus stops situated within a walking distance from the site on Hagley Road and Edgbaston Village tram stop is situated approximately 700m east of the proposed development. It is considered that the site is well located by means of walking, cycling and public transport in line with the second consideration of Policy TP33 of the BDP.
- 7.5. The remaining criteria of Policy TP33 in relation to the impact on the local neighbourhood and residential amenity; scale, massing and architecture; and the resulting living environment are being considered further within the report.

### **Scale, massing and architecture**

- 7.6. The applicant undertaken extensive consultation, including with City Design and Conservation officer, during the pre-application discussions and during the life of the application in order to demonstrate that the proposal would be appropriate and would create attractive frontage to Stirling Road and integrate well within the setting of the existing listed buildings on site.
- 7.7. The accommodation would be provided across 5 blocks: new-build blocks (A,B and C) and conversion of the existing listed buildings (D and E).



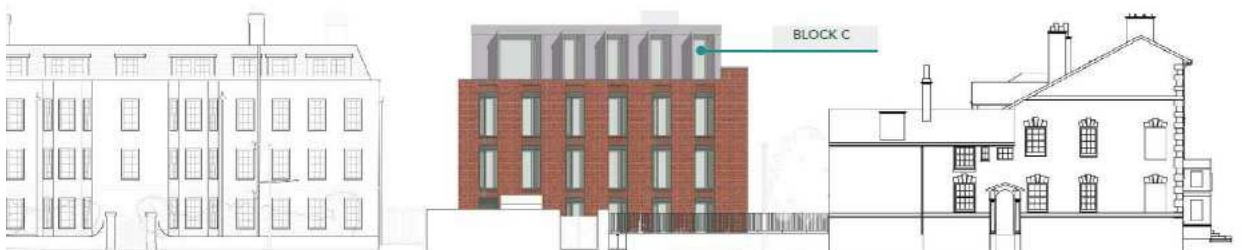


(CGI - proposed site plan)

- 7.8. Blocks A and C would be four storey high and front Stirling Road with building lines, scale, building proportions and features informed by the street alignment, existing buildings and site entrances. Block C would be set back from the pavement, following the building line of the adjoining Stirling Court, to provide a gap between the proposal and listed St Chad's House, allowing for a view of the rear of St Chad's House from Stirling Road. The corner of the street has also been addressed positively with a curve of Block A. The proposed four storey development along Stirling Road is considered acceptable in its scale and design and would create active frontage.



( Block A- Stirling Road street view)



(Block C- Stirling Road street view)

- 7.9. The primary facing material of all of the blocks is proposed as brick in running bond, to be a close match with the adjoining apartment block - Stirling Court. For blocks A and C, the brick facades are topped by a parapet to match the height of the parapet of Stirling Court and the set back top floor has metal standing seam cladding and protruding dormers.
- 7.10. Block B would be 4 no. two-storey flat roof mews type buildings fronting the internal courtyard and backing into the boundary of rear gardens of residential properties

along Stirling Road. All of the habitable windows would face into the courtyard.



(CGI Block A- fronting Stirling Road)



(CGI Block B – fronting internal courtyard)



(CGI- Block C- fronting internal courtyard)

- 7.11. City Design officer raises no objections and recommended conditions in relation to external materials, architectural detailing, sample panel on site, levels, hard and soft landscape details, boundary treatment details and landscape management plan which had been attached. It is considered that the proposal would respond positively to the site and the surrounding area and complement the existing historic buildings on site.

#### **Impact on heritage assets**

- 7.12. The site encompasses two Grade II listed buildings Number 213 and Number 215 Hagley Road. Number 213 (Block D) is an impressive three-storey, five-bay building formally known as Fair View House, while Number 215 (Block E) is more modest four-bay, three storey building. Constructed of brick, both buildings date back to early 1800s. They later became part of St Chad's Hospital. In 1990s the site was redeveloped for NHS offices which saw the erection of substantial extension to Number 213 on its east, west and northern wing enclosing the courtyard. There are only few original features retained within Block D and E, with majority being stripped out during previous renovations. A Heritage Statement has been submitted with the application.
- 7.13. With regard to the new built blocks A,B and C, the City's Conservation Officer considers that the location and design of the new blocks are acceptable and the change to the settings of the listed buildings would not be harmful to their significance.
- 7.14. With regard to the internal alterations to the existing listed buildings on site ( Block D and E), the proposal was amended during the life of this application to address concerns raised by the City's Conservation Officer.

- 7.15. The proposed internal alterations to Block D would see the internal reconfiguration to accommodate mainly studios and two-bedroom apartments. The original chimney breast and joinery and plaster work at the staircases between the first floor to the second floor and attic and associated landings would be retained. There are some renovation works to the external fabric being proposed which includes renovation and repair to windows and balconies and repointing existing brickwork. Conservation Officer considered that the proposed alterations to Block D are acceptable and should not harm any historic fabric.
- 7.16. As originally submitted, the City's Conservation Officer considered that the proposed internal alterations to Block E would be harmful to special interest of this listed building. The original proposed plans showed the wall in the room at the ground floor (Figure 1) that leads out into the garden and contains historic joinery and plasterwork to be demolished and a new wall added at the far end to create a corridor. Other historic walls and doors within the building were also proposed to be removed.
- 7.17. Following the discussions between the developer and the City's Conservation Officer and the subsequent site visits, amended plans were secured which revised the internal layouts of Block E to make better use of spaces and existing openings, which are now considered to be acceptable. The existing wall at ground floor room (Figure 1) would also be retained and the room would be used as a communal lounge.



(Figure 1: ground floor room of Block E)



(proposed ground floor plans)

- 7.18. Both Blocks D and E would be very little altered externally with the exception of a roof light which was installed on the roof of 213 Hagley Road (Block D) as a temporary measure due to vandalism and would be retained, and two new rooflights on the rear slope of Block E to serve bathrooms. The City's Conservation Officer raises no objection to the proposal on heritage grounds subject to conditions in relation to repair and work to historic fabric, architectural and specification details and mechanical and electrical systems strategy and water utilities strategy which have been attached. The City's Conservation Officer is content that subject to conditions the proposal would not harm the historic interest of these Grade II listed buildings.
- 7.19. This application is also accompanied by an application for Listed Building Consent reference 2023/05620/PA which is elsewhere on the agenda.

#### **Impact on local neighbourhood and residential amenity**

- 7.20. Policy DM2 of the Development Management in Birmingham DPD requires all new development to be appropriate to its location and not result in unacceptable adverse impacts on the amenity of occupiers and neighbours taking into consideration visual

privacy and overlooking, sunlight, daylight and overshadowing and aspect and outlook.

#### Block A

- 7.21. A new built Block A would infill the existing gap between Stirling Court and the end terrace property at No 25 Stirling Road. It would sit between two blank ends of the adjoining buildings where there are no existing windows and as such would comply with the 45 Degree Code in relation to those properties. Block A would face the three-storey residential properties at No 12 and No14 Stirling Road, that are situated on the opposite side of Stirling Road. The distance separation between the faces of the buildings would amount to 20.5 meters. The same distance separation would be achieved in relation to the future Block C of the Care Village at former Clarendon Suites site. Although this would fall slightly short of the required distance separation of 27.5m for three-storey structures as stipulated within the Birmingham Design Guide SPD, it is important to note that Block A would adhere to and follow the established building line along Stirling Road. Taking into consideration this existing streetscape, on balance, the proposal is acceptable in this respect.

#### Block B

- 7.22. Block B would be located along the northern boundary of the site, behind the rear gardens of the properties located on Stirling Road. Block B would be two-storey mews and would comply with the 45 Degree Code in relation to the adjoining residential properties. The distance separation guidelines have also been met as all of the habitable room windows at first floor would be facing into the application site and the ground floor windows of habitable spaces would face the boundary wall. As such there are no overlooking issues identified in relation to the adjacent residential properties.

#### Block C

- 7.23. Block C would be located between the existing residential apartments block – Stirling Court and the existing Grade II listed- Block D- St Chad's House. In relation to the future Care Village at former Clarendon Site on the opposite side of Stirling Road, Block C would overlook the future car parking area and all distance separation guidelines in relation to that site have been met.
- 7.24. In regard to the existing adjacent apartment block – Stirling Court, Block C would follow the established building line of Stirling Court and would comply with the 45 Degree Code in relation to this property. With regards to the distance separation from Stirling Court, it is noted that Block C at a distance of 4m would fall short of the required distance separation of 12.5m between the first and second floor side windows of Stirling Court and flank wall of Block C. The ground floor side facing windows of Stirling Court currently face the boundary wall and the existing single storey security office on site. During the site visit and following the discussion with residents, receipt of photographic evidence and evidence provided by the agent via historic listings from estate agents and the evidence within a Daylight and Sunlight Effect Report that has been submitted; it has been established that those 4 no. windows are secondary windows to habitable rooms. While it is acknowledged that the distance separation requirements have not been met in this specific aspect of the proposal, it is important to note that those 4 no. side windows function as secondary windows to habitable rooms, each of which is already served by 2 no. primary windows. Taking this into account, on balance, the proposed scheme is deemed acceptable in this regard.

#### Blocks D-E

- 7.25. Blocks D and E are the existing buildings on site which were previously in office use. As originally submitted, 2 no. of the side facing windows of the proposed student accommodation at second floor of Block D would fail to comply with the distance separation of 5m per storey in relation to residential garden at No 22 Wyndham Road.



The amended plans have been secured which reconfigured the internal layout of Block D. While 1 no. of the premium studios at second floor would now have a side facing window overlooking the residential garden at No 22 Wyndham Road; this window would be a secondary window to this apartment and as such, it is reasonable to attach a condition for this window to be non-opening and obscurely glazed to prevent any overlooking issues. All other distance separation guidelines in relation to residential properties along Wyndham Road have been met. The proposed Block D would also comply with distance separation guidelines in relation to residential gardens of properties along Stirling Road.

- 7.26. It is noted that concerns have been raised by local residents that the proposed student accommodation within Block D would overlook rear windows and private balconies of Stirling Court apartment block. The distance separation between side elevation of Block D and rear windowed elevation of Stirling Court is approximately 19m. This would fall slightly short of the required distance separation of 27.5m for three-storey structures as stipulated within the Birmingham Design Guide SPD. It is acknowledged that Block D is an existing building on site, and this is the existing relationship between Block D and Stirling Court. However, Block D was previously in non-residential use. Only 2 no. premium studio apartments within Block D would have side windows facing rear elevation/balconies of Stirling Court. Those windows would be secondary windows to those apartments and as such, to address any potential overlooking issues, a condition has been attached for those windows to be non-opening and obscurely glazed.
- 7.27. With regards to the existing St Chad's House ( Block E), the proposal would comply with distance separation guidance contained within the Birmingham Design Guide SPD and no overlooking or loss of privacy issues have been identified.
- 7.28. A Daylight and Sunlight Effect report has also been submitted with the application which assessed the potential effects of the proposed development on daylight and sunlight to surrounding residential properties. The daylight results indicate that 98% of windows tested will satisfy the BRE guidelines in vertical sky line (VSC) terms, and 99% of rooms will satisfy the BRE guidelines in No-sky line (NSL) terms. The sunlight results indicate that 99% of rooms tested will satisfy the BRE guidelines. The report concludes that overall, the proposed scheme would only have a negligible effect on the daylight and sunlight to the neighbouring properties, which would all remain well-lit in the post development condition.
- 7.29. It is noted that concerns have been raised by local residents that the proposal will lead to noise and disturbance during the construction period and from the proposed use. The temporary impact of the construction phase on local residents could be mitigated though the implementation of a Construction Management Plan. A condition to this effect has been recommended by Regulatory Services and has been attached. It is acknowledged that the site was previously used as offices and currently stands vacant. Consequently, the proposed development would result in increased activity within its vicinity compared to its previous office use. However, the site is located on a busy Hagley Road and in close proximity (approx. 60m) to Local Centre/Primary Shopping Area – Ivy Bush, as well as various restaurants and hotels along this part of Hagley Road. As such, it is considered that the proposed student accommodation would not be at odds in this location and would integrate well into the existing noise environment and the vibrant atmosphere along this stretch of Hagley Road.
- 7.30. Finally, concerns have been raised by local residents that the proposal would lead to increase crime and anti-social behaviour. WM Police have been consulted and there is no objection from the Police on this matter.

### **Proposed living environment**



- 7.31. Policy TP33 of the BDP requires the design and layout of the proposed student accommodation together with the associated facilities provided to create a safe, secure and welcoming living environment. To satisfy this requirement, adequate communal space and facilities should be provided which would allow students to interact and are important for student mental health and well-being.
- 7.32. The proposal comprises a range of accommodation options for the students which include:
- One-bedroom apartments (26.9m<sup>2</sup>–39.1m<sup>2</sup>)
  - Two-bedroom apartments (47.6m<sup>2</sup>–58.5m<sup>2</sup>) with en-suite bedrooms and open plan shared kitchen/living room
  - studio apartments (18.42m<sup>2</sup>+) )
  - premium studio apartments (23.4m<sup>2</sup>+) )
  - accessible studios (29m<sup>2</sup>)
  - cluster blocks (with 14m<sup>2</sup> en-suite bedrooms) grouped in 5,6,7 or 8 rooms with shared kitchen/living space.
- 7.33. The submitted plans show that bedrooms and shared communal spaces are adequately sized and would provide good quality accommodation for the intended occupiers. All of the bedrooms and communal spaces would be lit by a natural light and provide satisfactory outlook.
- 7.34. Within each Blocks A-E, there would be kitchens and communal living spaces. In addition, large amenity space (approx. 250m<sup>2</sup>) would be located on the ground floor level of Block D which would also serve the whole development. This would include a large communal space, shared dining areas, two studies and on-site gym and laundry facility. Outdoor social and communal spaces are also being proposed which include landscaped internal courtyard of Block D (approx. 168m<sup>2</sup>) and outdoor gardens/seating areas located within the site.



(Illustrative image of the proposed internal courtyard and proposed internal communal amenity space at ground floor of Block D)

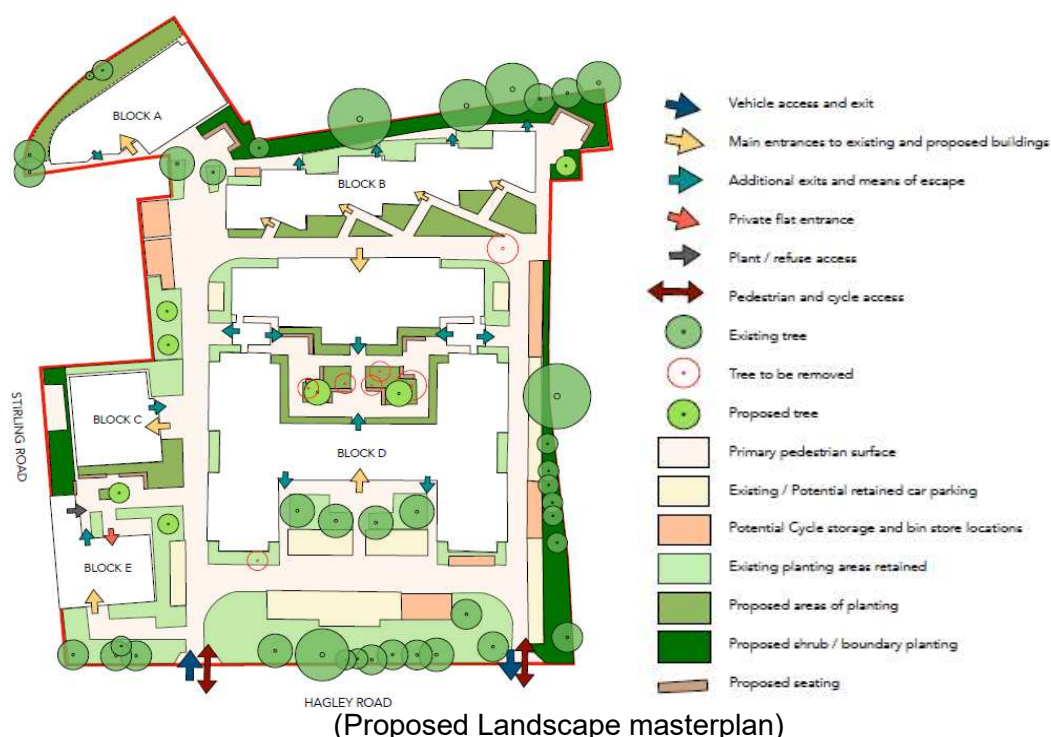
- 7.35. Noise Climate Report has been submitted with the application which concluded that the predominant noise source affecting the site is road traffic noise from Hagley Road which can be mitigated by use of appropriate rated windows and vents to habitable rooms. Regulatory Services accept the findings of the submitted Noise Report and recommended a condition in relation to noise mitigation scheme which has been attached.
- 7.36. It is considered that the proposal would provide satisfactory living environment for the future occupiers of this PBSA in line with the requirements of Policy TP33 of the BDP.

#### **Landscaping and biodiversity**

- 7.37. A Preliminary Ecological Appraisal (PEA), Preliminary Bat Roost Assessment (PBRA) and Biodiversity Net Gain (BNG) Assessment have been submitted in support of this

planning application. An extended Phase 1 Habitat Survey and PBRA survey of the site was undertaken by Sharpe Ecology in July 2023. The site inspection found that none of the buildings on site provide any roost features for bats and there was no evidence of bats inside of the roof voids or basements. A landscape masterplan for the site has also been submitted.

- 7.38. The existing site is dominated by paving and the proposal would increase the amount of soft landscape and planting to increase the amenity and biodiversity value. There would also be additional shrub planting around the boundary and external cycle store would feature green roofs. Some trees would be removed (which are not TPO protected) to facilitate development; however, 26 no. new trees would be planted. The trees to the frontage, adjacent to Hagley Road would be retained and would not be affected by the proposal. Arboricultural Implications Assessment and Arboricultural Method Statement, Tree Protection Plan and Tree Retention/Removal Plan have also been submitted with the application.



- 7.39. City Ecologist is content with the enhancements proposed in the landscape masterplan and raises no objections to the proposal subject to conditions in relation to scheme for ecological/biodiversity/enhancement measures and bird/bat boxes to ensure an appropriate biodiversity net gain for the scheme. The recommended conditions have been attached.
- 7.40. The City's Tree officer raises no objections and considers the scheme to be acceptable in arboricultural terms subject to conditions in relation to arboricultural method statement and tree protection area which have been attached.

### **Sustainability**

- 7.41. A BREEAM Pre-Assessment has been submitted with the application which demonstrates that the development would be able to achieve an 'Excellent' BREEAM rating with 74.61% total score for Blocks A, B and C and 82.20% total score for Blocks D and E. A condition has been attached to secure the BREEAM rating.
- 7.42. A Sustainability and Energy Statement has also been submitted which has considered a range of low and zero carbon technologies. For new built Blocks A-C both PV and

heat pumps (for the domestic water) would be implemented. For existing Blocks D and E, only PV would be implemented, and gas fired water heaters for the domestic water. A condition has been attached to secure the LZC technologies and overall commitment to the carbon reduction of 44.7% as stated in the submitted Sustainability and Energy Statement. With the imposition of a condition to ensure that measures within the energy statement are implemented, I consider that the proposed development would accord with Policies TP3 and TP4 of the BDP.

#### **Drainage**

- 7.43. The application site falls within Flood Zone 1, where there is a low probability of flooding. As originally submitted, the LLFA objected to the proposal due to insufficient information received in order to comply with Policy TP6 of the Birmingham Development Plan. An amended Drainage Strategy and Sustainability Report has been submitted by the applicant and based on the information contained within the report the LLFA now withdrew their objection subject to the inclusion of conditions in relation to the prior submission of a sustainable drainage scheme and a sustainable drainage operation and maintenance plan to ensure that the proposed development complies with the requirements of Policy TP6 and TP7 of the BDP. The recommended conditions have been attached. The additional advice for the applicant that has been provided by the LLFA has also been attached in a form of informative.
- 7.44. Severn Trent Water raise no objection to the proposal subject to a condition in relation to drainage plans for the disposal of foul and surface water flows which has been attached.

#### **Contamination/Air Quality**

- 7.45. Geo-environmental desk study report and Air Quality Assessment have been submitted with the application. Regulatory Services raise no objection to the proposal and requested by a way of conditions that a contaminated land remediation scheme is produced in order to allow the site to be developed in the manner proposed as well as verification report and construction method statement/ management plan. The recommended conditions have been attached.
- 7.46. In respect of air quality, Regulatory Services are content that the proposed use would unlikely to be affected by existing road pollutant levels and would unlikely to contribute significantly to pollutant levels.

#### **Highway safety and parking**

- 7.47. Transport Statement has been submitted in support of the application which concludes that the proposed conversion of existing offices to student accommodation, including the additional blocks would unlikely to increase traffic to/from the site.
- 7.48. The existing gated vehicle and pedestrian access would be retained from Hagley Road. Servicing of the site would also remain the same. A total of 27 no. car parking spaces would be retained on site which would include accessible car parking spaces as well as drop-off parking spaces. 2 no. secure and enclosed cycle shelters are being proposed, each providing space for 40 no. bikes. Additional visitor hoops for 12 no. bikes would be provided to the front of Block D.
- 7.49. Transportation Development raise no objection to the proposal subject to conditions that parking spaces to be formally market out and cycle parking, EV charging points and disabled parking spaces are provided in line with BCC current guidelines.

#### **CIL/Planning Obligations**

- 7.50. Development is liable for CIL at the amount of £218,692.44.
- 7.51. There are no planning obligations associated with this proposal.

## 8. Other issues

- 8.1 The representations received from local residents have been considered during the assessment process and any material planning considerations raised have been addressed above. Impact of the proposal on possibly higher rents or taxes in the area is not a material planning consideration.

## 9. Conclusion

- 9.1. The proposed conversion of vacant office space to student accommodation is acceptable in principle and the scheme would deliver 236 student bed spaces for which there is a need in this area. The proposal would provide satisfactory living environment for the future occupiers and would have no adverse impact on local neighbourhood or residential amenity. The scheme is suitably located, in close proximity to existing transport links and local services and the scale, massing and design quality of the scheme is considered to be acceptable. The proposal would provide suitable landscaping and appropriate biodiversity net gain and car parking provision. The scheme is also acceptable in terms of sustainability, contamination, air quality, ecology and drainage matters subject to the attached conditions. Finally, the proposed alterations to the existing listed buildings on site are considered to be acceptable and subject to the attached conditions the proposal would not harm the historic interest of these Grade II listed buildings.

## 10. Recommendation:

Approve subject to conditions.

- 
- |    |   |
|----|---|
| 1  | Implement within 3 years (Full)   |
| 2  | Requires the scheme to be in accordance with the listed approved plans            |
| 3  | Requires the prior submission of a contamination remediation scheme               |
| 4  | Requires the submission of a contaminated land verification report                |
| 5  | Requires the prior submission of a construction employment plan.                  |
| 6  | Requires the prior submission of a construction method statement/management plan  |
| 7  | Requires the submission of a lighting scheme                                      |
| 8  | Requires the submission of a Noise Mitigation Scheme                              |
| 9  | Arboricultural Method Statement - Submission Required                             |
| 10 | Requirements within pre-defined tree protection areas                             |
| 11 | Requires the provision of cycle parking prior to occupation                       |
| 12 | Requires the parking area to be laid out prior to use                             |
| 13 | Requires the submission and approval of external materials for new buildings      |
| 14 | Requires the submission and approval of architectural detailing for new buildings |
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15	Requires the construction and approval of a sample panel on site
16	Requires the submission and approval of building & site level details
17	Requires the submission of hard and/or soft landscape details
18	Requires the submission of boundary treatment details
19	Requires the submission of a landscape management plan
20	Requires the prior submission of strategy for repair and work to historic fabric of original wings of St Chads Court and St Chads House
21	Requires the prior submission of full architectural and specification details for Blocks D and E
22	Requires the prior submission of a full mechanical and electrical systems strategy
23	Requires the submission of a scheme for ecological/biodiversity/enhancement measures
24	Requires the prior submission of details of bird/bat boxes
25	Requires obscure glazing for specific areas of the approved building
26	Requires the prior submission of drainage plans for the disposal of foul and surface water flows
27	Requires the submission of a final BREEAM certificate
28	Requires energy and sustainability measures to be delivered in accordance with statements
29	Requires the submission of a Student Management Plan
30	Requires the prior submission of a sustainable drainage scheme
31	Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan

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Case Officer: Lucia Hamid



## Photo(s)



(View of the existing site for proposed Block A from internal courtyard )



( View of the existing site for proposed Block A from Stirling Road)





(View of the existing site for proposed Block B from internal courtyard)



(View of the existing site for proposed Block C from internal courtyard and from Stirling Road)





(View of the existing Block D – St Chads Court front)



(View of the existing Block E – St Chads House from internal courtyard and from Stirling Road)



## Location Plan



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Committee Date:	25/04/2024	Application Number:	2023/05620/PA
Accepted:	05/09/2023	Application Type:	Listed Building
Target Date:	26/04/2024		
Ward:	North Edgbaston		

St Chads Court, 213 Hagley Road, Edgbaston, Birmingham, B16 9RG

Listed Building Consent for internal alterations to Grade II listed St Chads Court and St Chads House together with the installation of roof lights in conjunction with the conversion of St Chads Court and St Chads House from vacant office space (Class E) to student accommodation (Sui Generis) and the erection of three new purpose-built student accommodation blocks, with communal amenity space, landscaping, parking, and associated infrastructure

Applicant:	Cassidy Group (St Chads) Ltd
	C/o Agent
Agent:	DPP Planning
	11-13 Penhill Road, Pontcanna, Cardiff, CF11 9PQ

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Recommendation

**Approve subject to Conditions**

1. **Proposal:**

- 1.1. Listed building consent is sought for internal and external alterations to Grade II listed St Chads Court and St Chads House in connection with the conversion of those buildings from vacant office space ( Use Class E) to student accommodation (Sui Generis). A separate standalone full planning application for the proposed change of use together with the erection of three new purpose-built student accommodation blocks has been submitted and is elsewhere on the Committee agenda (application reference 2023/05593/PA).
- 1.2. The proposed internal alterations include reconfiguration of the rooms to create studios, one and two-bedroom apartments or cluster blocks. External alterations include repair and repoint existing brickwork and/or architectural metalwork as required, renovation of original timber windows and roof repair as/if required and installation of 2 no. roof lights at St Chads House and retention of 1 no. existing roof light at St Chads Court.
- 1.3. The following documents have been submitted with the application: Planning Statement Including Statement of Community Involvement, Student Accommodation Statement and Student Need Assessment, Design and Access Statement, Air Quality Assessment, Noise Climate Report, Preliminary Ecological Appraisal, Topographical Survey, Transport Statement, Framework Travel Plan, Arboricultural Implications Assessment and Arboricultural Method Statement, Tree Protection Plan, Tree Retention/Removal Plan, Internal Daylight and Sunlight Report, Daylight/ Sunlight Assessment Effects Report (Neighbouring Properties), Energy Statement, Phase I Geo-Environmental Desk Study Report, Drainage Strategy Plan, Heritage Statement,



1.4. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site fronts Hagley Road and Stirling Road and includes two Grade II listed Georgian buildings: four - storey building former St Chad's Hospital dating from around 1800 ( with wings from 1990s) and part two and part three-storey St Chad's House at the corner of Hagley Road and Stirling Road. The buildings are surrounded principally by hard landscaping comprising mostly of private car parking area with 149 car parking spaces. The site has been occupied by the NHS from 1915 and is currently vacant. Along Stirling Road, the site wraps around the back of Stirling Court which is a four-storey 1930s mansion block apartment building.
- 2.2. The site is not located within a conservation area, however, is within the setting of the Edgbaston Conservation Area and further Grade II listed buildings at 154-166 Hagley Road.
- 2.3. The surrounding area is a mix of residential and commercial uses including offices and restaurants, student accommodation and hotels along Hagley Road and with Ivy Bush – Local Centre/Primary Shopping area located approximately 60m to the east of the site. The site adjoins residential properties along Stirling Road and Wyndham Road.
- 2.4. The application site is located directly west to the site on the opposite side of Stirling Road (former Clarendon Suites) which benefits from planning approval for redevelopment to form a Care Village. The existing building on site has been demolished and the site is currently cleared and the works on the main buildings for the Care Village have not yet begun.



(Aerial view of the application site when viewed in context from Hagley Road)

2.5. [Site location](#)

3. Planning History

- 3.1. The site has a long planning history (including listed building consents) with the most relevant being:
- 3.2. 1990/00024/PA- Part demolition of 213 and 215 Hagley Road to use as offices, three storey extension to 213, new car park and access – Approved subject to condition – 10/5/1990
- 3.3. 1990/03720/PA- Part demolition of existing buildings and refurbishment and extension of 2 Grade II listed buildings to provide offices – 17/8/1990
- 3.4. 1991/01831/PA – use as offices, demolition of part of the building, internal/external alterations, erection of extension and parking – Approved subject to conditions – 13/6/1991
- 3.5. 1993/04450/PA- construction stair links, security and chiller building, refuse store, boundary walls and entrance gates and alterations to car park – Approved subject to conditions – 6/1/1994
- 3.6. 2008/01920/PA- Erection of freestanding glazed walkway – Approved subject to conditions – 09/06/2008
- 3.7. Relevant full planning application:
- 3.8. 2023/05593/PA- Conversion of St Chads Court and St Chads House from vacant office space (Class E) to student accommodation (Sui Generis) and the erection of three new purpose-built student accommodation blocks, with communal amenity space, landscaping, parking, and associated infrastructure – elsewhere on the Committee agenda
4. Consultation/PP Responses
  - 4.1. Adjoining occupiers, residents association, local ward councillors and MP notified. Site and press notices displayed.
  - 4.2. 1 no. letter received from local resident commenting that listed building consent shall accept that buildings make provision for nesting birds.
  - 4.3. Preet Kaur Gill MP- enquired whether there is an evidence of need for student accommodation.
  - 4.4. Calthorpe Resident's Society- requested to see Heritage Statement and Heritage Impact Assessment.
  - 4.5. Conservation - No objections subject to conditions in relation to repair and work to historic buildings, architectural and specification details and mechanical and electrical systems strategy and water utilities strategy.
  - 4.6. Historic England – Wished to make no comments on the application.
  - 4.7. Regulatory Services – Advised that they have no comments to make on the listed building consent application and that they will provide comments on the full planning application.
5. Policy Context
  - 5.1. National planning legislation policy includes

- *Planning (Listed Buildings and Conservation Areas) Act 1990 - Section 16 (Works to a listed building), Section 66 (Development to a listed building or in its setting) and Section 72 (Development of buildings or land in a conservation area)*
- *National Planning Policy Framework (NPPF) Section 16: Conserving and enhancing the historic environment*
- *National Planning Practice Guidance (PPG) (2014)*
- *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)*

5.2. Relevant local planning policies include:-

- *Birmingham Development Plan 2017 - Policy TP12 (Historic Environment) and TP33 Student Accommodation*
- *Conservation Through Regeneration SPG*
- *Development Management in Birmingham DPD*

## 6. Planning Considerations

- 6.1. This application is for a listed building consent therefore deals with heritage aspects only. Elsewhere on your Committee agenda is a report for the accompanying full planning application (reference 2023/05593/PA) which deals with principle of development, impacts on residential and visual amenity, landscaping and biodiversity, sustainability, drainage, contamination and air quality issues and highway safety and parking.
- 6.2. The site encompasses two Grade II listed buildings Number 213 and Number 215 Hagley Road. Number 213 (Block D) is an impressive three-storey, five-bay building formally known as Fair View House, while Number 215 (Block E) is more modest four-bay, three storey building. Constructed of brick, both buildings date back to early 1800s. They later became part of St Chad's Hospital. In 1990s the site was redeveloped for NHS offices which saw the erection of substantial extension to Number 213 on its east, west and northern wing enclosing the courtyard. There are only few original features retained within Block D and E, with majority being stripped out during previous renovations. A Heritage Statement has been submitted with the application.
- 6.3. With regard to the internal alterations to the existing listed buildings on site ( Block D and E), the proposal was amended during the life of this application to address concerns raised by the City's Conservation Officer. Both Blocks D and E would be very little altered externally with the exception of some repair works to the original fabric and a roof light which was installed on the roof of 213 Hagley Road (Block D) as a temporary measure due to vandalism which would be retained, and the installation of two new rooflights on the rear slope of Block E to serve bathrooms.
- 6.4. Number 213 Hagley Road is known as Block D in the application. The proposed internal alterations to Block D would see the internal reconfiguration to accommodate mainly studios and two-bedroom apartments. The original chimney breast and joinery and plaster work at the staircases between the first floor to the second floor and attic and associated landings would be retained. There are some renovation works to the external fabric being proposed which includes renovation and repair to windows and balconies and repointing existing brickwork. Conservation Officer considers that the proposed internal alterations to Block D are acceptable and should not harm any historic fabric. However, he strongly recommended that as much of the sympathetic

1990s fabric should be retained and where they cannot be retained, the replacement should match the existing.

6.5. Number 215 Hagley Road is known as Block E in the application. As originally submitted, the City's Conservation Officer considered that the proposed internal alterations to Block E would be harmful to special interest of this listed building. As originally submitted, the proposal included removal of some of the existing walls which included historic joinery and plasterwork and doors. The amended plans have been secured which revised the internal layouts of Block E to make better use of spaces and existing openings, which are now considered to be acceptable. The proposal originally also included the re-opening of the original elegant doorway fronting Stirling Road. The amended plans now show that this is no longer being opened up and would remain as it is. The Conservation Officer considers that the amended proposals are no longer harmful to this listed building and are therefore acceptable.

6.6. The City's Conservation Officer raises no objection to the proposal on heritage grounds subject to conditions in relation to repair and work to historic fabric, architectural and specification details and mechanical and electrical systems strategy and water utilities strategy which have been attached. The Conservation Officer is content that subject to the recommended safeguarding conditions the proposal would not harm the historic interest of these Grade II listed buildings.

7. Conclusion

7.1. The proposal accords with local and national planning policy and subject to safeguarding conditions would not adversely affect the architectural or historic character of these Grade II listed buildings. I therefore recommend that Listed Building Consent is granted.

8. Recommendation

8.1. Approve subject to conditions.

- 
- |   |   |
|---|---|
| 1 | Implement within 3 years (conservation/listed buildings consent)  |
| 2 | Requires the scheme to be in accordance with the listed approved plans  |
| 3 | Requires the prior submission of strategy for repair and work to historic fabric of original wings of St Chads Court and St Chads House |
| 4 | Requires the prior submission of full architectural and specification details for Blocks D and E  |
| 5 | Requires the prior submission of a full mechanical and electrical systems strategy  |
- 

Case Officer: Lucia Hamid

## Photo(s)



(St Chads House – Block E- existing rear elevation and side elevation fronting Stirling Road )



(St Chads House- Block E- entrance hallway)



( St Chads Court-Block D- entrance hallway)



(St Chads Court- existing building on site)



(St Chads Court existing roof light to be retained)



## Location Plan



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