

Birmingham City Council

Planning Committee

29 April 2021

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 | 6 | 2020/08081/PA 136-138 Kingsbury Road Erdington Birmingham B24 8QU Change of use from two residential dwelling houses to 8 no. self-contained flats (Use class C3), creation of 9 no. associated car parking spaces and landscaping |

| | | | |
|-----------------|---------------|---------------------|---------------|
| Committee Date: | 29/04/2021 | Application Number: | 2020/08081/PA |
| Accepted: | 26/10/2020 | Application Type: | Full Planning |
| Target Date: | 30/04/2021 | | |
| Ward: | Gravelly Hill | | |

136-138 Kingsbury Road, Erdington, Birmingham, B24 8QU

Change of use from two residential dwelling houses to 8 no. self-contained flats (Use class C3), creation of 9 no. car parking spaces and landscaping

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. The application seeks planning permission for change of use from two residential dwelling houses to 8no. self-contained flats (Use Class C3), creation of 9no. car parking spaces and landscaping at no.136-138 Kingsbury Road.
- 1.2. The existing properties would not provide HMO accommodation, but would be retained and refurbished to provide 8no. self-contained flats. Only minor alterations are proposed to the rear of the properties with no extensions proposed. The proposed 8no. self-contained flats would be spread across three floors. The ground floor is proposed to comprise of flat numbers 1, 2, 3 and 4, the first floor is proposed to comprise flat numbers 5 and 6, and the second floor is proposed to comprise flat numbers 7 and 8. These flats would vary in size with flat numbers 2, 7 and 8 proposed to be one bedroom flats suitable for one person (1b1p), flat numbers 1, 3 and 4 proposed to be one bedroom flats suitable for two people (1b2p), and flat numbers 5 and 6 proposed to be two bedroom flats suitable for three people (2b3p).
- 1.3. The proposed 9no. car parking spaces would comprise 6 no. parking spaces located to the front of the property parallel to the site's boundary with no. 120 Kingsbury Road and 3no. parking spaces located to the rear of the property off Wood End Lane.
- 1.4. An external amenity area with a total area of approximately 238 square metres is proposed to the rear. A covered and secure bicycle shelter is proposed to be located within this communal area adjoining the site's northern (rear) boundary. In addition, a bin store is proposed to adjoin part of the rear elevation of flat 2 accessed from the proposed rear car parking area.
- 1.5. Not including the aforementioned communal amenity area, several landscaped areas are proposed to be located along the applications site's western and eastern boundaries, fronting Kingsbury Road and Wood End Lane.



EXISTING FRONT ELEVATION 1:200



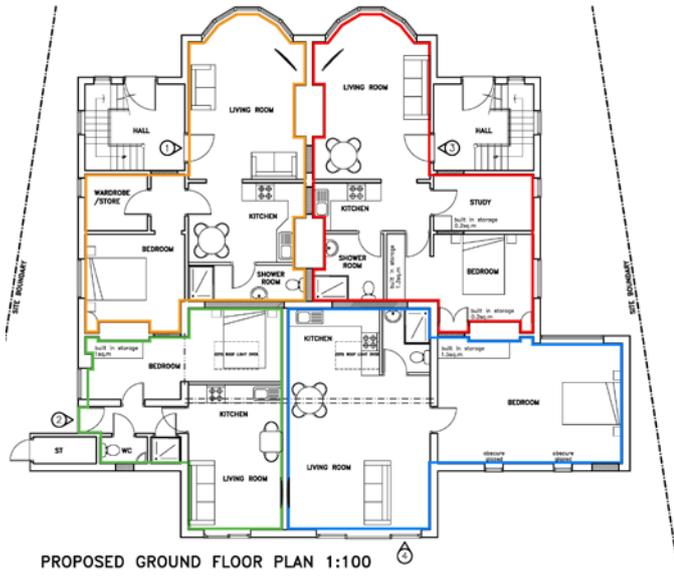
EXISTING REAR ELEVATION 1:200



PROPOSED FRONT ELEVATION 1:200



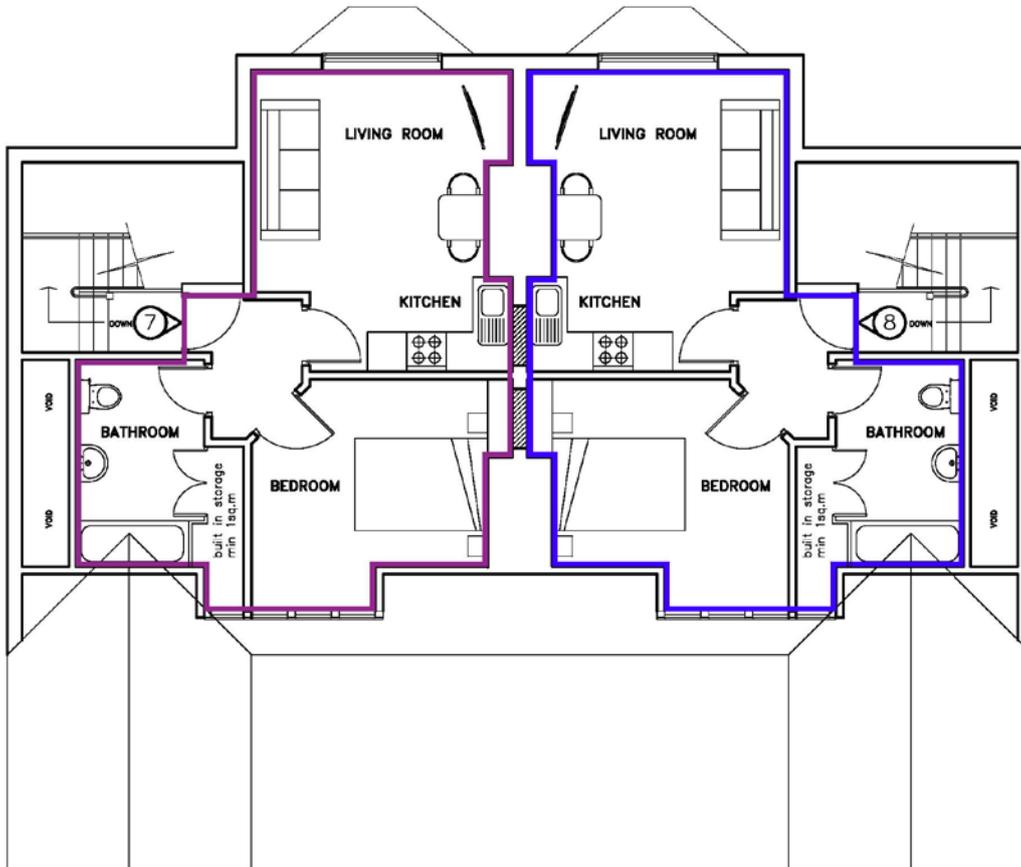
PROPOSED REAR ELEVATION 1:200



PROPOSED GROUND FLOOR PLAN 1:100



PROPOSED FIRST FLOOR PLAN 1:100



PROPOSED SECOND FLOOR PLAN 1:100

1.6. [Link to Documents](#)

2. Site & Surroundings

2.1. The application site, which is situated within Tree Preservation Order (TPO) 865, comprises 2no. three storey, five bedroom, semi-detached residential dwellings, which benefit from gardens to the front and rear. The site, which is located at the junction between Kingsbury Road and Wood End Lane, is situated within a predominantly residential area, with residential dwellings being located to the north, south, east and west of the site. In addition, there are two blocks of residential flats located approximately 50m to the south-west of the application site on the opposite side of Kingsbury Road.

2.2. [Site Location](#)

3. Planning History

3.1. 12.09.1985. 67209000- Change of use of dwelling houses to rest home for elderly persons and construction of a car park. Approved subject to Conditions.

3.2. 22.03.1990. 67209001- Erection of ground floor extensions to existing rest home to provide new dining room and laundry; internal alterations. Approved subject to Conditions.

- 3.3. 05.10.2000. 1999/03914/PA- Erection of single-storey rear extension, external alterations and amendments to parking. Approved subject to Conditions.
- 3.4. 09.11.2004. 2003/05620/PA- Change of use from elderly persons care home to hostel for 13 residents. Refused.
- 3.5. 16.06.2005. 2005/01615/PA- Change of use from Class C2 care home to two Class C3 semi-detached dwelling houses. Approved subject to Conditions.
- 3.6. 05.09.2006. 2006/03562/PA- Erection of 5-bedroom detached house with off street parking. Refused.
- 3.7. 11.05.2007. 2007/01608/PA- Erection of a four-bedroom detached house with off-street parking. Approved subject to Conditions.

4. Consultation/PP Responses

4.1. Local Ward Councillors, the Local Member of Parliament and adjoining neighbours consulted, and a Site Notice displayed. A letter of objection was received from Councillor Mick Brown who also requested to speak at planning committee, and seven other letters of objection were received from surrounding residents. Councillor Mick Brown's response outlined that he wishes to record some of the concerns which have been expressed to him by local residents and also included a copy of an email sent to him from a local resident. The Councillor's response raises the following points:

- My concerns regarding this development are the outcome of a number of conversations with local residents. The residents do not object to the properties being developed, in fact they would argue that they have not been properly maintained for a number of years and do need a significant upgrade. However, they feel that a proposed development of this size and scale on a junction of two busy roads is likely to exacerbate the risk of road traffic accidents.
- It is likely that residents will require more than the allocated 9 parking spaces, certainly when visitors are taken into account, which is likely to result in parking on the road which will further exacerbate the road safety issues.
- Concern was also expressed that since this is a road used by many pedestrians people parking half on the pavement will result in significant risk to pedestrians using the footpath by the properties to access the school and nursery which are within 200 yards of the properties.
- An additional concern was that the height and size of the development was likely to result in nearby properties being overlooked which residents believe will have a negative impact on their privacy and that the number of flats is again likely to result in an increased level of noise pollution across both the day and night.
- Residents are concerned that since this is a predominantly residential area with limited amenities that a development of this size will put an unsustainable level of pressure on them, and finally since the owner has not maintained the properties as they currently are over a number of years that he may equally neglect any potential new development.

4.2. The seven letters of objection received from surrounding residents raised the following issues:

- The proposals by reasons of its size, depth, width, height and massing would have an unacceptable adverse impact on the amenities of the properties immediately adjacent and opposite the site, and in the surrounding area, by reason of overlooking, loss of privacy and a visually overbearing impact.
- The proposal could lead to vehicles overhanging on corners of Kingsbury Road and Wood End Lane to the detriment of other road users such as pedestrians and bicycle users.
- The site is located in a predominantly residential area where occupiers could reasonably expect a level of amenity concurrent with this development. The use of this property as flats is likely to result in noise and odour disturbance, loss of privacy and overlooking.
- My house and my neighbour's would have the main traffic impact of more residents for this supported housing scheme with cars coming in and out all day and night due to more people which would need care. This would result in more noise disruption from the proposed car park as well as from road parking.
- The noise from additional 9 car parking spaces would seriously affect the wellbeing of occupants in the household and would cause disruption.
- This would lower the value of my property as would have less privacy and a build-up of cars. House buyers looking to purchase properties would and could be put off if directly facing them is what is being proposed.
- We have yet to be advised of the nature of tenants that would occupy the 8 flats. As myself and other residents currently living on this road are unaware of the potential new tenants, this could also be a broad spectrum and involve possible recovering or current drug and alcohol addicts or people on probation. This could and will increase the crime rate within the area/road and therefore put myself and my family's health and safety at risk.
- We have no confidence in the planning applications being fulfilled as the property/landscaping has not been looked after in its current state, which leads me to believe that it still won't if the application is granted.
- There is already a supported housing property on Kingsbury Road facing the property in question and these tenants have already caused disruption. There are also supported houses on Cecil Road.
- There are many HMO properties that only care about the revenue that they get and not the tenants. They don't mind ruining an area if they get an income.
- The people living there have been parking on the private road and on the grass which makes it difficult to get out of the private road to the main road.
- The number of parking spaces is not enough for the amount of flats applied for.
- It will cause environmental issues through the cutting down of the trees.
- It will cause issues for cyclists as there is a path right outside the property.

- There are flats opposite and we are having issues of people dumping rubbish, more pests and more visitors which restricts our ability to access and exit our property.
- It will restrict private road access to our home.
- It will increase the amount of traffic.
- It will have a negative impact on highway safety due to the property's location on the corner of a busy cross road junction
- The flats will cause more noise and disturbance
- It will result in the private road outside our house being used more which will cause more wear and tear. We already have pot holes which haven't been repaired in many years.
- The users of the flats will end up parking on our private pathway and causing an obstruction for use and other users.
- There will be an odour issue due to an increase in the dumping of rubbish
- It will be very dangerous as there is a school and a nursery in the area.
- I feel me and my children will be at risk
- Many accidents have already happened on the Wood End Lane and Kingsbury Road junction
- These buildings have not been family homes since they were purchased by the present owner and they have been occupied as bed sits.
- The buildings are in poor condition, the front gardens are used as a makeshift car park and the maintenance of the hedges has not been done.
- There have been several issues with past applications from this owner, mainly that he never fulfils the application content and ignores the planning application terms
- I hope any planning approval will be followed to the letter of the council and the owner makes good his proposed application
- The owner also owns the plot next to the proposed three parking spots on Wood End Lane and the fencing is a complete eyesore. I would request that he replaces this fencing as part of the application and also ensures there is adequate safe viewing for the cars parked in the 3 proposed car parking spaces so that they can safely pull out on to Wood End Lane.

4.3. Transportation Development – No objections subject to conditions relating to the modification of existing vehicular accesses, proposed levels (and associated surface water drainage), boundary treatment details (Wood End Lane frontage), electric vehicle charging points, cycle storage details and pedestrian visibility splays.

4.4. Regulatory Services – No objections subject to conditions relating to two noise insulation schemes and a charging point for electric vehicles.

- 4.5. West Midlands Police – No objections.
- 4.6. Severn Trent – No objections subject to a condition which requires drainage plans for the disposal of foul and surface water flows to be submitted.

5. Policy Context

- 5.1. Birmingham Development Plan (BDP) (2017), Saved Policies of the Unitary Development Plan (UDP) (2005), Places for Living (2001), Technical Housing Standards – Nationally Described Space Standard (2015); Specific Needs Residential Uses SPG (1992), National Planning Policy Framework (2019).

6. Planning Considerations

- 6.1. The main issues in the determination of the proposal are as follows:
- 6.2. **Principle of development** - Whilst there are two blocks of residential flats located approximately 50m to the south-west of the application site, considering their locations on the opposite side of Kingsbury Road and their relative modest sizes, it is determined that the proposed change of use is unlikely to have a detrimental cumulative impact upon the residential character of the area.
- 6.3. Policy TP35 seeks to prevent the loss of housing which is in good condition or could be restored to good condition at a reasonable cost and states that such loss of residential accommodation will only be permitted if there are good planning justifications or an identified social need for the proposed use. In response the applicant provided evidence, which included a statement from the applicant and advice from three local well known estate agents, demonstrating that there is very little demand for this type of large semi-detached property within this specific part of Birmingham. This evidence also outlined that there is a demand for self-contained flats within this part of the City. In addition, in support of the application the applicant outlined that the most recent tenants at the site vacated due to the cost of maintaining the property and that between August 2020 and January 2021, when the property was listed on a national property website, only 21 searches which included the property were made, and just two enquiries were received. The first enquirer requested to rent a single room and the second did not attend the arranged viewing. It is considered that this evidence is more up to date and place specific than the information contained within the Strategic Housing Market Assessment (updated in 2013) and is sufficiently precise and unambiguous to demonstrate that there is little demand for large semi-detached properties in this area and that the loss of two family dwellinghouses is acceptable in this instance.
- 6.4. In light of the above, it is considered that the proposed change of use is acceptable in principle.
- 6.5. **Impact on Residential amenity** – Each of the 8no. proposed self-contained flats would exceed the minimum internal space standards for the respective flat types, as set out in the Technical Housing Standards – Nationally Described Space Standard (2015). Whilst the double bedroom of flat number 1 would fall approximately 1.2m short of the minimum space standards for a bedroom of this type (11.5 square metres) it is considered that such a shortfall would not be so severe that this flat would provide future occupiers with an unacceptable internal living environment, in this instance.

- 6.6. In light of the above and considering the fact that all habitable rooms are likely to receive adequate levels of natural light and that future occupiers would be provided with an outdoor amenity space with an area of approximately 238 square metres, which would equate to approximately 30 square metres per unit and therefore be in accordance with the guidance set out in Places for Living (2001), it is considered that the proposal would provide future occupiers with an acceptable internal and external living environment. The application is therefore considered to be acceptable with regards to the residential amenity of potential future occupiers.
- 6.7. Regarding the residential amenity of surrounding occupiers, paragraph 8.27 of the Saved Policies of the Unitary Development Plan (UDP) (2005) outlines that proposals for the conversion of dwellings into self-contained flats should not have an unduly adverse effect on the residential amenities of adjoining occupiers. As the application proposes the conversion of two adjoining semi-detached properties into self-contained flats, it is considered that the application properties effectively represent a single detached unit. In light of this and the fact that the application site occupies a corner plot location which is not located in the heart of a residential street, it is considered that the proposed change of use is unlikely to have a detrimental impact on the residential amenity of future occupiers, by way of excess noise and disturbance, and therefore complies with Policy PG3 of the BDP (2017) and paragraph 8.27 of the saved policies of the UDP (2005).
- 6.8. Whilst it is noted that objections received state that the addition of 9no. car parking spaces will result in increased noise disturbance, it is considered that the provision of 9no. parking spaces is unlikely to result in increased noise disturbance from vehicles, given that at present the two semi-detached properties possess five bedrooms each and so a similar number of parked vehicles would be a possibility if the residential dwellings were to remain in their current use.
- 6.9. Regulatory Services raised no objections subject to conditions which require noise insulation and no fewer than one electric vehicle charging point to be provided. I concur with this view and these conditions have been attached.
- 6.10. **Impact on Highway and Pedestrian Safety** – Transportation Development raised no objections subject to conditions. However, Transportation requested that the proposed 3no. parking spaces to the rear of the properties were relocated and sited further into the application site so that pedestrian visibility splays could be achieved. In addition, it was advised that the cycle parking facility was relocated closer to the application properties.
- 6.11. In response, the applicant submitted an amended site plan which illustrates that the proposed 3no. parking spaces would be set further within the site, and that the proposed cycle storage facility would be situated within the rear amenity space. I consider that in light of the provision of 9no. car parking spaces and the application site's sustainable location near to two bus stops, the proposal is unlikely to have a detrimental impact on highway and pedestrian safety or the free flow of the surrounding highways, over and above the existing situation, and is therefore considered to be acceptable in this regard. The recommended conditions have been attached accordingly.
- 6.12. The concerns raised by surrounding residents in relation to the issues of parking, road safety and pedestrian and cycle safety have been noted. However, it is considered that in light of the above and due to the fact that the proposed vehicle accesses on Wood End Lane would be situated approximately 21m and 43m from the junction with Kingsbury Road and that vehicles can already access the area to the front of the property due to the presence of an existing dropped kerb, the

proposal is unlikely to negatively impact the safety of other vehicle users, pedestrians or cyclists over and above the existing situation.

- 6.13. **Design and Visual Amenity** – No extensions are proposed. The only change to the external appearance of the application properties is the proposed removal of a small door and window attached to no. 136 Kingsbury Road, with a single large window which would serve the bedroom of flat number 4. Due to the minor nature of this external change, it is considered that it is unlikely to have a detrimental impact on the design of the property or the visual amenity of the street scene and surrounding area, over and above the existing situation.
- 6.14. The Council's City Design Team raised no objections, subject to conditions. In addition, the Council's Landscape Officer raised no objections subject to landscape conditions. I concur; however conditions relating to sample materials and architectural details are not required as only minor external alterations are proposed. The remaining conditions have been attached accordingly.
- 6.15. **Other** – As noted above, the application site is located within Tree Preservation Order (TPO) 865. The Council's Trees Officer has no objections to the proposal subject to two conditions relating to the implementation of tree protection and tree pruning protection in relation to any trees proposed to be retained. I concur with this view and the two conditions have been attached accordingly.
- 6.16. Severn Trent raised no objection to the proposal, subject to a condition which requires drainage plans for the disposal of foul and surface water flows to be submitted. The condition has been attached accordingly.
- 6.17. The concerns expressed by residents relating to the increase in crime as a result of the proposal, coupled with concerns over the nature of future occupiers and the impact this could have on surrounding educational facilities are noted. However, there has been no evidence provided to demonstrate that the proposal would increase the crime rate in the neighbourhood or that future occupiers would pose a risk to those attending surrounding educational facilities. West Midlands Police were consulted and raised no objections.
- 6.18. Finally, comments relating to the existing run down nature of the application site, the likelihood of the applicant improving the site as part of the application, the negative impact it will have on local property prices, and increased rubbish and the presence of pests are not deemed to be planning related matters.

7. Conclusion

- 7.1. The proposed change of use is considered to be acceptable in principle. In addition, it is considered that the proposal is unlikely to have a detrimental impact on residential amenity, highway and pedestrian safety, and design and visual amenity. It is therefore recommended that the application is approved, subject to conditions.

8. Recommendation

- 8.1. Approved, subject to conditions.

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- | | |
|---|---|
| 1 | Implement within 3 years (Full) |
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | Requires the submission of a Noise Insulation Scheme to establish residential |
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-
- acoustic protection- Kingsbury Road elevation
 - 4 Requires the submission of a Noise Insulation Scheme to establish residential acoustic protection- Wood End Lane elevation
 - 5 Requires the submission of cycle storage details
 - 6 Requires pedestrian visibility splays to be provided
 - 7 Requires the provision of a vehicle charging point
 - 8 Requires the submission of hard and/or soft landscape details
 - 9 Requires the submission of boundary treatment details
 - 10 Requires the submission of hard surfacing materials
 - 11 Requires the implementation of tree protection
 - 12 Requires tree pruning protection
 - 13 Requires the prior submission of a drainage scheme
 - 14 Requires the submission of details of refuse storage
-

Case Officer: Jack Hanly

Photo(s)



The view of the front elevation of no.136-138 Kingsbury Road from Kingsbury Road



The view of the side elevation of no.136-138 Kingsbury Road from Wood End Lane

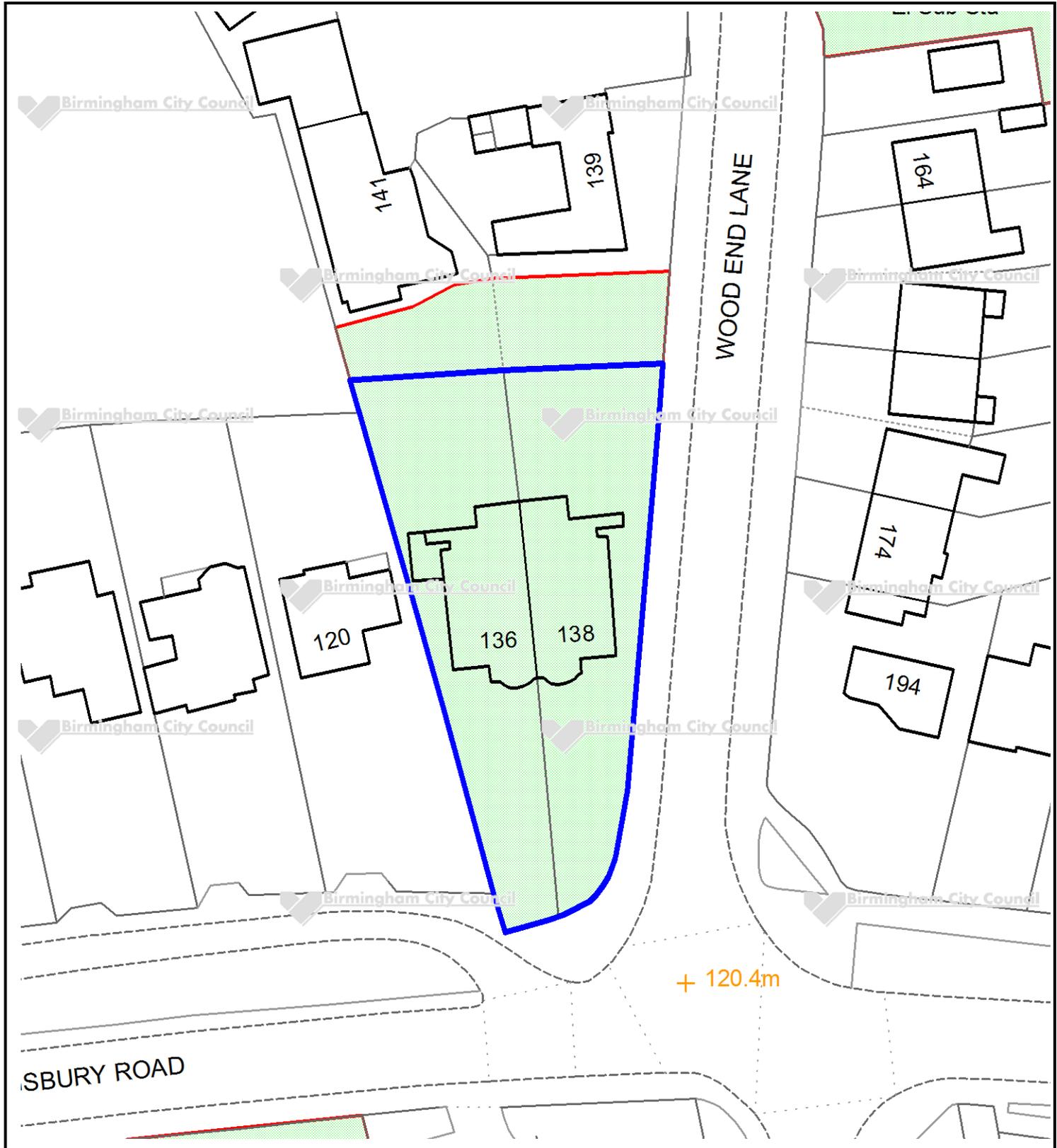


The view of the side and rear elevation of no.136-138 Kingsbury Road from Wood End Lane



The view of the side and rear elevation of no.136-138 Kingsbury Road from Wood End Lane

Location Plan



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Birmingham City Council

Planning Committee

29 April 2021

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 | 7 | 2020/09221/PA Land Incorporating Former BT Telephone Exchange, 1048 - 1052 Pershore Road & 1-3 Dogpool Lane Stirchley Birmingham B30 2XN Demolition of existing buildings and the construction of a purpose-built student accommodation scheme comprising of 167 student bed spaces, ancillary internal and external amenity areas (Use Class sui generis), ground floor commercial floorspace (Use Class E) and associated works including public realm, landscaping, servicing and cycle parking |

Committee Date: 29/04/2021 Application Number: 2020/09221/PA
 Accepted: 20/11/2020 Application Type: Full Planning
 Target Date: 30/04/2021
 Ward: Bournbrook & Selly Park

Land Incorporating Former BT Telephone Exchange,, 1048 - 1052
 Pershore Road & 1-3 Dogpool Lane, Stirchley, Birmingham, B30 2XN

Demolition of existing buildings and the construction of a purpose-built student accommodation scheme comprising of 167 student bed spaces, ancillary internal and external amenity areas (Use Class sui generis), ground floor commercial floorspace (Use Class E) and associated works including public realm, landscaping, servicing and cycle parking

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

- 1.1. Planning permission is sought to demolish all buildings on the site and erect a block of purpose built student accommodation which will provide a total of 167 bed spaces. The application has been put forward by Alumno who specialise in delivering purpose built student accommodation across the UK, with recent examples in Birmingham, including 'University Locks' within the Eastside area of the City Centre.
- 1.2. The scheme consists of 101 self-contained studios and 66 en-suite rooms which are arranged in clusters of between 4 and 9 bedrooms. The studios vary in size between 19.5sqm and 23sqm and all include an en-suite, kitchen facilities, desk space and wardrobe. The ensuite bedrooms vary in size between 13.9 and 20.9sqm. The clusters all include a shared lounge and kitchen area which varies between 14 and 33sqm in size.
- 1.3. A ground floor commercial use (Class E) measuring 112sqm is proposed on the Pershore Road frontage, which may incorporate the existing post office which is currently on site. The remainder of the development is for the proposed student occupiers. The ground floor includes amenity spaces, laundry, reception, post room, refuse and cycle store and 2 clusters of student rooms. The upper floors consist of a mix of studios and clusters. The main entrance to the accommodation is located on the corner of Pershore Road and Dogpool Lane. A separate entrance on the Pershore Road is provided for cyclists.
- 1.4. The building is between is between 4 and 5 storeys high reducing in height adjacent to the residential properties on Pershore Road and Dogpool Lane. The proposal follows the building line on both roads and has a glazed feature to address the corner. The ground floor of the building is brick built with a high level of glazing, particularly where the commercial unit is proposed. The floors above are constructed of profiled terracotta with bricks surrounding each window. The top storey is set back slightly with terracotta surrounds dressed to each window.



Image 1: Proposed development on corner of Pershore Road and Dogpool Lane



Image 2: Sketch of proposed Dogpool Lane streetscene

- 1.5. No car parking is proposed for the development although an area has been identified on Dogpool Lane for deliveries and the drop-off and pick up of students at the beginning and end of each term. The proposal provides 184 cycle spaces.
- 1.6. A single outdoor amenity space is provided at the rear of the site measuring approximately 400sqm.



Image 3: Proposed Site layout



Image 4: Aerial sketch of proposed scheme

- 1.7. The application is supported by a Design and Access Statement, Planning Statement, Tree Survey, Contaminated Land Report, Transport Assessment, Noise Survey, Air Quality Assessment, Heritage Statement, Statement of Community Involvement, Student Needs Assessment, Archaeological Assessment, Ecological Assessment and a Flood Risk Assessment.
- 1.8. [Link to Documents](#)
2. Site & Surroundings
 - 2.1. The application site extends to 0.2 hectares and is located on the junction of Pershore Road (A441) and Dogpool Lane in the Selly Park / Stirchley area, approximately 5km south of Birmingham City Centre. The site forms an irregular, triangular shape and comprises the former BT Telephone Exchange building (1040 Pershore Road), 1048 – 1052 Pershore Road, and 1-3 Dogpool Lane. The buildings to the southern end of the site were constructed in the early 20th century and form the old bank building. These traditional two storey brick buildings are now occupied by a hot food takeaway and post office with residential accommodation at first floor level. To the rear is the former BT Telephone Exchange building which was constructed in the 1950s. The building extends to three storeys in height. This building is vacant and has been in a state of disrepair for a significant period of time.
 - 2.2. The site is immediately bound by residential properties to the north and east and is located on the junction of Dogpool and Pershore Road (A441). The area of open space at the apex of the junction is not included within the application site but is subject to enhanced proposals as part of this application. It currently comprises grassland, a number of mature trees and pedestrian walkways.
 - 2.3. [Site location plan](#)
3. Planning History
 - 3.1. Relevant History:
 - 3.2. 2001/04545/PA Redevelopment for 14 residential apartments with associated parking and new access. Approved on 17/01/2002
4. Consultation/PP Responses
 - 4.1. Transportation Development – No objection subject to conditions requiring submission of a student management plan, submission and completion of works for the S278/TRO Agreement, construction management plan and developer to undertake to monitor (fund/commission) parking beat surveys with financial bond (£20,000) to be secured.
 - 4.2. Regulatory Services – No objection subject to conditions requiring submission of construction management plan, noise insulation scheme, Contamination Remediation Scheme, Contaminated Land Verification Report, maximum noise levels of plant and machinery and installation of a vehicle charging point.
 - 4.3. West Midlands Police – No objection subject to conditions requiring CCTV, secure access system, lighting and landscaping.
 - 4.4. West Midlands Fire Service – No objection
 - 4.5. Severn Trent Water – No objection subject to drainage condition

- 4.6. Lead Local Flood Authority (LLFA) – No objection subject to the submission of sustainable drainage scheme and a sustainable drainage assessment and operation and maintenance plan.
- 4.7. Adjacent occupiers, Councillors, M.P. and residents associations notified and site/press notices posted. 30 letters of objection received raising the following concerns:
- Too far from University;
 - Not attractive location for students;
 - Already insufficient parking in the locality;
 - Increased highway safety concerns;
 - Further congestion on local roads;
 - Students will still bring cars;
 - Families will be forced out of the area;
 - Harm to neighbourhood and family environment;
 - Harmful impact on local amenities;
 - Harmful impact on water pressure;
 - PBSA will not be a catalyst for further investment in the area;
 - Next to residential accommodation is not an appropriate location for PBSA;
 - PBSA does not feel free up HMOs to be turned back into family homes, they become supported accommodation instead;
 - Increased litter and fly tipping;
 - Demand for PBSA is over-estimated, impact of Covid-19 not fully considered;
 - Could end up as a hostel;
 - Increased anti-social behaviour including noise and disturbance;
 - Loss of historic buildings;
 - Increased flood risk;
 - Building is too tall;
 - Impact on house prices;
 - Harm to the character of the area;
 - Post office should be retained;
 - Impact on those living and working within the application site;
 - Applicant has not consulted sufficiently with tenants;
 - More facilities needed for community
- 4.8. 6 letters of support have been received raising the following matters:
- Development will bring investment to the area;
 - Current site is an eyesore;
 - Site is currently used for drug taking and squatting;
 - Site has been derelict for a long time;
 - Replacement commercial unit is provided;
 - Well designed scheme;
 - Positive impact on community including local school;
 - Will improve Stirchley;
 - Good range of accommodation types for students; and
 - Within walking and cycling distance of the University
- 4.9. A letter of objection has been received by Selly Park South Neighbourhood Forum raising the following matters:
- the impact on parking and traffic;
 - Safety concerns for cyclists;
 - Reduced community cohesion;
 - Creation of unbalanced community;
 - Development would encourage further applications for student accommodation and HMOs;

- Increased levels of anti-social behaviour;
- Accommodation is too far from the University; and
- Too many studios;

4.10. A letter of objection has been received by Councillor Brigid Jones raising the following matters:

- Already HMO's in local area, would further imbalance local community;
- Increased traffic and parking issues;
- Increased noise and disturbance in evenings;
- Too far from University campus; and
- Loss of heritage asset;

4.11. A letter of objection has been received from the Community Partnership for Selly Oak (CP4SO) raising the following matters:

- Will create unbalanced community;
- No demand for further student accommodation;
- Studio accommodation not needed; and
- Impact on traffic and parking

5. Policy Context

5.1. The following local policies are applicable:

- Birmingham Development Plan (BDP) 2031
- Birmingham Unitary Development Plan (UDP) Saved Policies 2005
- Places for Living SPG
- Car Parking Guidelines SPD

5.2. The following national policies are applicable:

- National Planning Policy Framework (NPPF)

6. Planning Considerations

6.1. I consider the key planning issues in the determination of this application are; the principle of site redevelopment; the principle of student accommodation on this site; retail impact; the siting, scale and appearance of the proposed building; impact on heritage assets; living conditions for prospective occupiers; impact on parking and highway safety; impact on neighbouring residential amenity; impact on trees and landscape; sustainability and drainage.

6.2. Principle of Site Redevelopment

6.3. The National Planning Policy Framework (NPPF) advises that there is a presumption in favour of sustainable development and encourages the use of as much previously developed (brownfield land) as possible.

6.4. The site is located outside of any defined centre but Stirchley District Centre is located 500m south of the site. However, the site is located on a prominent corner on a main route into the City Centre. Furthermore a significant proportion of the site is consists of the former BT Telephone Exchange Building which has been vacant for a number of years. The principle of redeveloping the brownfield site is therefore supported.

6.5. Principle of Student Accommodation

6.6. The submitted Market demand Study includes an analysis of local supply and demand. The Study identifies 26,028 full-time students at the University of

Birmingham who are in need of accommodation. This is higher than the Council's demand estimate for the University of Birmingham which is 22,407 students. The Study notes that 11,961 purpose-built bedspaces are available and in use across the catchment area. Including planned pipeline, this would increase to 12,763 bedspaces. This is higher than the Council's findings of 11,134 bedspaces.

- 6.7. The Study concludes that 46.0% of full-time students are in need of accommodation. This equates to a gap of 14,067 bedspaces between the total number of University of Birmingham full-time students in need of accommodation and the total provision of purpose-built bedspaces available to them. The Council has identified a gap of 11,273 bedspaces between the total number of FT students requiring accommodation and the total provision of existing and committed PBSA. Whilst the demand numbers identified in the submitted Study are higher than the Council's estimates, a clear gap in the provision of purpose built accommodation has been demonstrated.
- 6.8. The submitted Market Demand Report finds that the area around University of Birmingham has a potential undersupply of approximately 14,000 PBSA bed spaces which will rise to almost 16,000 by 2022/23. This includes all consented and under-construction scheme.
- 6.9. The report calculates that due to the limited supply of PBSA around the University of Birmingham 54% of students have to live in HMOs which indicates a need to deliver additional accommodation in the area. This will not only provide greater choice for students but also help to address the increase in demand arising from the growth of the University. Planning Policy Officers are therefore content that a need has been demonstrated in this instance.
- 6.10. Objectors have specifically raised the potential reduced demand for student accommodation since the start of the Covid-19 global pandemic. However, they Council's own evidence indicates that even if demand drops by 30% there would still be a shortfall of 6,000 -7,000 bed spaces serving the University of Birmingham.
- 6.11. The scheme provides of mix of cluster units and studios which come in a variety of sizes meaning that they cover a range of price points. The market demand Study also compares rent of the proposed scheme with other local purpose built accommodation and HMOs. The price of rooms in the proposed scheme would be similar to other schemes of PBSA but generally more expensive than HMO rooms. However, the quality of the accommodation, the inclusion of all bills and access to a range of communal on site facilities mean that it provides an attractive alternative to some students. In summary, it is considered that the scheme provides a good mix of accommodation, providing an attractive alternative choice for students.
- 6.12. TP33 requires developments to be very well located in relation to the educational establishment that it will serve and other local facilities in terms of walking, cycling and public transport. There are number of different bus services operating along the Pershore Road adjacent to the site providing frequent services to both the City Centre and Stirchley District Centre. The No. 76 provides a service approximately every 20 minutes to the University of Birmingham.
- 6.13. Whilst not within a local centre there is a retail unit retained within the scheme and Stirchley Local Centre is approximately 500m south of the application site.
- 6.14. A reasonable walking distance is defined as a 15-20 minute walk which equates to around 1.5km. This is set out within the Council's Student Accommodation Supply and Demand Paper. The application site is located 2km (26 minutes' walk) from the centre of the University of Birmingham campus. Whilst this is further than the

recommended guidance the walking routes available through Selly Park (e.g. Selly Park Road and Serpentine Road) are attractive residential streets creating a pleasant walking route. On balance, the distance from the University is considered acceptable.

- 6.15. In summary, a need has been demonstrated the application site is well located in term of the institution that it intends to serve in accordance with Policy TP33 of the Birmingham Development Plan.
- 6.16. Impact on Retail
- 6.17. The application includes a retail unit with the intention being that the existing post office on site will be retained within the proposed scheme. A letter has been submitted by the landlord of the existing Post Office where they have expressed their commitment to staying on site if the planning application is successful. The applicants have also indicated that they are fully committed to reaching an agreement with the landlord to secure the retention of the post office.
- 6.18. The application site is located outside of any defined centre. In accordance with the NPPF, a sequential test would usually be required in such circumstances however a post office and hot food takeaway are currently located on the application site. The proposal therefore results in no additional retail provision. This ensures that the proposal has no impact on the vitality or viability of the nearby Stirchley District Centre.
- 6.19. Siting, Scale and Appearance
- 6.20. The application seeks to demolish all buildings on the site. This includes former telephone exchange which is predominantly a 3 storey flat roof building although there is a single storey element which fronts onto Dogpool Lane. The telephone exchange dates back to the 1950s and has been vacant for a number of years with the site boarded up. The building does not fit comfortably in the street scene and therefore no concerns are raised about its loss.
- 6.21. The other building on the site is a terrace of 3 properties (1048-1052 Pershore Road and 1-3 Dogpool Lane) which is a 2 storey building dating back to the early twentieth century. The property is constructed in red brick with stone dressings, a pitched roof and brick stacks. Whilst the building has been altered with UPVC windows and modern signage the Conservation Officer considers it holds some historic merit. She considers that the building contributes positively to the setting of the locally listed Hibernian Pub and is characteristic of the scale of its townscape setting. However she accepts that with no heritage designations it would be difficult to argue for its retention particularly if the replacement is considered to be of a high quality.
- 6.22. The application site is in close proximity to 2 heritage assets, namely Selly Park Conservation Area and the former Hibernian Public House which is a Grade B locally listed building. The impact on the setting of these heritage assets needs to be considered in accordance with the NPPF and Policy TP12 of the BDP. A Heritage Assessment has been submitted by the applicant indicating that the proposal causes no harm to the setting of these heritage assets due to the level of separation and the high quality of the proposed development. The Conservation Officer has reviewed the Assessment and accepts that the proposal will not impact on the significance of the identified heritage assets.
- 6.23. The proposed replacement building is between is between 4 and 5 storeys high reducing in height adjacent to the residential properties on Pershore Road and Dogpool Lane. The scale and massing of the proposal would be greater than its

surroundings which predominantly consist of two storey terraced properties although it is accepted that one of the buildings within the site is 3 storeys high. The applicant has justified the scale by relating the stepping of the building to the way the Dogpool Lane Hotel opposite addresses its corner.

- 6.24. The proposal follows the building line on both roads and has a glazed feature to address the corner. The ground floor of the building is brick built with a high level of glazing, particularly where the commercial unit is proposed. The floors above are constructed of profiled terracotta with bricks surrounding each window. The top storey is set back slightly with terracotta surrounds dressed to each window.
- 6.25. The difference in treatment of 'top, middle and bottom' is supported, which reflects the local context. In particular a strong brick plinth would define the base of the building. The order and rhythm in the elevations would reflect the pattern of the local urban grain and the fenestration would have a strong vertical emphasis in keeping with the local vernacular.
- 6.26. The materials proposed for the elevations are typical of the local area and in particular reflect the Baptist church opposite on Pershore Road. Above the ground floor plinth a brick 'grid' would create a framework for the elevations and the windows and terracotta cladding would be organised within it. The terracotta would be profiled bringing a textured appearance to those elements of the façade creating depth and interest.



Image 5: Pershore Road elevation

- 6.27. The design is contemporary whilst making references to the architecture of the surrounding area. The scheme is considered to be of high quality in terms of its exterior design. In summary, the scale, mass and appearance of the proposal fit comfortably into the street scene maintaining the character and appearance of the area.
- 6.28. Living Conditions

- 6.29. The scheme consists of a mix of studios and cluster flats. The scheme consists of 101 self-contained studios and 66 en-suite rooms which are arranged in clusters of between 4 and 9 bedrooms. The studios vary in size between 19.5sqm and 23sqm. The ensuite bedrooms vary in size between 13.9 and 20.9sqm. The clusters all include a shared lounge and kitchen area which varies between 14 and 33sqm in size. All of the accommodation is considered to be of an acceptable size and layout for the proposed occupants.
- 6.30. A good range of communal areas are shown with the ground floor of the development including reception areas, communal breakout spaces, cinema and games room and a gym. In total this provides 316sqm of amenity space. This is considered to be a good level and variety of amenity spaces for the occupants.
- 6.31. Outdoor amenity space is proposed in a single rear courtyard measuring approximately 400sqm in size. This is considered to well-proportioned space but it is acknowledged that the level of natural sunlight the space receives will be limited due to the fact it is a north facing garden. However, this scenario cannot be avoided if building frontages are to be provided to both Dogpool Lane and Pershore Road. The site is just 400m from the River Rea corridor which leads to Hazelwell Park thereby providing excellent links to outdoor space. On balance, an acceptable outdoor space is provided for the proposed occupiers.
- 6.32. Parking and Highway Safety
- 6.33. The Council's Car Parking Guidelines SPD recommends a maximum of 1 space per 5 beds and a minimum of 1 cycle space per 4 beds for purpose built student accommodation. There is no minimum parking provision requirement. The proposal provides 184 long stay cycle spaces which are provided within a designated cycle store. This exceeds the minimum cycle parking requirement within the adopted SPD and the standards within the emerging Parking Standards SPD which requires 1 cycle space for every bedroom. On this basis the level of cycle storage is considered to be acceptable.
- 6.34. No car parking is proposed however the applicant has indicated that this will be a car free development. A loading bay is proposed on Dogpool Lane to allow for the collection of refuse from the development as well as other deliveries. The retail unit would also use the loading bay for their servicing. A Parking Management Strategy has been included within the Transport Assessment to detail how start/end of terms drop off/collections will be managed to avoid illegal/inconsiderate parking and interference with highway free flow & safety. It is explained that the moving in process typically takes place over two or three weekends in advance of the autumn term, with moving out spread over a longer period as students finish their studies at different times of the year. There will be pre-booked time slots. A marshalling system will also be in place to book the vehicles in and enforce the above measures. Additional staff will be employed to walk the surrounding roads to ensure that no informal drop off takes place. This Parking management Strategy can be secured by condition.
- 6.35. Concerns have been raised over traffic and parking. The Transportation Officer considers that the parking and traffic associated with the student use should be no greater than that of the previous commercial uses at the site. However, to help address the wider concerns raised the applicant has agreed to enter into a legal agreement to undertake regular parking monitoring post occupation to assess the impact on local roads with a £20,000 bond secured to address any impacts that arise.

- 6.36. The site is located 500m north of Stirchley Local Centre meaning that there is good access to local facilities. There are bus stops located along the Pershore Road which have very frequent services into the City Centre. I am therefore satisfied that the site benefits from good public transport links, and is located within walking/cycling distance of the University of Birmingham and local facilities in Stirchley Local Centre.
- 6.37. Transportation Development have raised no objection subject to a number of conditions. In summary, the scheme is considered to be acceptable in terms of parking and the impact on the local highway network.
- 6.38. Amenity of Existing Residential Occupiers
- 6.39. There are a number of residential properties in close proximity to the scheme on both Dogpool Lane and Pershore Road. It is important to bear in mind that there are substantial buildings on the site which already have some impact on adjoining properties in term of both being overbearing and causing a loss of privacy. The key assessment in this case is therefore whether or not the proposal has a greater impact on nearby residential properties.
- 6.40. The closest residential dwelling is No. 19 Dogpool Lane. The proposed development would be attached to the side elevation of this property. The side elevation on No. 19 contains a window and this window is the only window that serves the bedroom in the loft space. However, the applicant has stated that roof lights will be inserted within the front and rear of this bedroom to ensure the bedroom has an outlook and access to natural light. The owner of No. 19 has confirmed in writing that they have agreed to this installation. The installation of roof lights can be secured by a Grampian condition.
- 6.41. No. 1036 Pershore Road is currently attached to a 3 storey building on the application site. The attached 3 storey building extends beyond the rear of No. 1036 Pershore and would breach the 45 degree code when measured from the nearest habitable window of No. 1036. The replacement building is of a similar depth and therefore causes no greater loss of light to the rear of No. 1036.
- 6.42. No's 1030 to 1036 Pershore Road (evens) share a boundary with the site and therefore it is important to consider whether there is any impact on these private gardens. The existing building has windows on the ground, first and second floor levels that are within 6m of the shared boundary of the nearest residential garden which does not meet the current standards within Places for Living SPG that require a separation distance of 5m per storey. When the office was in use the adjacent residential gardens were heavily overlooked. Furthermore, there is also a 3 storey lift shaft adjacent to the shared boundary which is an overbearing feature for adjoining occupiers.
- 6.43. The proposed development pushes all development above single storey height further from the shared boundary decreasing the footprint of built form on the site. This ensures a much less dominant development when viewed from neighbouring properties. The nearest 4 storey development is 8m of the rear boundary on No. 1036. This clearly falls short of the separation distances within Places for Living SPG however windows are further from the shared boundary than the current situation. It is accepted that there would be more windows in the proposed development but it is important to consider that the Telephone Exchange Building has been vacant and derelict since at least 2012. This has caused issues of anti-social behaviour with flytipping and trespassing unduly impacting on the occupiers of adjoining properties. Taking into account the scale and siting of the existing building and ongoing issues with anti-social behaviour, it is considered that on balance the

scheme will not have a greater harmful impact on the occupiers of adjoining residential properties.

6.44. Trees and Landscaping

6.45. The site is predominantly covered in buildings with very little soft landscaping. There are a group of trees in front of the proposed building that fall within the public highway and a group of trees at the rear that are directly adjacent to the site boundary. The applicants do not intend to remove any trees and having reviewed the submitted Arboricultural Method Statement the Tree Officer is satisfied that the development can take place without any undue impact on the trees.

6.46. Additional planting is proposed both within the rear courtyard and in front of the proposed building. The public realm changes in front the building are considered to enhance the street scene and provide an attractive setting for the development. It is considered that appropriate planting can be secured through a landscaping condition.

6.47. Sustainability

6.48. The Energy Statement demonstrates that a range of renewable technologies have been considered and the proposal incorporates air source heat pumps. Whilst the location of these has been shown on the plans this can be secured via condition. The statement also sets out that how the building can meet the BREEAM 'excellent' standard. To ensure this is achieved a condition will be attached. The requirements of TP3 and TP4 have therefore been met.

6.49. Other Issues

6.50. Concerns have been raised over the potential for increased crime and anti-social behaviour. The site will have staff present 24/7 with just one pedestrian access into and out of the student accommodation. With robust boundary treatments provided around the site it is considered to be secure. It is important to note that West Midlands Police have raised no objection to the scheme. Concerns have been raised over littering however there is no evidence that this would be the case.

6.51. Concerns have been raised over the impact on property prices however this is not a material planning consideration.

7. Conclusion

7.1 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 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. Therefore I consider the proposal would constitute sustainable development and I recommend that planning permission is granted.

8. Recommendation

8.1. That the consideration of planning application 2020/09221/PA should be approved subject to the completion of a planning obligation agreement to secure the following:

- a) Undertaking of 6 monthly parking surveys following the full occupation of the development with a £20,000 financial bond to be secured to fund any mitigation works.
- b) Provision of real-time traffic information board at bus stop outside the site; and
- c) Payment of a monitoring and administration fee associated with the legal agreement of £1,500.

8.2. In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 28th May 2021 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 parking monitoring and real-time traffic information board the proposal would be contrary to policy TP33 of the Birmingham Development Plan and NPPF.

8.3. That the City Solicitor be authorised to prepare, seal and complete the planning obligation.

8.4. That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 28th May 2021 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.

8.5.

| | |
|----|--|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Implement within 3 years (Full) |
| 3 | Requires the submission of sample materials |
| 4 | Requires the prior submission of a Demolition method statement |
| 5 | Requires the prior submission of a construction method statement |
| 6 | Submission of Parking Management Strategy |
| 7 | Requires the prior submission of a contamination remediation scheme |
| 8 | Requires the submission of a contaminated land verification report |
| 9 | Limits the noise levels for Plant and Machinery |
| 10 | Requires the submission a Noise Insulation Scheme |
| 11 | Requires the prior submission of a sustainable drainage scheme |
| 12 | Requires the submission prior to occupation of the properties of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan |
| 13 | Requires the submission of a CCTV scheme |
| 14 | Requires the submission of hard and/or soft landscape details |
| 15 | Requires the submission of hard surfacing materials |

| | |
|----|--|
| | |
| 16 | Requires the submission of boundary treatment details |
| 17 | Requires the submission of a landscape management plan |
| 18 | Requires the prior submission of level details |
| 19 | Requires tree pruning protection |
| 20 | Arboricultural Method Statement and Tree Protection Plan - Implementation |
| 21 | Requires the prior submission of an additional bat survey if development not commenced by March 2022 |
| 22 | Requires the submission of a scheme for ecological/biodiversity/enhancement measures |
| 23 | Submission of final BREEAM certificate |
| 24 | Submission of alterations proposed to 19 Dogpool Lane |
| 25 | Installation of rooflights at 19 Dogpool Lane prior to construction of development |
| 26 | Requires the submission of a lighting scheme |

Case Officer: Andrew Fulford

Photo(s)



Photo 1: Pershore Road elevation



Photo 2: Dogpool elevation of application site including 19 Dogpool Lane

Birmingham City Council

Planning Committee

29 April 2021

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

| <u>Recommendation</u> | <u>Report No.</u> | <u>Application No / Location / Proposal</u> |
|-----------------------|-------------------|---|
| Approve - Conditions | 8 | 2021/00832/PA Birmingham (Vernon) Unit 40 of the Sea Cadet Corps Osler Street Ladywood Birmingham B16 9EU Demolition of existing boathouse and ancillary structures. Construction of new boathouse incorporating classrooms, sleeping accommodation and a multipurpose hall together with associated access, car and boat parking facilities, perimeter fencing and landscaping |

| | | | |
|-----------------|------------|---------------------|---------------|
| Committee Date: | 29/04/2021 | Application Number: | 2021/00832/pa |
| Accepted: | 02/02/2021 | Application Type: | Full Planning |
| Target Date: | 30/04/2021 | | |
| Ward: | Ladywood | | |

Birmingham (Vernon) Unit 40 of the Sea Cadet Corps, Osler Street, Ladywood, Birmingham, B16 9EU

Demolition of existing boathouse and ancillary structures. Construction of new boathouse incorporating classrooms, sleeping accommodation and a multipurpose hall together with associated access, car and boat parking facilities, perimeter fencing and landscaping

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. The application relates to the erection of a new Boathouse building for the Sea Cadets based at the Edgbaston Reservoir, Osler Street, Edgbaston. The proposals would see the demolition of the existing boathouse building on site, alongside its ancillary structures, to allow for the erection of a two storey, detached, replacement boathouse building, sited to the site's north-western most side, fronting onto the reservoir. The new boathouse would provide additional facilities which include: classrooms, short stay accommodation, a multipurpose hall, alongside changing facilities, showers and an external storage area for boats. The proposals would further include the erection of new areas of hard and soft landscaping provision, alongside areas designated for the parking of vehicles and cycles.
- 1.2. The proposed new boathouse would take on the form of a contemporary two storey structure, with a U-shaped foot-print. At ground floor level the building would feature a multi-purpose hall, entrance lobby, kit store and changing facilities. The north-eastern most wing of the building would house a staff room and short stay living accommodation, in the form of cadet dormitories. At first floor level, the building would comprise a number of classrooms within its south-western most wing, with activity spaces proposed towards the front north-western section of the building, fronting onto the reservoir. These spaces would open out onto an external balcony/terrace area, with a stairwell leading down to ground level. The north-western most wing would feature additional dormitory accommodation. The building would comprise a total gross floor area of 898sqm.
- 1.3. The proposed boathouse would be erected from a pallet of different materials. These would include brickwork and cladding for the external facades, alongside large sections of glazing, taking on the form of window openings, bi-fold doors and infinity windows. The boathouse would have a pitched roof, with this falling from west-east.
- 1.4. Two disabled parking spaces are proposed directly to the east of the building, with 1no. parking space proposed to its north. A large area for the storage of boats is further proposed to the far east of the site. A bin store and cycle store are also

proposed to be sited to the north of the site. No further details of the site's hard and soft landscaping provision or boundary treatments have been provided at this stage.

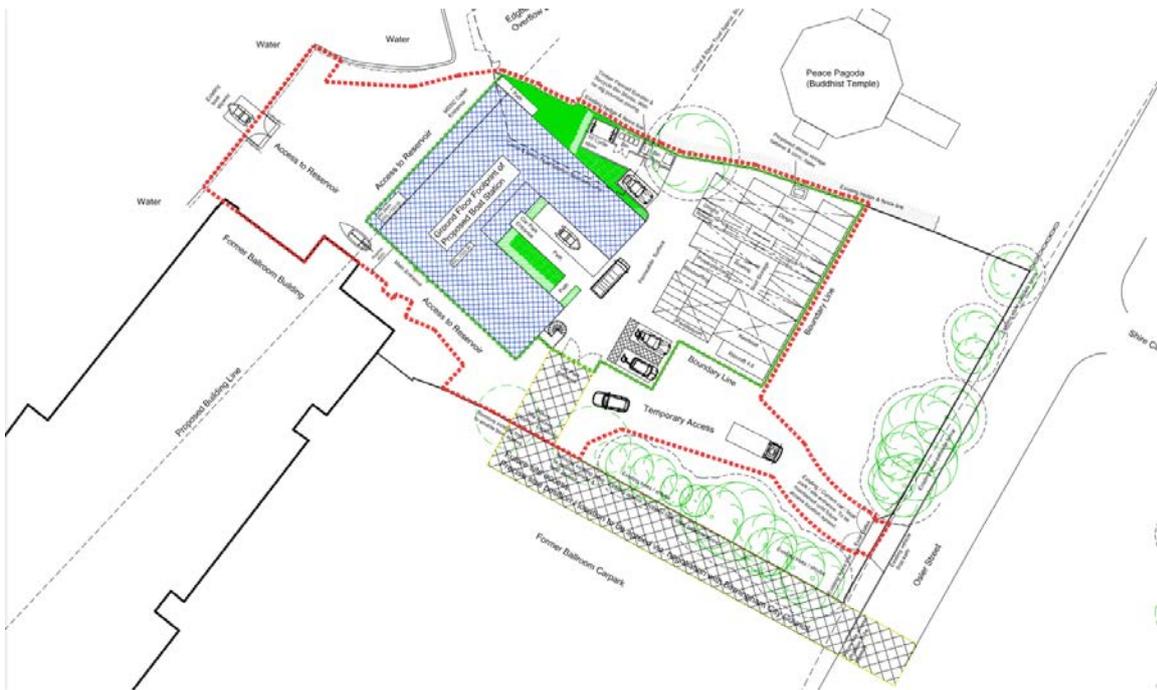


Image 1 – Proposed boathouse visual.

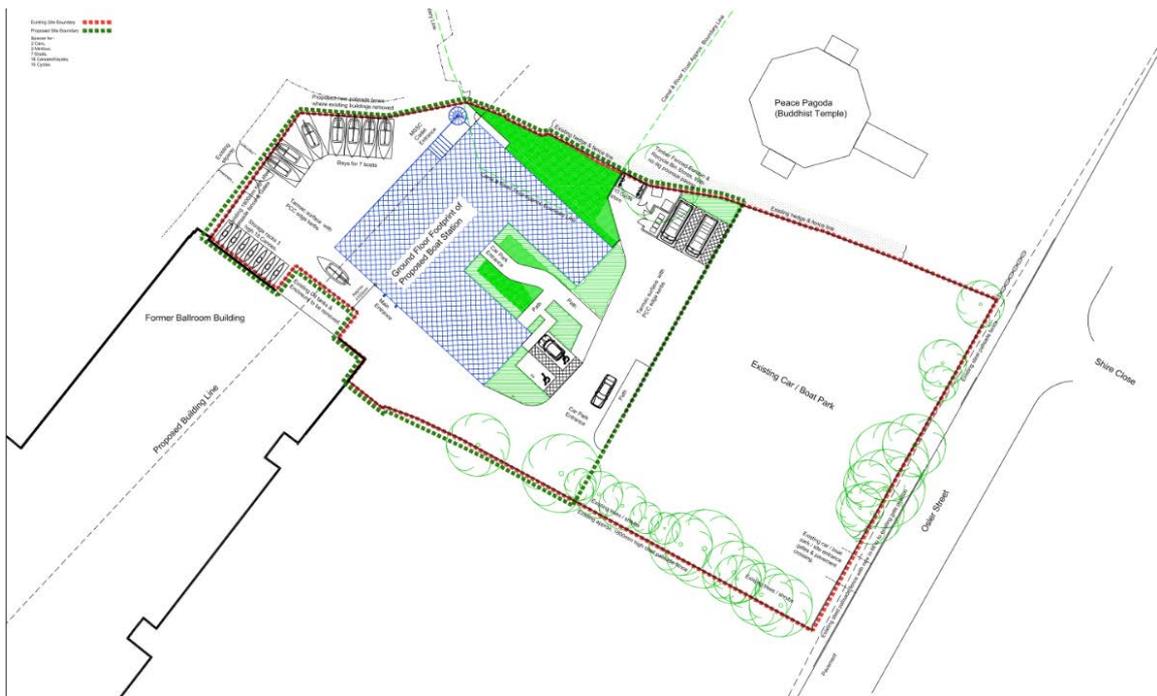
- 1.5. The application follows an almost identical scheme previously approved by the Council in 2019, application reference: 2018/10195/pa. The applicants have submitted this further application due to changes in land ownership and changes to the red edge of the site.



Image 2 – Proposed boathouse when viewed from the Reservoir.



Plan 1: Site Plan of current proposals.



Plan 2: Site Plan for previous onsite approval, planning reference: 2018/10195/pa.

- 1.6. As shown within the above plans, where the two schemes remain almost identical in terms of the foot print and siting of the new cadet centre. There remain substantial changes to the red edge boundary, which is now reduced to the sites east where previously car parking areas were proposed. This has now been reduced to an access road only. With areas for the boat storage now further formalised to the sites far north-eastern end.

1.7. In terms of car parking, where the former approval would have maintained the existing car park fronting Osler Street, the current proposals would omit this. The long term aim would be for the Sea Cadets to use a large shared car park being created within the immediate vicinity of the site and the short term aim being for the club to continue using its existing provision.

1.8. [Link to Documents](#)

2. Site & Surroundings

2.1. The application site comprises a large rectangular sized plot of land, which is accessed from its east, via Osler Street. The application site is bound by residential dwellings to its east and a Buddhist Temple to its north, with industrial unit's sited further north. To the site's south lies the existing tower ballroom building, alongside its various ancillary structures. To the site's west lies the Edgbaston Reservoir. This can be accessed directly from within the site, via a gated entrance.

2.2. The application site currently features a largely single storey boathouse building, alongside various external structures and areas of hard standing which are used for the storage of boats and other equipment. The site's eastern end is largely used for informal car parking.

2.3. Although not formal policy, it should be noted that the site is situated within the upcoming Masterplan for this area of the city, labelled as "The Edgbaston Reservoir Masterplan SPD". This would see the site and its wider area redeveloped to create a mixed used environment, taking full advantage of the reservoir and its surroundings. A large public square is proposed to the site's south, where the Tower Ballroom is currently situated, with other two and three storey commercial units sited further south. The application site however remains allocated as a sporting facility, within this document. It should however be noted that the Masterplan, is in draft form and is not formal policy.

3. Planning History

3.1. 2018/10195/pa - Demolition of existing boathouse and ancillary structures and erection of new boathouse to include classrooms, short stay sleeping accommodation and a multipurpose hall together with associated access, car and boat parking facilities, boundary treatment and landscaping – approve with conditions – 05/07/2019.

4. Consultation/PP Responses

4.1. Canals and Rivers Trust: Raise no objections, subject to conditions relating to: drainage, the construction method, lighting and landscaping.

4.2. Regulatory Services: no objections.

4.3. Transportation: no objections.

4.4. Sport England: no objection.

4.5. Environment Agency: no objection.

4.6. West – Midlands Police: no objection, make security related conditions.

- 4.7. Press and site notices erected. MP, Ladywood and Edgbaston ward members, residents associations and neighbouring occupiers/residents notified, of the proposals.
- 4.8. 27no. representations have been received in response to the development proposals. This raised the following point:
- Existing walking path should be retained;
 - Existing accesses and walkways should be retained and maintained;
 - No development should infringe on water front;
 - New building should be sited 20m back from waterline;
 - Too many boats proposed for the site;
 - The development should restrict public access to the waterfront.
- 4.9. Edgbaston Reservoir Co submitted the following comments:
- Unrestricted along the reservoir needs to be maintained;
 - Buildings should be set back from the waterfront; and
 - Planned car parking on site in inadequate.
- 4.10. Midland Sailing Club submitted the following comments:
- Sea Cadets should abide by Water Users Agreement for the use of the water.
- 4.11. Friends of Edgbaston Reservoir submitted the following comments:
- Plans are unclear in the manner they will interact with the public walkway;
 - Current pinch point near the sea cadet centre should be addressed;
 - Further engagement with other uses should be considered.
- 4.12. Councillor Carl Rice submitted the following representation:
- All new buildings should be set well back from the water front;
 - Lack of engagement with water users; and
 - Lack of car parking at the site.

5. Policy Context

- 5.1. Birmingham Development Plan (BDP) 2017, Birmingham Unitary Development Plan 2005 (saved policies), Places for All (SPG), Car Parking Guidelines SPD, NPPF & Edgbaston Reservoir Masterplan 2019 - (Draft).

6. Planning Considerations

Principle:

- 6.1. The principle for the redevelopment of the application site, to allow for the erection of a larger centre was established within the former planning approval, reference: 2018/10195/pa.

Design:

- 6.2. The proposed boathouse would have its principal elevation sited to its south-west fronting the reservoir. The building would have a modern and contemporary appearance, being laid out over two floors with a low lying pitched roof, falling from west to east. The boathouse would be erected in a dark coloured brick at its lower

level, with a rustic grey finished cladding above, up to ridge level. A condition requiring further details of these materials will be recommended as part of any subsequent planning. The various elevations of the building have been broken down through the use of design features and openings. The reservoir facing elevation would have a number of single and double door openings at ground level, with large expanses of glazing proposed at first floor level, opening out onto an external terrace, overlooking the reservoir. The building's southern side facing elevation would have a number of full length window openings, with a double height entrance, providing the elevation with a focal point. The remaining elevations would also carry forward this design theme, with varying window and door sizes, alongside the same pallet of materials.



Image 3: Proposed boathouse north facing elevation.

- 6.3. The wider site would be landscaped and new areas of planting and hardstanding would be added to formalise the parking and enhance the building's setting, both towards its west, fronting the reservoir and to its east. Although full details of landscaping and hardstanding works have not been provided at this stage, a condition to secure these, alongside a condition to secure details of the site's boundary treatment, access gates and the proposed materials will be attached to any subsequent planning consent. It is therefore considered that the proposals would make a positive contribution to the application site and the visual amenities of the wider area.

Transportation:

- 6.4. It is understood that for the short term on street car parking would be required by any visitors with the longer term plan being the use of a shared car park for the wider area. It should however be noted that most visitors only attend the site on event days, whereas most of the cadets are usually dropped off and picked up appropriately. 3no. on site parking spaces for staff use are provided. The Councils Transport Officers have reviewed the scheme and have no objection.

Trees:

- 6.5. The application site features a number of mature trees throughout, with the vast majority of these sited to the site's east, fronting onto Osler Street. These would be retained as part of the development works and a tree protection condition is

recommended. The current application also allows opportunity for increased landscaping provision and as such, a further condition in this regard is also included.

Ecology:

- 6.6. A preliminary roost assessment was submitted in support of the application and this found the site to hold a limited potential for nesting Bats. The City Ecologist shares this view and has recommended an ecological enhancement condition, which is included.

Residential amenity:

- 6.7. The application site is bound to its east by residential dwellings, sited on Osler Street. These residential units however, are sited in excess of 75m away from the proposed boathouse building and would be screened from view, via the site's existing planting, which is to be retained and further enhanced as part of these proposals. It should further be noted that the site as existing, is home to an existing boathouse facility and the application would merely be replacing the existing building, with an improved and more modern facility. The proposed development is further not considered to result in an over-intensification of the site, which would result in the detriment of residential amenity.
- 6.8. It is however considered, in order to safeguard the amenity of the site's existing neighbouring residents, a condition to ensure that the site only be used as an outdoor sports and recreation centre and for no other purposes, be recommended as part of any subsequent planning consent. A further condition that the temporary accommodation proposed as part of the development is retained as such will also be recommended.

West Midlands Police

- 6.9. West Midlands Police have made a number of security related recommendations, which include but are not limited to the use of a: CCTV scheme, lighting scheme and appropriate boundary treatments. These recommendations are agreed with and are to be secured by appropriately worded conditions which are included.

Other matters:

- 6.10. It should be made clear the application will have no implications on the public accessing the Reservoir. The proposals further do not propose to block the existing footpath which runs the full loop of the reservoir.
- 6.11. Comments made with reference to the number of boats on the site cannot be considered as part of the wider planning balance of the scheme. However, it should be noted that the existing club will operate the new facility and as such, no changes are proposed within this regard. The planning department cannot further enforce the applicant to abide by existing agreements with other water users.
- 6.12. All necessary public consultation with regards to this planning application were undertaken appropriately.
- 6.13. It should further be noted that any comments on the plans in relation to the negotiations with the Council relating to land ownership fall outside of the planning remit of the application.

7. Conclusion

7.1. The development proposals would see an existing boathouse building removed from the application site, in order to allow for the erection of a replacement boathouse building, alongside ancillary landscaping and hardstanding provision. The proposed development would allow for a much improved sporting centre to be erected on site and this would further provide this area of the city with much improved and modern sports and recreation facilities. The proposed development is further considered to be of a high design merit, which would enhance and improve this area of Edgbaston, allowing the site to maximise its location and the views that it has to offer, through being sited adjacent to the Edgbaston Reservoir. As such, the development proposals, subject to the addition of the recommended conditions, are considered to be acceptable and in compliance with relevant planning policy from within the BDP and the NPPF.

8. Recommendation

8.1. Approve subject to conditions.

-
- 1 Requires the scheme to be in accordance with the listed approved plans
 - 2 Requires the submission of dormer window/window frame details
 - 3 Requires the submission of sample materials
 - 4 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
 - 5 Requires the submission of boundary treatment details
 - 6 Requires the submission of a lighting scheme
 - 7 Requires the submission of a CCTV scheme
 - 8 Prevents the use from changing within the use class
 - 9 Requires that the temporary living accommodation is incidental to the main use
 - 10 Requires the submission of hard and/or soft landscape details
 - 11 Requires the implementation of tree protection
 - 12 Implement within 3 years (Full)
-

Case Officer: Idris Gulfraz

Photo(s)

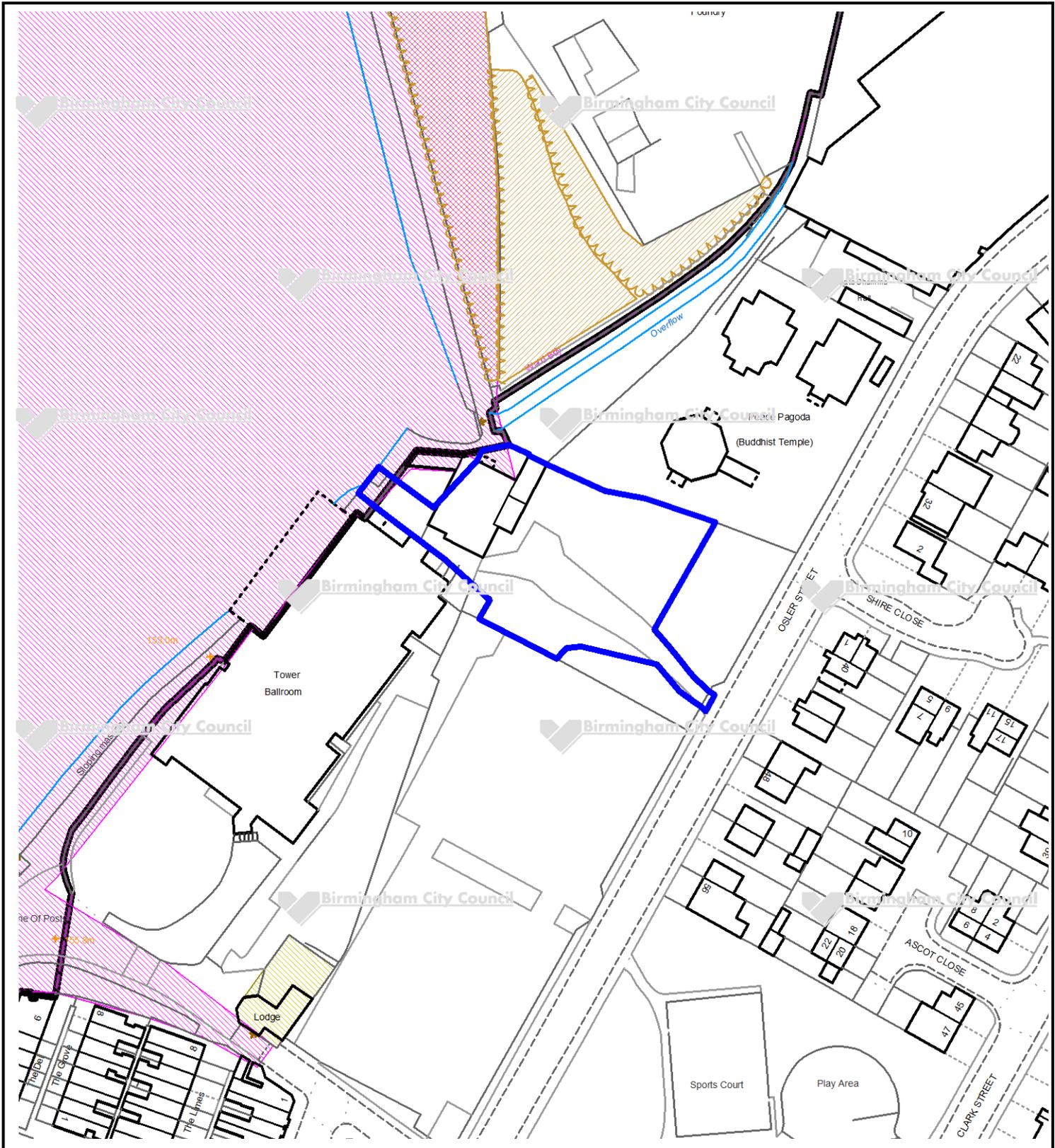


Photo 1: existing site entrance from waterfront.



Photo 2: Existing Boathouse on site.

Location Plan



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Birmingham City Council

Planning Committee

29 April 2021

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

| <u>Recommendation</u> | <u>Report No.</u> | <u>Application No / Location / Proposal</u> |
|---|-------------------|--|
| Approve – subject to 106 Legal Agreement | 9 | 2020/03634/PA Land bounded by Montague Street, The Grand Union Canal, Barn Street, Milk Street, High Street Deritend, Adderley Street and Liverpool Street, including part of the Duddeston Viaduct Digbeth Birmingham B12 Hybrid planning application comprising: Outline application with all matters reserved for demolition of identified buildings, conversion and alteration of existing and erection of new buildings for a mixed use development of up to a maximum of 350,000sqm floorspace (GIA) comprising up to 1,850 units of residential accommodation (Use Classes A1, A2, A3, A4, A5, B1,C1,C3, D1,D2); car parking (including multi-storey car park), student accommodation and nightclubs (Sui Generis) (up to 26,100sqm GIA) within buildings ranging from 1 to 15 storeys; associated public realm works, including new pedestrian bridges across the River Rea and the Grand Union Canal and two new bridges to form a linear sky park atop Duddeston Viaduct on land bounded by Montague Street, The Grand Union Canal, Barn Street, Milk Street, High Street Deritend, Adderley Street and Liverpool Street. Full planning application for part demolition part conversion and construction of a mixed use development ranging from 1 to 9 storeys (Use Classes B1, A1 to A3) and associated public realm on Wild Works site bounded by Floodgate Street, Moores Row, Milk Street and the Bordesley Viaduct (Plot CF1); Full planning application for demolition of existing buildings and erection of a residential development comprising 40 no. units within a building of 7 storeys (Use Class C3) with ground floor retail/food and drink uses (Use Classes A1 to A3) and associated public realm, including a new pedestrian bridge over the River Rea on land bounded by the River Rea and Floodgate Street (Plot CF2); Full planning application for a three storey rooftop extension to the existing Custard Factory to form additional workspace (Use Class B1) and extension at ground floor (Use Classes A1, A3, A4 and B1a). |

| | | | | |
|---|----|---------------|---|--|
| Approve – subject to 106 Legal Agreement | 10 | 2020/08215/PA | Land bounded by Paradise Circus, Great Charles Street Queensway and Paradise Place Plot A of Phase 3 of Paradise Development Site Paradise City Centre Birmingham | Demolition of existing buildings, site clearance and the erection of 49 storey building comprising 370 residential apartments (Use Class C3), lower ground/upper ground floor commercial/leisure space (Use Class E (a), (b) and (d) and residents' reception, amenity space, storage and cycle parking, accessible parking spaces, pedestrian and service vehicular access, highway works, plant, landscaping and associated works. |
| Approve – subject to 106 Legal Agreement | 11 | 2020/00999/PA | 53-68 Princip Street Gun Quarter Birmingham B4 6LN | Demolition of existing buildings and erection of a residential development of 337 apartments across three buildings with heights of 6, 11 and 25 storeys with associated cycle parking and amenity space |
| Endorse | 12 | 2018/03004/PA | 16 Kent Street Southside Birmingham B5 6RD | Demolition of existing buildings and residential-led redevelopment to provide 116 apartments and 2no. commercial units (Use Classes A1-A4, B1(a) and D1) in a 9-12 storey building |

| | | | |
|-----------------|----------------------|---------------------|---------------|
| Committee Date: | 29/04/2021 | Application Number: | 2020/03634/PA |
| Accepted: | 14/07/2020 | Application Type: | Outline |
| Target Date: | 03/11/2020 | | |
| Ward: | Bordesley & Highgate | | |

Land bounded by Montague Street, The Grand Union Canal, Barn Street, Milk Street, High Street Deritend, Adderley Street and Liverpool Street, including part of the Duddeston Viaduct, Digbeth, Birmingham, B12

Hybrid planning application comprising: Outline application with all matters reserved for demolition of identified buildings, conversion and alteration of existing and erection of new buildings for a mixed use development of up to a maximum of 350,000sqm floorspace (GIA) comprising up to 1,850 units of residential accommodation (Use Classes A1, A2, A3, A4, A5, B1, C1, C3, D1, D2); car parking (including multi-storey car park), student accommodation and nightclubs (Sui Generis) (up to 26,100sqm GIA) within buildings ranging from 1 to 15 storeys; associated public realm works, including new pedestrian bridges across the River Rea and the Grand Union Canal and two new bridges to form a linear sky park atop Duddeston Viaduct on land bounded by Montague Street, The Grand Union Canal, Barn Street, Milk Street, High Street Deritend, Adderley Street and Liverpool Street.

Full planning application for part demolition part conversion and construction of a mixed use development ranging from 1 to 9 storeys (Use Classes B1, A1 to A3) and associated public realm on Wild Works site bounded by Floodgate Street, Moores Row, Milk Street and the Bordesley Viaduct (Plot CF1);

Full planning application for demolition of existing buildings and erection of a residential development comprising 40 no. units within a building of 7 storeys (Use Class C3) with ground floor retail/food and drink uses (Use Classes A1 to A3) and associated public realm, including a new pedestrian bridge over the River Rea on land bounded by the River Rea and Floodgate Street (Plot CF2);

Full planning application for a three storey rooftop extension to the existing Custard Factory to form additional workspace (Use Class B1) and extension at ground floor (Use Classes A1, A3, A4 and B1a).

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

- 1.1 This is a hybrid planning application; part is in full and part is in outline. The whole site covers approximately 18.9 hectares of which 1.01 hectares form the full application and the remaining 17.88 hectares comprises the outline site.

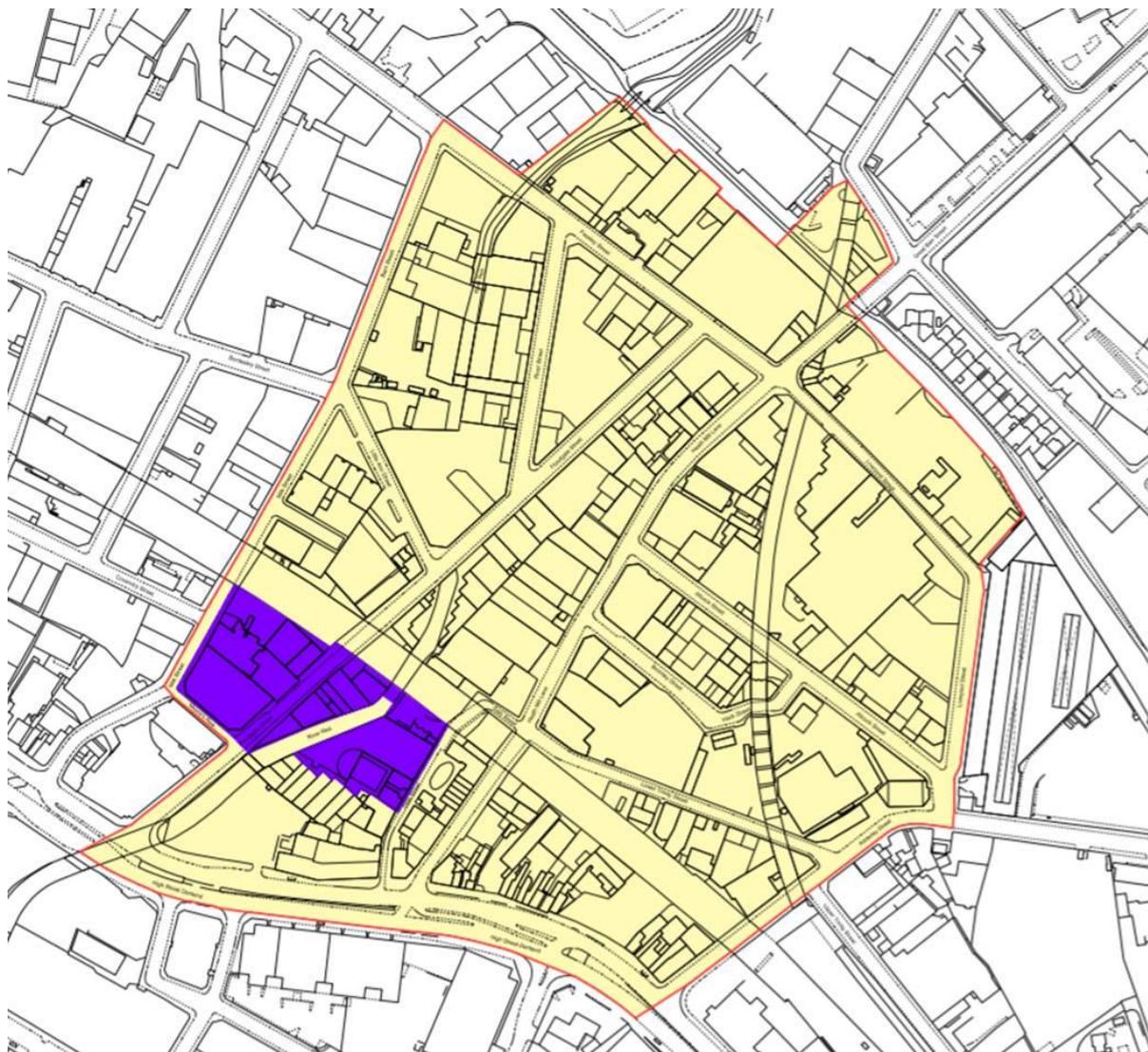


Fig. 1 – Hybrid Planning Application Site Boundary – Detailed part in purple, outline part in yellow

- 1.2 Taking the application as a whole the development proposes to redevelop a total of 67 plots for the following range of uses and maximum quantum of development within buildings ranging from 1 to 14 storeys in height:
- i. A1 (shops and retail outlets) / A2 (professional services) / A3 (food and drink).
A4 (drinking establishments) / A5 (hot food takeaways) – up to 18,900sqm GIA;
 - ii. B1 (office & business) – up to 180,000sqm GIA;
 - iii. C1 (hotel). – up to 14,400sqm GIA (350 rooms);

- iv. C3 (residential) – up to 153,000sqm GIA (1,850 units);
 - v. D1 (education/community facilities) – up to 9,900sqm GIA;
 - vi. D2 (leisure) – up to 2,000sqm GIA; and
 - vii. Sui Generis – up to 26,100sqm GIA (between 700 and 850 student bed spaces), up to 800 car parking spaces, nightclub.
- 1.3 It is proposed that the new floorspace would replace the demolition of over 59 buildings within the site.
- 1.4 In addition to the above the whole scheme would provide a wide range of improvements to the public realm, delivering 31,256sqm of public open space, including:
- The opening up of the unused Duddeston Viaduct as a publicly accessible thoroughfare known as Viaduct Park with up to four vertical access points;
 - Providing a new pedestrian bridge over the Grand Union Canal;
 - The opening up of part of the River Rea with an associated bridge and publicly accessible areas of public open space
 - Providing a new east/west route through Digbeth via a new bridge structure
 - Providing a replacement pedestrian bridge over the River Rea and improved pedestrian link between Floodgate Street and Gibb Street
 - Providing a new public link between floodgate street and Heath Mill Lane

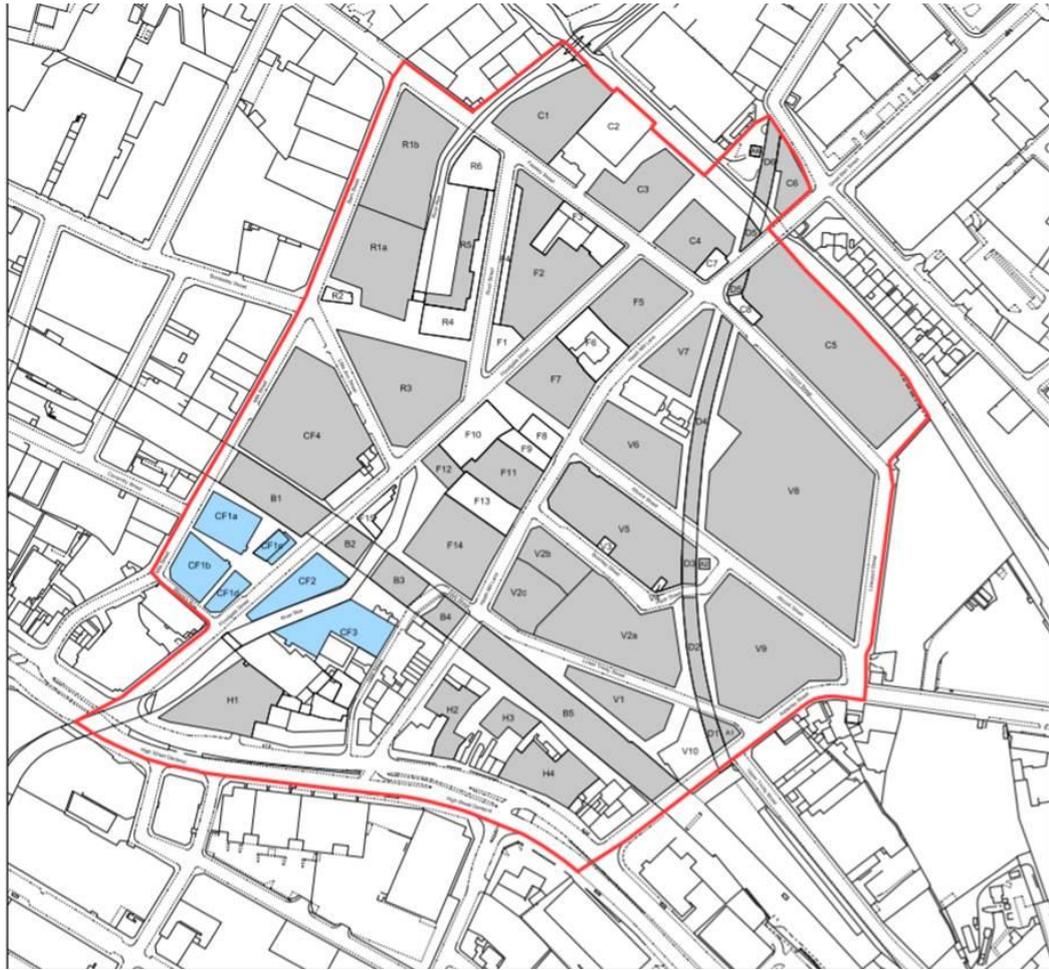


Fig. 2 - Application site boundary with Individual Development Plots Identified
Full Application Plots in blue, Outline Plots in grey

The Outline Application

1.5 The redevelopment of the 67 development plots would be controlled via firstly the quantum of development (listed above), secondly by a set of approved Parameter Plans, thirdly by a building Retention Plan and finally by a Design Code. The Parameter Plans define the following:

01 – Plot Extents and Height – defines the maximum height of each plot and the maximum horizontal extent of the building envelope. It also sets the maximum width of the proposed bridges;

02 – Ground Floor Land Use – described in use class terms

03 Typical Upper Floor Land Use - described in use class terms

04 Access and Connectivity – the primary routes and access points are identified including routes for vehicles, cycles, pedestrians;

05 Public Realm – identifying open space, walkways, bridges;

06 Street Types – identifying a hierarchy of street types and possible locations for on street sustainable urban drainage, servicing and parking.

- 1.6 The majority of the site lies within the Digbeth, Deritend and Bordesley High Streets Conservation Area or the Warwick Bar Conservation Area, and as such the site accommodates a number of heritage assets. Accompanying the Parameter Plans is a Retention Plan identifying those buildings that are statutorily listed, locally listed and buildings that are considered to be positive contributors. It also identifies which buildings within the outline application are proposed to be demolished, altered or retained with works or retained without works. With the exception of former Monastery/Dolphin Showers (174-173 High Street) no works of demolition or alteration are proposed to the existing listed buildings on site (although listed building consent would still be required). Meanwhile the locally listed Rea Studios is proposed to be demolished and a significant part of the locally listed Wild Works 2. Nine locally listed buildings are proposed to be retained and altered.
- 1.7 The 67 plots have been divided into six distinct character areas used to inform the Design Code:
 - i) River Rea Character Area;
 - ii) Custard Factory Character Area;
 - iii) High Street Character Area;
 - iv) Floodgate Street North Character Area;
 - v) Canalside Character Area; and
 - vi) Viaduct Character Area.
- 1.8 The applicants have illustratively divided the whole site into the detailed application phase followed by 7 further phases. The scale, significance and complexity of the proposed development scheme is unique. With a 15 year build program the applicants have requested an extended period for the submission of reserved matters relating to the outline development plots increasing the standard three years to a period of twelve years.
- 1.9 The assumptions in relation to phasing are defined in Chapter 4 of the ES and have informed the assessment throughout the ES, where relevant. However, and above all, the assessment of the proposed development has been assessed as a 'whole' which would commence in 2021 and, if fully realised, be fully operational by 2035.
- 1.10 An outline application in a conservation area is not usually accepted. This is because of the level of detailed information required for the Council to undertake its statutory duty under the Planning (Listed Buildings and Conservation Areas) Act 1990 that requires the Council to have special regard to the desirability of preserving listed buildings or their setting and to preserving or enhancing the character or appearance of conservation areas. Particularly as the 1990 Act that these desires to preserve or enhance should be afforded considerable importance and weight. In addition to this statutory duty the NPPF explains that applicants should describe the significance of the heritage assets affected with the level of detail proportionate to the assets importance. In this particular case the hybrid application is supported by Parameter Plans, a quantum of development specification, a detailed Design Code including

mandatory requirements, a Heritage Assessment that includes a Retention Plan and part of the ES. These describe the proposals in sufficient detail and would, subject to any conditions that meet the statutory tests, control the proposed development to the extent that it is considered that the Council's statutory duty would be fulfilled.

Full Application

- 1.11 The full part of the proposals encompasses three distinct plots:
- The Wild Works, Plot CF1 – The existing plot contains two buildings; Wild Works 2 and Wild Works 3 with its attached canteen. The workshop extension to Wild 2 together with the rear portion of Wild 3 would be demolished with a redevelopment to provide four blocks ranging from 1 to 8 storeys (Use Classes B1, A1-A3). The total commercial floorspace would total 12,918sqm.
 - Custard Factory Living, Plot CF2 – demolition of existing structures with replacement 7 storey residential development comprising of 40 units (Use Class C3) with ground floor retail/food and drink uses (Use Classes A1 to A3) and associated public realm. The residential units would comprise 15 x 1 bed, 22 x 2 bed and 3 x 3 bed. Associated public realm includes the provision of a replacement pedestrian bridge to cross the River Rea to provide an improved link from Floodgate Street past the Custard Factory to Gibb Street. The additional commercial floorspace would total 550sqm GIA; and
 - Custard Factory Extension, Plot CF3 - A 3 storey roof top extension to the Custard Factory to provide open-plan office space (Use Class B1). The extension consists of two storeys of flexible-use office space and a further top floor smaller area for flexible function space with an outdoor roof garden space. In addition an extension at ground floor to provide additional retail and office floorspace (Use Classes B1a, A1, A3 and A4). The total additional office floorspace would be 3,233sqm GIA and a small ground floor extension of 36m² (GIA) is proposed to provide back of house plant and storage for the existing commercial uses.
- 1.12 An Environmental Statement (ES) has been submitted pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 to assess the likely significant environmental impacts arising from the wider development during the construction and operational phases of the development. It also identifies any mitigation measures that are required to address these environmental effects.
- 1.13 [Link to Documents](#)
2. Site and Surroundings - Hybrid Site
- 2.1 The 18.9 hectare hybrid site is located to the east of Birmingham City Centre. The site is defined to the south by the High Street Deritend (B4100) and to the north by the Grand Union Canal which runs along the edge of the site in an east-west direction. The eastern and western edges of the site are less strongly defined with Liverpool Street/ Adderley Street to the east and Milk Street/Barn Street to the west.

This significant City Centre site is partly owned by Oval Real Estate together with a number of other landowners.

- 2.2 The decline of local industry in Digbeth from the mid-1970s onwards combined with the severance from both the city central business district and the market area by the post war road system has resulted in ever changing uses and vacancy in the area. In the 21st century, the Digbeth area has become a focus for digital and creative industries and increasingly an area providing alternative leisure uses. The ES estimates that locally there are 1,950 employee jobs classed as being within the Creative Industries sector, equivalent to 17.7% of all employee jobs in the local neighbourhood impact area. Generally building heights within the site are low; the majority reaching up to 3 storeys, with some taller elements of up to 6 plus storeys focused around the southern junction of Floodgate Street and Gibb Street. In terms of landmark buildings and well known businesses the site contains The Custard Factory, the Wild Works Rea Studios, The Bond, The Old Crown pH, Digbeth Arena, The Mill, Fazeley Studios and Rea Studios. The site also has a number of derelict buildings and vacant plots particularly to the east of the Duddeston Viaduct. The applicants have advised that, based on existing residential floorspace figures the site currently accommodates a very small residential population of approximately 15 residents.



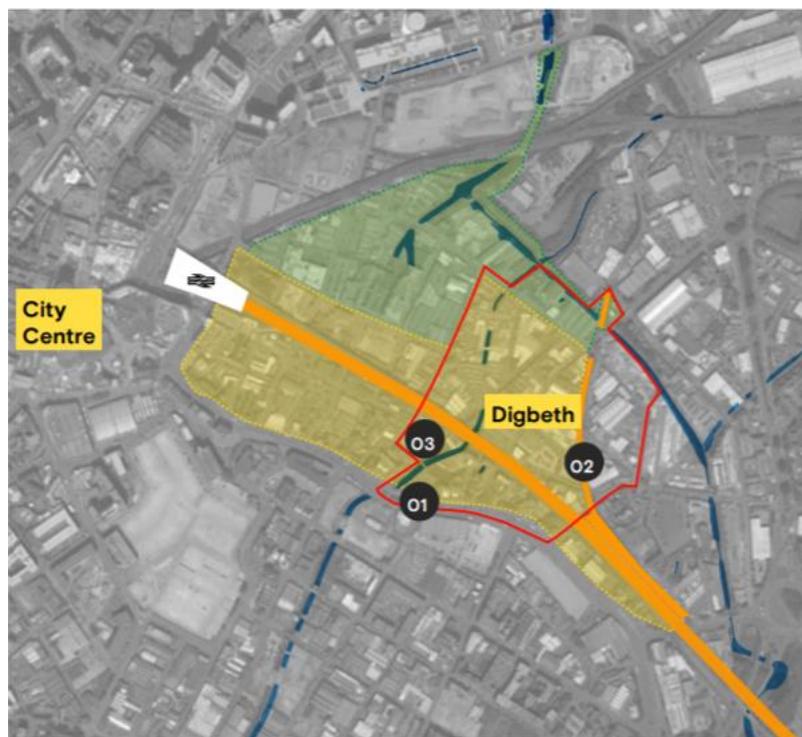
Fig 3: Application Site in the Context of Consented and Emerging Schemes

- 01 - Beorma (permission granted)
- 02 - Connaught Square (resolution to grant)
- 03 - Bull Ring Trading Estate/The Stone Yard (permission granted)
- 04 - Lunar Rise (permission granted)
- 05 – Typhoo Wharf and surroundings
- 06 – Warwick Barr
- 07 – BCC Fleet and Waste Vehicle Service Facility site
- 08 - Bordesley Wharf (permission granted)

09 - Upper Trinity Street (current application)
10 - 193 Camp Hill (permission granted on appeal)

- 2.3 As illustrated in the figure above within the surrounding area there are a number of applications that have recently been granted permission or are awaiting determination. Some of these schemes have included development of significant height: Connaught Square 28 storeys, former Irish Centre 48 storeys, Stone Yard 30 storeys, Lunar Rise 25 storeys, Bordesley Wharf 25 storeys and Upper Trinity Street 32 storeys.
- 2.4 The site is characterised by its physical infrastructure, which effectively divide it into sub parts. First there are two viaducts; Bordesley Viaduct that runs in an east-west direction, terminating at Moor Street station, and Duddeston Viaduct, which is a derelict structure and branches from the Bordesley Viaduct in a north-westerly direction. The Duddeston Viaduct was constructed to accommodate a train line however tracks were never laid. Built around 170 years ago it has lain untouched for the best part of two centuries. Both viaducts are recognised as wildlife corridors.
- 2.5 The Rea River also runs within the western part of the site at a lower level to street level. It is largely culverted below ground and the remainder of its course within the site is largely canalised. The Site lies partially in Flood Zones 1, 2 and 3. Both the River Rea and the Digbeth Branch Canal are Sites of Local Importance to Nature (SLINC's).
- 2.6 The majority of the site is situated in the Digbeth, Deritend and Bordesley (Digbeth/Deritend) Conservation Area with the exception of The Bond Warehouse and associated land to the north of Fazeley Street that are located within the Warwick Bar Conservation Area. There are the following six listed buildings/structures within the site:
- 1) Public conveniences at the corner of Liverpool Street Great Barr Street (Grade II);
 - 2) Devonshire House, High Street (Grade II);
 - 3) St Basil's Centre for Detached Youth Work, Heath Mill Lane (Grade II);
 - 4) The Old Crown Public House 186,187 & 188 High Street (Grade II*);
 - 5) Former Church, 174-173 High Street (Grade II); and
 - 6) Road Bridge over Grand Union Canal on Great Barr Street (Grade II).
- 2.7 There are also 22 locally listed buildings within the site, including the Bordesley Viaduct whilst the River Rea is also considered to be locally listed. The first two listed below are located within the full application site:
- 1) 119 Floodgate Street, Former WJ Wild No.3 Works
 - 2) 104-108 Floodgate Street, Former WJ Wild No.2 Works
 - 3) No.2 (former Lloyds Bank) Heath Mill Lane
 - 4) Nos. 4 & 6 High Street (Former Deritend Branch Library)
 - 5) Highway Commemorative Plaque, High Street
 - 6) 179-182 (Inc.) High Street
 - 7) 164 High Street (Cosyfit Chairs Ltd & Bordesley Chambers)
 - 8) 160 High Street The Rainbow pH
 - 9) Bordesley Railway Viaduct

- 10) 93-96 Floodgate Street, Former Wild No.1 Works
- 11) The Ruin, Floodgate Street, (Former Floodgate Tavern)
- 12) Former WJ Wild No.4 Works. Rea Studios, Floodgate Street,
- 13) Former WJ Wild No.6 Works, Floodgate Street,
- 14) Former WJ Wild Ltd Personnel Department, Floodgate Street,
- 15) Nos.48-52 Jukes (B'ham) ltd. The Arch, Floodgate Street,
- 16) Former Chapel, Fazeley Street
- 17) Former Sunday School, Fazeley Street
- 18) Nos. 180 & 182 Fazeley Street
- 19) The Bond Warehouse r/o No. 182 Fazeley Street
- 20) r/o 176 Fazeley Street, Former Gas Retort House
- 21) Grand Union Canal Aqueduct over River Rea
- 22) Devonshire Works Chimney



Emerging schemes diagram



Fig 4: Application Site in relation to Existing Conservation Areas, Viaducts and Waterways

Full Application

- 2.8 The full application site comprises three plots of land sited within the south west corner of the hybrid boundary with a total area of 1.01 hectares.

- 2.9 The Wild Works Site (Plots CF1a to CF1d) – W.J. Wild Metal Works began in Birmingham in 1919 moving in 1935 to a series of purpose built new premises (titled Wild Works nos.1-6 and personnel building) along the length of Floodgate Street. The first full plot within the full application is accessed from Floodgate Street and Milk Street and it has a border to Bordesley Viaduct. It accommodates Wild nos. 2 and 3 and the canteen. With the possible exception of some individual walls, the buildings on site all date from 1938 or later. Since 2013, the existing buildings on the site have had various short term uses such as pop up bars, clubs, markets, co-working and event spaces. The Wild 2 and Wild 3 buildings are locally listed, however the existing canteen that adjoins Wild 3 is not. Adjacent to but outside of the site, on Moore’s Row, is the Grade II* listed Former Floodgate School. Due to its close proximity to the River Rea, Wild Works is located almost entirely within Flood Zone 2, and partially within Flood Zone 3.
- 2.10 The ‘triangle’ site (Plot CF2) between Floodgate Street and the River Rea – this second plot is a triangular piece of land is called Custard Factory Living. The buildings on site today were established after the second world war however most are derelict.
- 2.11 The Custard Factory (Plot CF3) - located in the heart of Digbeth, this third plot is a repurposed Victorian building with great character and individual quality. Once a working factory for Bird’s famous custard, today the redeveloped building accommodates an array of creative and independent businesses including bars, shops and a cinema.

3.0 Planning History (from 2016 onwards)

Whole Site

- 3.1 2019/08493/PA: Environmental Impact Assessment Scoping Report for proposed development of up to 350,000sqm GEA of mixed uses comprising retail, office, hotel, residential (including student accommodation), leisure and entertainment uses and up to 14 storeys in height. Issued 20th December 2019

Heath Mill Lane

- 3.2 2020/03662/PA: St Basil's Church, Heath Mill Lane, Demolition of outbuildings to the rear of the former St Basil's Church. Withdrawn
- 3.3 2019/07920/PA: Lorry route from the Curzon Street works area to the strategic highway network to facilitate enabling works associated with the Curzon Street works area. Approved 15/11/2019
- 3.4 2018/06074/PA: 60-64 Heath Mill Lane, Installation of shopfront and change of use of unit from light industrial (Use class B2) to ping pong hall (Use class D2), public bar (Use class A4) and restaurant (Use class A3), Approved 7/11/2018
- 3.5 2016/07372/PA: Retention of 1 no. freestanding ATM pod and protection bollards. Approved 14/12/2016

Adderley Street

- 3.6 2020/02706/PA: The Rainbow, Removal of section of flat roof over yard area, installation of extraction and input fan system, external lighting and shop awnings to two elevations. Approved 11/12/2020
- 3.7 2016/04017/PA: 104 Liverpool Street, Change of use of first and second floors from physical therapy (Use Class D1) to 3 self-contained flats (Use Class C3). Refused 01/7/2016
- Liverpool Street
- 3.8 2018/08546/PA: Land at Liverpool Street, Installation of a gas standby power facility, Approved on 22/10/2018
- Fazeley Street
- 3.9 2020/07795/PA: Fazeley Studios, Studios 22, 23, 24, 26, 28 and 30, 191 Fazeley Street, Change of use from offices (Use Class E) to Accountancy Training Centre (Use Class F.1), Approved 08/12/2020
- 3.10 2020/09413/PA: The Bond Demolition of existing structures & external and internal re-configuration of The Bond Complex comprising change of use of Retort House, Ice House and Toll House to Office/Research/Industry (Use Class E(g)); extension and change of use of Gate House to Event Space (Sui Generis); single storey glazed infill extension to Ice House (within existing Bond Cafe covered area) for Office /Research/Industry (Use Class E(g)); extension to the Toll House to provide substation; external alterations to each building; widening of existing towpath to adjoin new floating pontoon; new piers and entrance gates to complex. Approved 17/03/2021
- 3.11 2019/04722/PA: Fazeley Studios, 191, Change of use of Studios 33, 35, 36, 37, 38 & 40 from office use (Use Class B1a) to accountancy training use (Use Class D1), Approved 03/08/2019
- 3.12 2015/03620/PA: Fazeley Studios - Studio 35, 191, Installation of footway crossing to improve visitor parking and alterations to existing fence to create access way, Approved 23/07/2015
- River Street
- 3.13 2017/03911/PA: 43 River Street, Change of use from general industrial and storage or distribution (Use class B2/B8 to general industrial (Use class B2) and drinking establishment (Use Class A4). Awaiting Determination
- Floodgate Street
- 3.14 2020/10266/PA: 110-119 Floodgate Street, Change of use of warehouse to indoor market with associated works, Approved 26/01/2021.
- 3.15 2020/08963/PA: Part Block C, Rea Studios, 86-93, Use of building for a virtual reality venue for entertainment (Use Class F2) together with the sale of related retail products, food and drink (Use Class Ea) and offices (Use Class E) with ancillary storage, Approved 15/02/2021.
- 3.16 2019/09927/PA: 40 Floodgate Street, Change of use to Use Class B1 and erection of single storey rear extension and various alterations. Approved 23/01/2020

- 3.17 2019/10109/PA: 46 Floodgate Street, Change of use to event space (Use Class D2) with associated external alterations, Approved 14/02/2020
- 3.18 2019/10104/PA: 38 Floodgate Street, Change of use to event space (Use Class D2) with associated external alterations, Approved 14/02/2020
- 3.19 2019/09891/PA: 35 Floodgate Street, Change of use to Use Class B1(a),(b) or (c) together with the erection of a three storey side extension and various, Approved 18/02/2020
- 3.20 2016/10380/PA: 93-96 Floodgate Street, Change of use from Office (Use Class B1) and Storage and Distribution (Use Class B8) to form a Music Academy (Use Class D1) with associated refurbishment, demolition, creation of entrance on Little Ann Street, provision of car parking. Approved 14/03/2017

Lower Trinity Street

- 3.21 2021/00750/PA: Digbeth Arena, Retention of use of Arena as Exhibition and Event Space with proposed main stage, second moveable covered stage, two bars, infilling of existing arches for food and drink and toilets (sui generis). Awaiting determination

Milk Street

- 3.22 2019/05176/PA: 21-27 Milk Street, Birmingham, Change of use of first floor to business and conference use (B1/D1); part change of use of ground floor to cafe (A3); associated parking to rear and external alterations. Approved 27/6/2019

Allcock Street

- 3.23 2019/07267/PA, 25 Allcock Street, Erection of a single storey storage building, Approved 25/10/2019.
- 3.24 2018/09428/PA, 25 Allcock Street, Erection of two storey front extension to provide additional storage and office space. Approved 22/11/2018
- 3.25 2016/04043/PA, 20-25 Allcock Street, Demolition of existing buildings to allow erection of two storey factory extension, creation of additional parking and erection of replacement boundary treatment (3m high railings). Approved 22/07/2016
- 3.26 2015/06726/PA, Western House, 9 Allcock Street, Erection of first floor extension, new entrance to Allcock Street, and part change of use from offices (Use Class B1) to cafe (Use Class A3) with additional new entrance to Allcock Street. Approved 05/11/2015

Bromley Street

- 3.27 2020/01376/PA, 4-5 and 12-16 Western Court, Bromley Street, Prior Approval for change of use from offices (Use Class B1[a]) to 8 residential units(Use Class C3), Prior Approval Required and to Refuse on 09/04/2020.

High Street Deritend

- 3.28 2019/02034/PA, The Old Crown, 188 High Street, Listed Building Consent for the proposed internal alteration. Approved 07/06/2019.

4. Consultation Responses

- 4.1 BCC Transportation – The application is hybrid in nature with three detailed sites around the Custard Factory and the rest of the area covered by an outline application. The access and connectivity proposals include provision of new links to improve connectivity, such as extending Coventry Street, Bordesley Street and Allcock Street, along with new river crossings and opening the Duddeston Viaduct to pedestrians and cyclists. Future submissions will need to confirm if these routes are to be offered as public highway or maintained as private routes with public access permitted. A Design Code document provides details on designs for five categories of roads across the area which seek to provide a defined set of design criteria for these routes, such as layout, materials and lighting. The Transport Assessment is a comprehensive supporting document that considers the relevant policy and guidelines, a review of the existing transport network, and analysis of the proposed development and any impacts this may create. A TRICS analysis is used to provide suitable trip rates but notes with the existing parking being removed and a position of limited car parking being adopted, the estimated level of additional vehicle trips is minimal; AM peak (two way) increases from 442 to 462 (+20) whilst PM peak reduces from 561 to 477 (-84). There are no nearby junctions that are affected by this change in traffic flow.
- 4.2 The outline consent seeks changes to on-street parking to provide defined SUDS features and loading bays for development plots. Currently most parking is unrestricted with a survey noting 448 spaces and 25 pay and display spaces, whilst a CPZ [has been] implemented which results in 200 permit spaces and 64 pay and display spaces, so reduces parking by 209 spaces. The development proposals will alter this arrangement and notes current surface car parks will be removed. The intention is to provide a central multi storey facility with up to 800 spaces, which will be shared for all users across the area and provide EVCP spaces at 20% so greater than current BCC requirements. It is noted the current adopted BCC car parking guidelines would permit up to a maximum 5400 spaces. Cycle parking will be provided in each plot as per the current standards. Servicing of sites will be on-street as is the situation across the area currently. This will be enabled by TRO changes. Additional details are provided on the three sites that have detailed planning applications with tracking plans on servicing provided, and the following conditions are required.
- Requires the submission and completion of works for the S278/TRO Agreement
 - Requires the submission of cycle storage details in a phased manner.
 - Requires the submission of Construction Traffic Management Plan.

Note future phases will need to submit detailed applications and require additional highway works and other conditions as necessary similar to those above.

- 4.3 Midlands Connect - One of the key questions to be considered in the Outline Business Case is whether the Bordesley Viaduct will need to be widened to accommodate the additional train services and ensure that they can run reliably. The current viaduct accommodates up to four tracks, but within its footprint, could accommodate a fifth track. However, should a sixth track be needed, which is currently the base case assumption which Network Rail are working to, then the

viaduct will require widening. This widening would almost certainly be on the north side of the viaduct, bringing an enlarged structure very close to some of the buildings shown on the plans by Oval. Unfortunately, given the timeframe of the Outline Business Case, we had not initially expected to have certainty on whether or the viaduct requires widening until mid-2023, which means that we cannot currently provide a definitive view on the implication of the rail scheme on the footprint identified by Oval. However, both Network Rail and principal scheme sponsor, the Department for Transport, are actively working to see if this timescale can be accelerated.

- 4.4 Midlands Connect has reviewed the document showing illustrative heights plan and this suggests there will be several new blocks situated in close proximity to Bordesley Viaduct, including those which are bounded by Lower Trinity Street, Adderley Street and Bordesley Viaduct. We also note in the Environmental Statement the plan for a 'landmark' at the intersection of Bordesley and Duddeston Viaducts.
- 4.5 Should Bordesley Viaduct require widening on the north side, it is clear that there may be some conflict with the plots identified for development by Oval. Midlands Connect does not have visibility of how the arches under the Viaduct may also be developed in the future, but clearly in a scenario where the viaduct needs to be widened in the near future, any such development within the arches may pose construction and delivery challenges for Midlands Rail Hub.
- 4.6 Midlands Connect wishes to work constructively with the developer to understand whether it is possible for the plans to be amended to leave a 10m 'buffer' to the north of the existing viaduct, such that there is space for possible widening in the future. This means relocating / removing the proposed buildings so there is at least a 10m clearance from the existing viaduct.
- 4.7 The Midlands Rail Hub is not currently a committed scheme, and hence has no formal standing in the planning process, but on the basis that £20m has recently been allocated by Government to its development, it is clear there is significant interest in this scheme from funders and we have no reason to believe it will not ultimately come to fruition. Our partnership is very clear that Midlands Rail Hub is a major investment priority for rail in the West Midlands and are very keen to see this project delivered as quickly as possible.
- 4.8 Midlands Connect would not wish to see the Oval land be developed, only for elements of the land to be subject to compulsory purchase in the future, which would clearly not be in the interest of any party. Such a scenario could clearly add considerable cost to delivery of Midlands Rail Hub which would serve to weaken the case. As such, Midlands Connect would invite the developer to consider amending the plans.
- 4.9 West Midlands Rail Executive (WMRE) and Transport for West Midlands (TfWM) acting on behalf of the West Midlands Combined Authority (WMCA) - For the avoidance of doubt, WMRE and TfWM/WMCA have no concerns in respect of the Full Planning Application element of 2020/03634/PA, which relates to the Custard Factory and adjacent sites located on the south side of the Bordesley railway viaduct.

The MRH Hub is a strategic transport project of critical local, regional and national significance, which, in May 2020 was awarded a further £20m by central government in order to progress the next phase of project development.

- 4.10 The key objective of West Midlands Rail Executive (WMRE) and TfWM in relation this planning application is that both the Digbeth development and the proposed Midlands Rail Hub (MRH) scheme are able to proceed without one scheme compromising or prejudicing the other. A meeting between representatives of the developer and Network Rail took place on 9th December 2020.
- 4.11 At this meeting, Network Rail were able to clarify that in respect of the Midlands Rail Hub project:
- the core proposals are to provide four additional railway tracks (six tracks in total) on the existing Bordesley Railway Viaduct between Bordesley Station area and Birmingham Moor St Station
 - it is believed that the existing Bordesley Viaduct should be able accommodate five of the proposed six tracks
 - any widening of the viaduct to accommodate the sixth track is assumed to be on the north side of the existing viaduct
 - at this stage of development maturity, it is assumed that this viaduct widening would require a circa 10m strip of land immediately adjacent to the existing viaduct structure and would likely form part of a future Transport and Works Act Order, alongside other infrastructure elements of the Midlands Rail Hub scheme
- 4.12 Therefore, the main areas of the hybrid application proposals which require further discussion between the developers and Network Rail to ensure both schemes can be accommodated are plots V1, CF4, F14 and V2c.
- 4.13 Whilst this OBC work, which will provide greater clarity on the scope and extent of the Midlands Rail Hub project, was not expected to be completed before mid-late 2023, WMRE and TfWM understand that both NR and the scheme sponsor, the Department for Transport, are keen to see this timescale accelerated and that plans to do so are currently in development.
- 4.14 It should also be noted that in response to a request from Government, the National Infrastructure Commission published a "*Rail Needs Assessment for the Midlands and the North*" in December 2020. This Rail Needs Assessment report strongly supported the prioritisation of the MRH project over other longer distance rail transport projects. The Government's own "*Integrated Rail Plan*" for the Midlands and the North is also now due to be published imminently and is expected to similarly prioritise the early delivery of the MRH scheme. With both NR and Oval/Turley actively continuing to develop and refine their proposals over the coming months, WMRE and TfWM are keen to ensure that active dialogue between both sets of

parties continues in order to ensure that both projects can proceed and that neither prejudices the other.

- 4.15 Natural England – The proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.
- 4.16 Civic Society - Applaud the method of the applicants in engaging constructively with a wide range of stakeholders. Positive that the project is led a number of architectural practice. Impressed by what was presented by the design team, felt they had understood Digbeth and valued what makes it special. The vision was compelling, and could if delivered in full result in a successful renaissance for the area with positive impact on the city as a whole. While not seeking to oppose the project, we wish to repeat a number of observations. There is no formal measure to ensure the mitigation outlined is carried out, or where these are not in the applicant's gift, it cannot be relied upon that these will be delivered. All future applications must be considered entirely on their own merits, and in isolation from the Masterplan.
- 4.17 It is important that future schemes be developed with consideration for the forthcoming BCC Character Area Appraisals as and when these are developed. Gentrification gives the area the 'edginess' and cachet to attract skilled workers for future and these small tenants will undoubtedly be 'pushed out'.
- 4.18 Not convinced that a 14 storey building is needed for navigation, nor to signal arrival into the City and it will in fact be a relatively low building compared to those which train passengers will have passed. Concern that this will become a precedent for future developments to build to a similar height elsewhere within the outline application area. The 14 storey landmark threatens the quality of the Viaduct which, in many places in the Conservation Areas, remains the focus of the streetscape due to its height. If this 14 storey building is proposed to be immediately adjacent to the viaduct, the arches of the viaduct in this location need to be left open (to allow the eye to be drawn to the open arches and understand the structure as a viaduct). Elsewhere, proposals to infill the arches of the Viaduct need to be carefully considered and at the very least stepped back, so it is still legible as a Viaduct and not just a brick wall. It is proposed that elsewhere within the area, height be limited to three to seven storeys, this will in most areas be a substantial increase on existing building heights, and there is a risk here of loss of character. The D&A expresses where heights will be greatest and in general, we agree with the strategy, although height will remain a sensitive issue.
- 4.19 Parking requires careful consideration. Current arrangements are very much ad-hoc, and this cannot be helped by the presence of the HS2 terminal which has been designed to resist car use. Much greater pressure for parking in the area is anticipated as a result.
- 4.20 The Civic Society is currently working with the Twentieth Century Society, Birmingham Modernists and Brutiful Birmingham to assess twentieth century buildings within the city which are not on the local list. Working with them, we are concerned that there are a number of valuable buildings in Digbeth which are not yet recognised, but due to the limited resource of our organisations, the timing of this

application has over-taken our capacity to research these fully. The scale and detail of the application means we have also not been able to assess where demolition is planned, and what impact this might have on unrecognised heritage assets. We hope that, given the interest in the character of Digbeth expressed in this application, the positive influence that twentieth century architecture has on the area will be recognised, again as detailed applications come forward.

- 4.21 Canals and Rivers Trust –The outline element of this application is more relevant to the Trust and thus our comments are in relation to this unless otherwise stated. Minimal information around the phasing of the delivery of the site. Good to see that the canalside has not been left until last, this does raise concerns around access to the Viaduct Park, but also to wider connectivity concerns. If access to and improvement of the canal towpath environment has not occurred early on, then the occupiers of phase 1 would not benefit from the opportunities presented by the canal and the public realm improvements shown.
- 4.22 Based on the information available our substantive is to advise that suitably worded conditions and a legal agreement are necessary to address these matters.
- 4.23 Demolition - The CEMP that will support the reserved matters should include the demolition phases as well as construction phases. It should consider the Canal as a sensitive receptor and ensure that protection from harm such as pollution, damage etc is included or necessary mitigation and protection provided during all demolition and construction works. Air borne pollution or water seepage/spillage/run-off should all be avoided.
- 4.24 Structural integrity of the canal - Reserved matters applications for the phases of development canalside should include details of foundation design and construction methods to demonstrate that their construction and location would not result in any short or long term harm to the structural integrity of the canal banks. Where land has formerly been canal basins and wharves there is a greater likelihood of ground water or hydraulic continuity that would need to be addressed.
- 4.25 Canal water quality - Where sites lie adjacent to the canal and have formerly operated as canal basins, there is a greater likelihood of contamination pathways leading to the canal, and these should therefore be identified and included within the conceptual site models for each parcel of development at reserved matters stage, along with details of any necessary works to remove or mitigate such risks. We ask that this information be required to be provided to support the relevant reserved matters applications via the imposition of a condition on any consent granted.
- 4.26 Heritage & design - The amended illustrative heights plan and the Design Code generally appear to be as before whereby the heights raise towards the canal. We would prefer this not to be the case. However the Design Code states that massing must step up on the north side of Fazeley Street before stepping down to respond sensitively to the lower scale buildings located on the opposite side of the Canal. The illustrative heights plan does not reflect this with heights clearly continuing to raise from Fazeley Street.

- 4.27 The Design Code is considered to be robust and contains a level of sophistication that has the potential to bring benefits to the Canal. The layout is well worked. . The heritage statement suggests that there would be impacts on the Conservation Area and the canal side heritage assets and their setting but that these would not have a high level of significance or harm. Currently, the canalside environment is characterised by low levels of built form with only a few as tall as the Bond, for example. Therefore, this character could change significantly if the heights step up towards the canal. Taller buildings might be appropriate by the viaduct at the southern end of the site, but not all the way along the canal. The Trust is concerned that such heights would result in oppressive and overly tall development. The listed Bond warehouse has a relationship and the apparent massing proposed loses the character and setting of the warehouse.
- 4.28 Development Plot C5, south of Great Barr Street and adjacent the canal has the potential to become a large overbearing mass of built form if not carefully articulated and designed, and care should be taken especially at the higher 5-7 storey elements to prevent overbearing and overshadowing impacts on the canal corridor. Design at reserved matters stage needs to consider and respond to these points.
- 4.29 The wharf at the Bond forms part of the designated heritage and should be treated with great care. Further details of the development at and near the Bond will require full heritage assessments and we ask that these be included in relevant reserved matters applications.
- 4.30 The opening from the canal towpath to the proposed sky park as public amenity space is welcomed. It is important that the public realm is well designed and integrates attractiveness for use, safety and ease of use so that transition between the Viaduct Park, towpath and onward travel through Digbeth and/or over the proposed canal bridge to Floodgate Street is legible and simple for users.
- 4.31 Care should be taken to design a building on plot C6 that relates well to the water, given its narrow frontage and 'squeezed' location. The design on this plot needs to engage positively with the waterspace and towpath under the road bridge deck to enhance visual surveillance and the feeling of safety for users, while appropriately addressing the listed road bridge.
- 4.32 The D&A Statement demonstrates design principles for re-imagining the River Rea corridor, but does not consider any canal specific design principles.
- 4.33 Welcome the inclusion in the Design Code of public realm surface treatment being appropriate to the historic character of the area and that the canalside areas must also be treated this way, and we ask that this be made a requirement of any reserved matters applications for the canalside development plots. The strategy for using materials across the development appears to be largely appropriate.
- 4.34 Ask that all reserved matters applications for the scale, appearance and layout of the canalside development blocks are supported by a full 3D modelled shading study to demonstrate the impact of the proposals on the daylight and sunlight that reaches the

canal and towpath and the difference from the existing situation. All canal facing elevations should avoid including any 'back of house' elements.

- 4.35 Biodiversity - Particular regard should be had to black redstarts, kingfishers and bats. The Design Code should be reviewed and amended. Any external lighting should not provide flood lighting to the canal corridor to show consideration. Ask that a condition be imposed to ensure that any external lighting along the canal frontages of plots C1-6 and the open space at the skypark landing at the rear of the towpath is appropriate and adequately designed to accommodate such protection.
- 4.36 New canal bridge - The proposed pedestrian/cycle bridge across the canal is welcomed. At reserved matters stage further details will need to be provided.
- 4.37 The Trust therefore recommend that the applicants continue their initial discussions to reach agreement in principle on these matters in order that a reserved matters application can be made with a degree of certainty around its design and implementation. This would also allow for consideration of relevant trigger points relating to the installation of a bridge, if appropriate. We ask you to consider whether the bridge meets the CIL tests and if so whether a trigger point at outline stage would be appropriate in terms of the delivery of the bridge relative to other elements of the wider outline proposals. The provision of the bridge would be a significant benefit for the future regeneration of Digbeth, especially in supporting sustainable travel and wider accessibility and connectivity.
- 4.38 Connectivity & access to open green space - Given the mix of uses proposed on this site, the availability of routes that include the towpath for some or all of a journey is important. We also note that the existing city parks at Garrison Lane Park and Kingston Hill Park are likely to be accessed and used by residents of this site and would be easily accessed via the canal network. Circular routes involving the Viaduct Park could also be developed and signed/promoted. It might be possible to consider linking the towpaths and the Viaduct to create 5km off-road leisure routes, for example. This would assist in ensuring that the proposals were in accordance with Policies TP38-TP40 and TP45 of the BDP. Details should be included in the travel plans and these should be conditioned.
- 4.39 It is important that wayfinding and signage is provided to identify a range of networks, routes and destinations. Ask that a condition is imposed requiring a signage and wayfinding strategy for the site and surrounding area to be agreed and implemented.
- 4.40 Planning obligation - Whilst it is recognised that the creation of the public realm adjacent the towpath off Montague Street will increase the ability to access the towpath, along with the proposed bridge across the canal, we consider that the existing access onto the canal at Great Barr Street will remain important and well used. The access is currently not in a condition that would be suitable for increased usage such as from the implementation of early elements of this development. Suggest that as an interim solution, upgrades to this access point be sought in order that the use of sustainable travel routes is encouraged from the start of this development, and that it is included in the wayfinding/signage strategy noted above. An increase in the usage of the towpath is likely to lead to demand for lighting of the

towpath to increase its hours of use, attractiveness and safety. This meets the requirements of the CIL tests and would facilitate greater use of the potential benefits on the doorstep. The Trust is willing to work with the applicants and the Council to consider how this might best be identified and delivered, for the benefit of the future development and its occupiers. It is likely that clauses in the planning obligation would be required to achieve and deliver this.

- 4.41 BCC Leisure Services - No objections. In accordance with BDP policy, the residential parts of this substantial development would generate the requirement to provide both new Public Open Space (POS). Looking at the application it is clear that it seeks to deliver new areas of on-site green space and infrastructure although there is no reference to the amount being provided within the documentation. The applicant has looked at providing this green space in an innovative and imaginative way bearing in mind the constraints of the Digbeth area. However what is being provided does not constitute POS capable of sustaining children's play and outdoor recreational activities. If therefore the on-site areas being provided were not classed as suitable POS for recreational purposes then a full off-site contribution would equate to a total of £4,117,575.
- 4.42 Preference would be that the amount of on-site green space being provided is confirmed and the development contributed a lesser sum to the wider POS infrastructure within the Bordesley and Highgate Ward which acknowledges the value of the new green links and infrastructure being provided within the site, but also enhances existing green space likely to sustain increased usage from the significant increase in the local population.
- 4.43 Inland Waterways Association (IWA) - No early consultation with the IWA which is particularly disappointing with the inclusion of the Grand Union Canal and the proximity of the Warwick Bar Conservation Area as important elements of this application. Welcome emphasis on the environmental benefit of the Grand Union Canal to Digbeth, however, there are no detailed proposals for encouraging more boaters to visit Digbeth by, for example, the provision of enhanced mooring facilities. Second, the Warwick Bar Conservation Area is recognised as containing the most complete collection of buildings and infrastructure associated with the canal environment in Birmingham. However, it is recognised that the boundaries of the application do not include this important area. Nevertheless the proximity of the proposals to Warwick Bar means that their impact should be integral to the consideration of this proposal. Unfortunately it is difficult to assess from the associated documents how far this consideration has been taken into account. The IWA would wish for detailed consultation over this element.
- 4.44 Severn Trent Water - no objections to the proposals subject to conditions require the submission and implementation of agreed drainage plans.
- 4.45 Council for British Archaeology (CBA) - The CBA are supportive in principle of the upgrading and redeveloping this large area. However the CBA has concerns about (a) clarity, and (b) the level of detail and conclusions for heritage considerations, in chapter 11 (Built Heritage) and chapter 12 (Archaeology) of the ES.

- 4.46 Clarity - Could the 'broadbrush' outline application, if approved, have implications for any objections to future detail applications within the site? We note the phased approach. EIA guidance has consistently stressed the need for both certainty and clarity, to establish the likelihood of significant adverse environmental effects and offer mitigation where necessary. Generally, outline applications may not be compatible with the concept and process of EIA, lacking necessary certainty which detailed applications provide. Regarding the many buildings scheduled for demolition, we note that the majority of the outline site lies within one of two Conservation Areas. The strategy of submitting a hybrid application at this stage rather exacerbates the lack of clarity. The CBA are concerned that this lack of clarity may create loop holes that fail to give the conservation of heritage assets the presence that section 16 of the NPPF requires and could result in unjustified harm to designated and locally listed buildings, as well as the character and appearance of both Conservation Areas.
- 4.47 Built Heritage and Archaeology - The CBA are concerned that whilst the ES findings suggest potential heritage interest would be significantly affected by the project, it anomalously concludes that in most cases adverse impacts would be 'low', 'negligible' or 'nil'. The CBA note that where proposals will have a considerable impact on built and buried archaeology the impact on the significance of the built and buried archaeology will be proportional. To meet the requirements of NPPF paragraph 192 any permitted redevelopment of the application site should be informed by an over-arching aim of enhancing, conserving and better revealing its significance. Over many years, EIA guidance has stressed that, where certainty (for likely impacts, outcomes etc) cannot be established from an application, local authorities should err on the side of caution. To avoid unjustified and/or unwitting harm to the character and appearance of the combination of the Conservation Areas and nationally/locally listed buildings in and near to the outline site (and their settings), the CBA recommends that an iterative heritage strategy be developed, combining built heritage and archaeology, utilising the tangible and intangible heritage of this mainly industrial area close to the city centre and transport hubs. This should be in order to identify, enhance and conserve the heritage value of the site and to maximise the social value that re-development here has the potential to deliver.
- 4.48 Significance - The significance of the proposal site as it stands now, stems mainly from its multi-phased development as a mixed domestic and industrial area during the 18th/19th and 20th centuries. In terms of key built heritage at the southern end of the wider site, we note the dominant presence of the Devonshire House complex (Grade II listed former Bird's Custard factory), and (outside but immediately adjoining the site boundary), the grade II* listed former Floodgate School ('The Listed Building') along with 224/225 High Street, Deritend (Grade II) and also the Old Crown Inn (Grade II*). We would also draw attention to the survival of a late C19 Grade II listed cast-iron 'urinal' public toilet at 54 Liverpool Street, well within the proposal site. The site's historic value and character mainly relate to transition, change and movement, with initial poor housing and small domestic-scale industries developing into more significant enterprises, as canals, railways, and the main eastern road approach into Birmingham all contributed to the movement of goods, people and ideas. The

communal and social values of the historic character likewise relate to transport links, factories and workshops, and the people who have lived and worked here or passed through. The application site holds social value in terms of the sense of place for local residents and also its own role as an inner-city area connected to its neighbours. Redevelopment of this area presents the opportunity to enhance these historic and communal values by incorporating a clear and robust heritage-based strand to re-development proposals. There is architectural value to the utilitarian yet often pleasing former industrial buildings, such as those with attractive arched windows and the buildings of the Wild factory complex, built to capture downward natural light from the characteristic zigzag roof patterns. These are interspersed with smaller establishments, former churches, and a few remnants of housing. They all contribute to a pleasantly chaotic, piecemeal organic pattern of incremental development over 250 years. Buildings are typically wide and low, with 3, 4, or at most 5 storeys – punctuated by the ‘Custard Factory’ and the railway viaducts. The human-scale profile is pleasing and itself of value in its contribution to the character and appearance of the Conservation Areas.

- 4.49 Evidential value should and would come from archaeological investigations ahead of development, including study of upstanding buildings of any date, style and use(s), particularly any to be lost to demolition. This factor remains a relative ‘unknown’ unless or until further work is undertaken, but there is good potential for interest, subject to sympathetic criteria being set which take account of the nature of the site and its known history. The potential includes later development and recording the current area for future generations. Overall, the site’s significance could be described as being indicative of continual movement and change, utilitarian development and uses, with the busy ‘workaday charm’ of industrial heritage which should be conserved through adaptive reuse where possible, as opposed to being swept away. Proposals for substantial demolition works, especially within the Conservation Areas, could impact on the significance of the Conservation Areas to a high degree.
- 4.50 Enhancing and revealing significance is not limited to visual enhancement, but may include opportunities for present and future local communities to interact with local industrial heritage. Heritage-led regeneration adds a valuable and sympathetic place-shaping strand to re-developing ex-industrial sites, which can have considerable benefits to social deprivation in terms of increasing a sense of resilience and pride of place.
- 4.51 Notwithstanding our concerns, the CBA can, with reservations, support the design parameters for this large project in principle, since it would at least retain street patterns, railways and waterways, enhancing the best of the survivals and the place-shaping sense of movement. However, the CBA has read and supports the pre-application advice letter of December 2019 from Historic England (HE), however neither of the final ES heritage chapters (11 and 12) appear to mention the Research Report 031/2018 ‘*Digbeth and Deritend, Birmingham, West Midlands: Outline Historic Area Assessment*’ (Bayer O, Herring P, Lane R and Roethe J). Strongly recommend further study and documented use of it, since the outline application site sits at the heart of the HE study area.

- 4.52 The CBA accepts that the challenges of revitalising a rather rambling historic industrial area are considerable, in terms of conserving the ‘best’ of its inherent character and street-plan whilst updating or replacing its buildings to meet modern requirements. One of the challenges must be that these concepts are by nature subjective even for professional judgement, and may be influenced by the overall vision of interested parties. Ideas about what is positive, neutral or negative are likely to be fluid over time. However we are concerned about our impression that greater attention has been paid to a formulaic assessment process than actual consideration of a sympathetic social approach to the distinctive industrial character of the Conservation Area.
- 4.53 CBA accepts the content of the ES on Built Heritage although it does not necessarily agree with the outcomes of its appendix, nor the loss of quite so many buildings which in combination considerably contribute to the area’s character. The proposed opening up of the canal, River Rea and Duddeston Viaduct as public spaces is however a welcome aspect.
- 4.54 The conclusions on Archaeology appear rather dismissive, for the most part, the ES’ main aim seems to be to diminish archaeological interest, often concluding likelihoods of ‘low’ or ‘no’ significant impacts. Conversely, HE’s 31/2018 report referred to above is comprehensive, detailed and sensitive to its study area, within which the proposal site lies. CBA supports HE’s holistic approach. It focuses on people as much as place and space. We find this social aspect missing from the planning application. Consequently, we would like to see the inclusion of a ‘social value strategy’, an approach to re-development of urban areas which we also support. This should consider potential social value earlier than the construction phase of a development. There is a wealth of research and findings concerning the positive social value to local communities from heritage-led regeneration, in terms of both place-shaping and wellbeing, generated by participation. Such place-shaping could be seen as both empowering and inclusive. The CBA fundamentally believes that archaeology, at its best, is not stored away in a catalogued box but used to create connections between people and place. In this way archaeological strategies can move beyond mitigation and into creating genuine value.
- 4.55 Recommendations
- Further study of, and reference to, the Historic England report 031/2018 ‘*Digbeth and Deritend, Birmingham, West Midlands: Outline Historic Area Assessment*’ with its recommendations being used to contribute to revised heritage elements in the ES.
 - Heritage study area should be extended beyond 200 metres and new ‘cameo’ studies published for individual buildings and their settings within the site area, including for example the Grade II listed ornate cast-iron public lavatory.
 - Production of an iterative Social & Heritage Value Strategy at a much earlier stage than at the construction phase.
 - Combined heritage and archaeology aspects to be incorporated into a new Place-Shaping Strategy, enabling the re-development of this site to achieve genuine social value and public benefits taking account of its history, as required by the NPPF.

- Further archaeological schemes for investigation, including recording for future study of buildings to be demolished. To enable flexibility schemes might be produced for each building phase, between any outline approval and submission of a detailed application for reserved matters.
 - Schemes should be submitted to and approved in writing by the LPA in advance, and implemented before determination. The results should form part of the detailed application and not be left to planning conditions after determination.
 - There is a particular requirement for written commitment to publication of publicly available reports of archaeological investigations and outcomes - even if negative or minimal.
- 4.56 Victorian Society – Object. The total site comprises a large part of the Digbeth, Deritend and Bordesley High Street Conservation Area, part of the Warwick Bar Conservation Area, and land outside these conservation areas. It impacts on many buildings from our period of interest, 1837-1915, including several listed buildings, particularly the grade II* listed Floodgate School. A large number of unlisted buildings, including locally listed buildings, curtilage listed buildings and buildings within the conservation areas are proposed for total or partial demolition.
- 4.57 The Digbeth, Deritend and Bordesley High Streets Conservation Area is noted for its industrial heritage and cultural diversity, and the area’s long history is well documented in Historic England’s Digbeth and Deritend, Birmingham, West Midlands; Outline Historic Area Assessment (2018), as well as the City Council’s Character Appraisal and Supplementary Planning Policies adopted in 2008 and 2009. The development of the Digbeth area through time is also reflected in the variety of historic buildings whether they are separately designated or not. A uniform approach to redevelopment across such a large swathe of the conservation area is simply inappropriate. We are also opposed to the widespread loss of existing buildings, including those that are locally listed or curtilage listed, which currently set the scale and form an integral part of the story of the area’s historical development as an industrial quarter. Little reference in the D&A Statement for this application to either the Warwick Bar or the Digbeth Conservation Area Character Appraisals. In the latter it is stated that ‘There will be a presumption in favour of retaining buildings which make a positive contribution to the character or appearance of the conservation area. This will include buildings of contextual or group value.’ However the significant level of demolition proposed does not correspond with this stated policy.
- 4.58 The Conservation Area Character Appraisal also states that, ‘New buildings should not appear to be significantly higher or lower than their neighbours and should reflect the building heights characteristic of the locality or character area. This will normally limit new buildings to a maximum of six industrial / commercial storeys.’ However, buildings of up to 14 storeys are proposed in this application, and these should also be considered in the context of the tall buildings of 30 storeys or more which are proposed or already consented in developments on surrounding sites. We are deeply concerned that these proposals, which would transform the character of the two conservation areas through demolition and new building, are being put forward

for assessment at a time when there are no detailed management plans in place as supplementary planning policy alongside the character appraisals for the two conservation areas.

- 4.59 The detailed proposals relate to three sites. The first detailed proposal is to add a further three storeys to the rear section of the Custard Factory, Scott House. This would create an eight storey building which does not comply with the Conservation Area building height policy, and is unacceptable. We therefore object to this aspect of the application.
- 4.60 The second detailed proposal is to construct a seven storey residential building across the River Rea from Scott House. This also does not comply with the Conservation Area building height policy, and so also is unacceptable. We object to this aspect of the application.
- 4.61 The third of these detailed proposals is for the site of W.J. Wild; to demolish most of the buildings that are currently on the site and incorporate parts of the locally listed buildings into new development which includes two buildings, mainly for offices, of eight and up to five storeys respectively. As the current locally listed buildings on the site are largely of one and two storeys, and whilst we are pleased to note the proposed retention of at least part of the locally listed buildings, we object to the loss of the parts of the locally listed buildings which would be demolished. This is over development of this site in the conservation area. This is also true regarding the impact of this detailed proposal on the grade II* listed Floodgate Street School, a fine building of 1890-1 by noted Birmingham architects Martin and Chamberlain, which would be adjacent to the proposed 'Wild 8' Building. At eight storeys, largely replacing the current single storey locally listed building, this proposed structure will dominate and have a negative impact on the character and appearance of the grade II* listed building in the conservation area. Furthermore, we do not consider blue brick, which is traditionally the material used in engineering buildings such as railway bridges and sheds, to be an appropriate material for a substantial multiple use building located next to the red brick grade II* listed building. Also object to these aspects of the application.
- 4.62 Brutiful Birmingham - Welcome aspects of the plans to revitalise the area of Digbeth. i.e bringing people back to live and the use of the viaduct as a green area. There are however a number of serious concerns. The Conservation Area designation reads, "The Conservation area was designated in May 2000 to preserve the medieval townscape and its setting within a distinctive inner city industrial quarter.....sensitive redevelopment will be actively encouraged in order to create a harmonious street scene."
- 4.63 The scale of demolition - At the consultation event we were shown a map, which detailed the buildings for demolition in the outline plan. At a conservative estimate that was at least 50% of the whole area. This seems to be highly irregular in an area deemed a conservation area. The most interesting and architecturally varied streets are Floodgate Street and Heath Mill Lane. A large proportion of each of these streets are at risk.

- 4.64 Locally listed buildings - There are plans to demolish and/or just retain the facades of some of locally listed C20th buildings notably the collection of "Wild". We would argue for their protection. We welcome the retention at least of the facade of the Wild works but deplore the size and height of the rebuilding behind, which will dwarf the facade and take away any sense of the "Wild" buildings as an interesting set of industrial architecture in their own right.
- 4.65 Post war buildings - Welcome retention of Progress Works on Heath Mill Lane however concerned about the Rea Studios on Floodgate Street (Wild 4) which is one of the only Modernist buildings on the Estate and a good example of the period. To lose this building and with it an element of the story of industrial architecture over the centuries must be seriously considered. The argument to drive a straight road through the middle of the Estate, Rea Studios standing partially in the way, runs contrary to preserving a medieval townscape. The current meandering way that could save Rea Studios rather than a straight road through the middle would seem more appropriate.
- 4.66 Size and mass - Concerned about the height of the buildings in the detailed plans. The argument that the Custard Factory needs to be prominent and this will be achieved by a three storey extension on top is flawed as the Custard Factory is prominent already in its own right. The argument to increase the height of the Custard Factory is only valid because of the proposed residential seven storey block, Custard Factory Living, and the buildings on Milk Street. The height of all of these buildings will dominate and irrevocably damage the character of the area. This will not create the "harmonious street scene" seen as desirable in the current conservation area designation.
- 4.67 Summary - Pleased that the regeneration of Digbeth is being seriously considered but feel that the current plans risk destroying the nature of this Conservation Area. These plans were drawn up pre Covid 19. Who can be certain that the large amount of mixed use accommodation is suitable for a post Covid world where a greater sense of community at ground level needs to be developed? Digbeth is one of the few inner city areas that has remained fairly intact and like the Jewellery Quarter is a terrific embodiment of Birmingham's industrial past.
- 4.68 Historic England – Summary: These extensive proposals offer a positive opportunity to steer the future development of Digbeth in a considered and strategic way. Pleased to note a number of positive elements of the wider scheme, but does result in the demolition of much of the conservation area's average building stock, and of some locally listed buildings. There are a number of considerable benefits to consider, secure, and weigh in the balance. Further improvements could be attained through amendments to the full/detailed applications to improve and develop design concepts, and to reduce the impact on the conservation area and encroachment towards to Grade II* listed former Floodgate School.
- 4.69 The application occupies a large proportion of the Digbeth, Deritend and Bordesley High Streets Conservation Area and part of the Warwick Barr Conservation Area. Digbeth and its conservation areas are synonymous with the early development of

Birmingham and the growth of its industry from the medieval period, developing down the main high street and alongside the River Rea, and later accelerated with construction of the canals. The area was developed substantially from the late 18th century and was characterised by number of successive industries relating to the metalwork trade. The 19th century saw substantial developments across the city to improve the conditions and welfare of the industrial workforce. This is evident adjacent to the application site at the Grade II* listed former Board School by Birmingham's celebrated Architect reformers, Martin & Chamberlain. The school is one of a number of educational and institutional buildings across the city commissioned by Birmingham Board School, brought about by the Elementary Education Act of 1870, and which help to tell the story of Victorian attitudes to health, education, and morality. Development in the 20th century was shaped by severe bomb damage and the subsequent post-war 'zoning' of the area for industrial uses, which saw the demolition of housing in the area and the displacement of the local population. Today, the area is celebrated for its various creative and cultural industries and activities that provide a distinctly different character and appearance to any other part of the city, and centred around the former Bird's Custard Factory. It is this history and varied townscape and distinct character that contributes to the wider understanding of Digbeth, its development along one of Birmingham's oldest principal routes into the settlement, and its growth from the medieval period to the present day. The significance and development of this area is captured in detail in Historic England's 'Digbeth and Deritend, Birmingham, West Midlands: Outline Historic Area Assessment' (2018).

- 4.70 General Observations - This scheme provides an opportunity to fulfil some of the recommendations of Historic England's Urban Panel (now Historic Places Panel) made during their visit to Digbeth in 2016. Their report highlighted the importance of safeguarding Digbeth's unique character and appearance in the wake of HS2, calling for a strategic approach to development. Many of the recommendations raised remain salient in the local authority's assessment of this scheme. The general approach to tackling such a large and complex site has been positive, with the laudable commissioning of three separate architectural practices to bring their own expertise, and to peer review each other's work as it is developed. The applicant's commitment to realising effective development parameters to outline sites is shown in their creation of illustrative 'test sites' (e.g. at Fazeley Studios) which indicate a positive use of the proposed development controls.
- 4.71 As the owner and custodian of much of Digbeth, Oval and the wider project team have presented their commitment to what is a long term masterplan for the estate, bringing sustainable change to their working portfolio, rather than as an immediate short term expansion. This provides a welcome opportunity to bring a thoughtful, planned change over time, with the promise of a long term commitment to the area's character and identity. We note that the applicants are already considering the longer term phasing of change in the area and have secured meanwhile uses for some buildings in the short term. This is in addition to starting discussions with key stakeholders such as the Canal & River Trust, and Network Rail to enable the wider benefits relating to the River Rea, the canal, and the railway viaducts, to be realised. This positively presents the scheme as being a markedly different approach to

development than others seen in the wider area.

- 4.72 Pleased to note the many positive benefits proposed within the scheme as a whole, bringing uses for a number of vacant sites in the conservation area, and with the promise of sustaining the area's creative industries that help to form a part of its distinct character and appearance. The scheme also seeks the creative re-use of the Duddeston Viaduct as a pedestrian walkway, a more rationalised use of the two viaducts' arches, improved public realm, parking provision, and the opportunity to celebrate the River Rea and its role in shaping the early development of Birmingham.
- 4.73 In addition to the benefits mentioned above, in its simplest form the scheme could also see the almost wholesale loss of buildings that make up a vast proportion of the Digbeth Conservation Area, the loss of locally listed buildings, and some localised examples of increased height in a low scale area.
- 4.74 The significance of the many heritage assets affected, and the impact of the development on their significance is explored in great detail outlining the specific instances of harm caused, whilst emphasising the delivery of 'high quality public buildings and public realm', instances of enhancement and considerable public benefits in the conservation area, and the role of the parameter plans and design code in ensuring appropriate additions through controlling uses, heights and approach to design. Whilst we defer to the local authority's expert conservation staff to consider each specific merits of and impact on multiple non-designated heritage assets, in considering the application we would highlight that the subsequent impacts (both the potential benefits and potential harm) are intensified over such a large site area.
- 4.75 It is vital then that the local authority are assured that the scheme will preserve, enhance and better reveal significance rather than causing harm by bringing such dramatic change in the two conservation areas. With this in mind it is vital that robust assurances are given to the local authority when considering phasing and implementation. The City Council may wish to consider appropriate safeguards, conditions and legal agreements, ensuring the delivery of various aspects of the scheme so that the positive public benefits are realised, and to an appropriate timescale.
- 4.76 Outline Application: Design Codes and Parameter Plans - The proposed outline scheme is to be supported and controlled through a series of Design Codes and Parameter Plans. This includes maximum parameters for building heights across the site, set out in zones ranging from mostly 2-4 storeys, rising to a maximum of 7 and 8 storeys adjacent to the viaducts, and culminating in a taller 14 storey 'landmark building' where the two viaducts meet. For the most part we are pleased that this approach intends to maintain a low scale in the conservation area, and in a manner which is distinctly different to other neighbouring permitted and emerging developments which introduce very tall buildings to this low scale industrial part of the city.
- 4.77 Whilst building heights are of a low scale overall, the scheme does however lead to isolated examples where the height is increased by a number of storeys, and with a

more acute impact on an area's character and appearance. This is evident at the locally listed Rea Studios on Floodgate Street/Little Ann Street currently proposed for demolition and replacement with buildings of up to 6 storeys.

- 4.78 Pleased to note that Design Code aims to ensure a subtle variety of heights and rooflines among new developments so that they are based on the individual circumstances of their plot and street scene rather than applying a single datum over a large area. This, along with studies of building typologies, allows the opportunity for a contextual response in the conservation area, paying attention to historic plot boundaries and development patterns in any future reserved matters applications.
- 4.79 Detailed Sites: Custard Factory Roof Extension - The designs for a two storey roof extension to the Custard Factory are based on the concept of a 'light box' addition, similar to that famously seen at the Tate Modern art gallery. A thoughtfully-considered extension could bring an exciting addition to the conservation area, its architectural interest and wider cultural appeal. No objection to the general concept proposed, but believe the proposed design needs to better reflect the proportions and characteristics of its host building and the conservation area, especially if a bold approach is pursued. This could be achieved through amendments to the current design, better reflecting the proportions and horizontal emphasis of the existing fenestration, reducing the overall height and massing of the extension, and introducing some further set-backs from the building line. We would advise that further attention is given to the design of this in conjunction with the Council's expert conservation and design staff.
- 4.80 Custard Factory Living' Residential Apartment Block - The proposed development of this site for predominantly residential use is challenging, having to overcome issues relating to flooding and levels of daylight on what is an extremely confined site. As noted in our recent meetings there may be potential for well-preserved, water-logged archaeology along the banks of the Rea. The river was critical to the growth of industry in this area and therefore potential well preserved evidence could contribute to our wider understanding of the early development of Birmingham. We advise you discuss any archaeological provision with the local authority's expert archaeological adviser.
- 4.81 The imagery presented for 'Custard Factory Living' shows a building of a very simple framed construction which takes some general influence from the other manufactories and warehouses of a framed construction. With such a simple design however, the proposals are at risk of appearing a more generic addition with little reference to the conservation area. It is vital therefore that further work is undertaken to help ground the building in its wider context, referencing Digbeth's character and appearance in, for example, the choice of materials, the proportions of openings, and the method of construction. This is to ensure that the building preserves or enhances the special character and appearance of the conservation area as an obvious part of it, rather than as an unfamiliar or uncharacteristic addition. The slender, triangular plot does also offer an opportunity to bring some additional interest to the designs. We would advise that these finer details are considered by the Council's expert conservation and design staff. Careful attention will be required to ensure that this

new addition does not compete with the Custard Factory which has become an iconic reminder of the area's industrial heritage.

- 4.82 W. J. Wild - The albeit partial retention of the two locally listed is welcomed and provides an opportunity to celebrate their architectural presence in the street and contribution to the conservation area. Whilst the overall proposed site layout appears well considered and has the potential to frame views and routes through to the viaduct arches, there are elements of the proposals which currently are of concern and require further attention. The proposed blue brick 'Wild 8' would be a significant increase in height in the conservation area, from its current single storey to 5 storeys. We have concerns regarding the impact on the setting of the Grade II* listed former Floodgate School by Birmingham's celebrated Architect reformers, Martin & Chamberlain. It is clear that some effort has been made to set the building height back facing Moore's Row, however further work is needed to reduce its encroachment and to ensure that views of the school's decorative ventilation tower are not obscured by the development, as is currently shown in the visuals. Further work is needed to reduce this overall impact, and refine a design which at present does not appear characteristic of the conservation area.
- 4.83 The largest proposed building of 8 storeys along the viaduct is 'Wild 7' which has a large footprint with a framed design which is clearly influenced by the Custard Factory close by. We do not feel this transitions comfortably to the present roof design which is far more complex and appears too contrived to emulate an 'industrial' roof form. Larger buildings of this framed design like the Custard Factory typically have flat roofs. The more complex, saw-tooth roofs are generally found on low-rise buildings, providing north light to large manufactories. Although we appreciate there may be scope for a bold roof design, we are not convinced by the current approach in the context of the conservation area.
- 4.84 Overall, we recognise that there are a number of considerations to consider, take into account, and weigh in the balance when considering this application. Although many wider aspects of the scheme present a positive opportunity, we do feel that further work is needed through amendments to improve and develop design concepts, and to reduce the potential impact in specific areas. This relates most of all to the two proposed buildings on the W. J. Wild site and their impact on the character and appearance of the conservation area, and the significance of the Grade II* listed Floodgate School through development within its setting, as was highlighted at pre-application stage.
- 4.85 Recommendation - Concerns regarding the application on heritage grounds. The issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of sections 12 and 16 of the NPPF. In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess, and to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or

appearance of conservation areas.

- 4.86 Sport England (SE) - SE's comments relate solely to the outline application. The population is estimated to be 3400 residents with the proposed residential development of up to 1850 dwellings. The Sports Facilities Calculator (SFC) indicates this will generate a demand for additional sports hall provision (cost £590,520) and swimming pool provision (cost £607,323).
- 4.87 Sport England have developed a Playing Pitch Calculator. For the proposed development, this would potentially generate demand for 1.19 pitches. If this was to be met by new provision, the calculator identifies this would generate a capital cost of £168,145 for the pitches, together with an appropriate maintenance contribution (suggested to be £23,451 per annum for 15 years), and 1.64 changing rooms at a capital cost of £262,545 to provide a total playing pitch contribution of £782,445. Given that the Playing Pitch Strategy (PPS) generally identifies shortfalls of provision across most sports, there is unlikely to be capacity in existing provision to absorb the demand generated by the development. SE would therefore support the Council in investing a S106 contribution in a locally identified priority(s) in accordance with the PPS.
- 4.88 SE recognises that the development will provide new public open space including Viaduct Park, opening up and improving access to the existing network of water space along the canal and sections of the River Rea, and a series of urban public spaces within the development. These spaces could be utilised for certain types of physical. The provision of these proposed areas of public open space are therefore supported by SE. However, this does not meet the need for formal sports facilities to play pitch sports, nor will they meet the needs for built indoor sports facilities that have been set out above. The types of spaces to be provided will also not be capable of providing for more informal/recreational sporting activities. Residents will therefore need to access other local facilities, such as Garrison Lane Park, Kingston Hill Park and Highgate Park.
- 4.89 Active Environments - SE, in conjunction with Public Health England, has produced 'Active Design' (2015), a guide to planning new developments that create the right environment to help people get more active, more often in the interests of health and wellbeing. The proposals to develop Duddeston Viaduct as a new linear public open are supported. Given the length of the viaduct is in the region of 450 metres long, its disappointing that the design code identifies that only 2 points of vertical access need to be provided, and that some of the more centrally located points of vertical access could be omitted. Can this be re-considered to require these to also be provided as this will ensure a better level of connectivity throughout the heart of the development to this important open space? The indicative designs also provide an ecological space for planting, as well as provide space for walkways. The Viaduct is approximately 10 metres wide and so there should be sufficient space, providing a sensible balance is struck to ensure there is sufficient width to accommodate both walking, running and cycling. Recommended that the Design Code stipulate that the walkway should be a minimum of 3 metres wide.

- 4.90 The applicant could do more to demonstrate how the development could connect to important community facilities such as the local parks in the surrounding neighbourhoods.
- 4.91 Note the contents of the Design Code in respect of cycling storage provision and is generally supportive of the approach taken.
- 4.92 The proposed phasing plan indicates that the provision of the open space infrastructure would be undertaken at an early stage, and this is supported as this will help develop a sense of place and provide these essential spaces for use upon first occupation of the respective phases of housing development. It is recommended that the proposed phasing details are secured either by planning condition or within a suitably worded s106 agreement.
- 4.93 Western Power - Western Power Distribution (WPD) are the statutory undertaker for the electricity network for the area in question and the wider Birmingham and West Midlands. Within the development area WPD holds an interest in 16 electrical substations, a bulk supply point immediately adjacent to the development area with several KM of underground cables at all voltages upto and including 132kv and would seek full costs for diversions of any of our assets and commercial rates for the relinquishments / sale of any leased or freehold sites. Please ensure that WPD are fully consulted with regard to this development from both a diversionary aspect but also from a demand perspective to ensure we have early involvement with the development of the site.
- 4.94 Twentieth Century Society - We object to the application due to the loss of valuable locally listed non-designated heritage assets and harm caused to the Digbeth Deritend and Bordesley Conservation Area. The Wild Works site is home to a group of buildings built by the manufacturer W. J. Wild Ltd. The company moved into the first of their new premises on Floodgate Street in 1935. Wild Works 2 was built in 1938 and is composed of a two-storey elevation with sheds behind. No. 3 Wild Works was constructed in 1940 and features brick-fronted linked sheds, and the Wild Works Canteen of c.1940 is located to its rear. Wild Works 4 (Rea Studios) was built in 1955-1967 is composed of three storeys of office accommodation with brick-fronted single storey workshops to either side. This is contrary to BDP Policy TP12 and paragraph 197 of the NPPF.
- 4.95 The Society believes the demolition of much of Wild Works 2 and 3 will harm their significance as locally listed buildings. Also believe the applicant has underestimated the architectural and historical importance of the locally listed Wild Works 4 (Rea Studios) in applying for its demolition and that it could be successfully retained and re-used. The former Wild Works are identified in the Digbeth/Deritend Conservation Area Appraisal (2009) and described as “a series of numbered buildings [...] [which] form an interesting complex.” Believe the proposal to partially and fully demolish three of the Wild Works buildings will reduce their overall group value. The significance of the other locally listed Wild Works buildings such as No 1 Works (93-96 Floodgate Street), W.J. Wild Ltd Personnel Dept., and No. 6 Works (28 Floodgate Street) will therefore be reduced.

- 4.96 Object to the proposals due to the harm caused to locally listed non-designated heritage assets and the impact the proposals will have on the Digbeth Deritend and Bordesley Conservation Area. For these reasons, we advise that the Local Planning Authority refuses the application.
- 4.97 Birmingham Airport- Responded no comment.
- 4.98 Midland Metro - Would like to liaise with the applicants to ensure that development work undertaken on the future East Birmingham to Solihull Metro extension is taken into consideration and that dialogue can be ongoing so as not to preclude further development of the Metro route.
- 4.99 Network Rail (NR) - Need to know how this proposal affects any access points we have, including access to the viaducts.
- 4.100 What effect would the high rise buildings have on wind speeds being funnelled through the buildings over the Viaducts for trains and staff working on them? The applicant will need to work with Network Rail to ensure that our infrastructure and employees are not impacted. What effect would any glare or reflections from buildings have on signal sighting for train drivers? A glint and glare study should be undertaken with Network Rail.
- 4.101 High rise buildings could amplify rail traffic noise. The BCC and the developer (along with their chosen acoustic contractor) are recommended to engage in discussions to determine the most appropriate measures to mitigate noise and vibration from the existing operational railway to ensure that there will be no future issues for residents once they take up occupation of the dwellings. Network Rail is aware that residents of developments adjacent to or in close proximity to, or near to the existing operational railway have in the past discovered issues upon occupation of dwellings with noise and vibration. It is therefore a matter for the developer and the council via mitigation measures and conditions to ensure that any existing noise and vibration, and the potential for any future noise and vibration are mitigated appropriately prior to construction.
- 4.102 There is a planning basis for consideration of both types of impact on GSMR: other masts (114a) and tall buildings (114b). Network Rail would need to review documentation assessing the impacts of the proposal telecoms and height on GSMR. Network Rail would need to agree:
- Excavation, earthworks
 - Drainage proposals
 - Construction traffic
 - Boundary treatments
 - Vegetation proposals
 - Piling/vibroimpact works
 - Tower crane working
 - Vehicle incursion mitigation
 - RAMS

4.103 Environment Agency – (latest comments) No objection.

4.104 Flood Risk - the following conditions are recommended.

Outline application:

- a. hydraulic modelling showing the effects of the development compared to the existing baseline.
- b. New Public Realm
- c. Vehicle access
- d. Any bridges must have levels set in excess of 600mm above the 1 in 100 plus climate change flood level
- e. any development within 8m of the River Rea shall include a scheme of maintenance access to the river
- f. Maintenance access shall be implemented prior to the first occupation or use of the development.
- g. Structural Surveys of development adjacent to the River Rea must demonstrate that there will be no determinate impact of the structure of the River Rea channel and include mitigation measures
- h. a scheme to de-culvert the Rea and implement additional crossings. This scheme must provide a betterment for the River Rea and crossings must only be in place where access is required.

4.105 Detailed application:

- a. Ladder access to the River Rea
- b. The Phase 1 Bridge between the Custard Factory and Custard factory living sites soffit Level shall be set no lower than 102.92mAOD
- c. Finished floor levels for the Wild Works and Custard Factory Living shall be set at the levels stated in Table 5 and Table 7 of the FRA
- d. Flood Resilience measures for the Wild Works and Custard Factory Living

4.106 The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be

4.107 Biodiversity - Support ambition presented in the Rea Valley Urban Quarter SPD in particular the visualisations of the channel which show the removal from its brick lining, terracing, and mixed planting around the banks within a large easement. Aware that this SPD does not cover the area of the hybrid application in question, however in order to provide a continuous riparian corridor, as well as a joined up approach to planning and development, the same ambition for channel improvement should be presented wherever possible. There is a missed opportunity to enhance the Rea as a focal point of the development. It is unclear from the documents which sections of the River Rea will be de-culverted. In addition there are no details of the terracing. Historic development that has encroached on watercourses has severely impacted on their ecological value. New developments that provide an opportunity to

re-naturalise river corridors wherever possible will help wildlife adapt to climate change and will help restore watercourses to a more natural state as required by the river basin management plan. The proposed development will therefore be acceptable if a planning condition is included requiring a scheme to be agreed to be re-naturalised around the River Rea wherever possible. This approach is supported by paragraphs 170 and 175 of the NPPF which recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity. If significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, planning permission should be refused.

- 4.108 Groundwater & Contaminated Land - the site is located on alluvium with the exception of the eastern section where superficial deposits are absent. The bedrock beneath these superficial deposits and outcropping in the east is indicated to be Mercia Mudstone. The alluvium is designated as a Secondary A aquifer, Mercia Mudstone is designated as a Secondary B aquifer. The River Rea and Warwick and Birmingham Canal (Grand Union Canal) are present as water features within the site. The previous use of the proposed development site presents a risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located on Secondary aquifers. The applicant's SI Phase One reports demonstrate that it will be possible to manage the risks posed to controlled waters by this development. Further detailed information will however be required before built development is undertaken. It would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for the LPA. The proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy.
- 4.109 Local Lead Flood Authority – no objection subject to conditions. Outline Application. Support the surface water discharge rate which will be restricted to the 1 in 1 year greenfield discharge rate (unless there is a requirement from the Environment Agency to discharge at a minimum of 5l/s from and outfall attached to the drainage strategy). A minimum 30% climate change allowance is required by the LLFA although the national guidance states that a 40% allowance should be applied to residential development. Detailed calculations, with supporting network layout plan, to demonstrate the proposed network performance (for all events up to and including the 100yr plus 30% climate change event) are required.
- 4.110 The LLFA actively promote and encourage the implementation of SuDS on all developments. As such, evidence is required demonstrating that all SuDS features have been considered along with justification of why features have been discounted; the use of use of below ground attenuation should only be considered if above ground attenuation is proven to be unviable. Additional consideration must be made in relation to how SuDS will operate in the event of fluvial flooding in some areas of the site. Because there will be a mixture of new development and change of use application, the creation of community level SuDS within the new public realm areas of Allcock Street, Floodgate Street and the new green pedestrian corridor could be

utilised as SuDS streets. The LLFA would welcome further discussions with the applicant and their consultant in relation to the green and blue infrastructure proposals within the development site.

- 4.111 Although we are satisfied at this stage that the proposed development could be allowed in principle, the applicant will need to provide further information to ensure that the proposed development can go ahead without posing an unacceptable flood risk to future occupants in locations that are vulnerable to surface water flooding. We note that some locations within the outline planning application footprint lies in areas that are susceptible to surface water flooding, and where possible property resilience and resistance measures should be proposed particularly for building that will be subject to a change of use applications. Recommend following conditions:
- Outline - Requires the prior submission of a sustainable drainage scheme in a phased manner
 - Outline - Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan
 - Outline - Surface Water Flood Resilience
- 4.112 Detailed Application: Wildworks Development. Welcome the inclusion of a blue roof within this development, and accept that due to site constraints 145m³ of underground attenuation will need to be provided to restrict the surface water discharge to 5l/s. Within the surrounding area there may be opportunities to consider additional SuDS such as rainwater gardens and tree pits or permeable paving. When the detailed drainage strategy is undertaken, where possible these features should be included.
- 4.113 Custard Factory Living: Welcome the inclusion of blue and green roofs, rainwater gardens / SuDS planters and permeable paving. Satisfied at this stage that the proposed development could be allowed in principle, however the applicant will need to provide further information to ensure that the proposed development can go ahead without posing an unacceptable flood risk to future occupants in locations that are vulnerable to surface water flooding. We note that the Custard Factory development application footprint lies in areas that are susceptible to surface water flooding with predicted depths of over 300mm, and where possible property resilience and resistance measures should be proposed particularly for building that will be subject to a change of use applications. Recommend following conditions:
- Full – sustainable drainage scheme in a phased manner
 - Full - submission of a Sustainable Drainage Operation and Maintenance Plan
 - Full - Surface Water Flood Resilience
- 4.114 BCC Employment Team - request to include construction employment plan within the S106 Agreement or within a planning condition in order to secure the satisfactory development of the application site in accordance with Policy TP26 Local Employment of the BDP and NPPF.
- 4.115 BCC Education - The School Organisation Team request a contribution under Section 106 for any potential development that is for at least 20 dwellings and would

impact on the provision of places at local schools. The contribution is estimated below (subject to surplus pupil place analysis).

4.116 Detailed Application: Nursery £2,542.67; Primary £65,414.87; Secondary £48,549.46; Total £116,507.00. Outline Application: Nursery £251,355.62; Primary £6,466,584.83; Secondary £5,634,245.49; Total £12,352,185.93

4.117 Regulatory Services – Digbeth is currently a mixed area including industrial and night time entertainment uses. Such activities are not compatible with residential uses. Introducing residential accommodation will change the nature of the area and this may necessitate working with business operators to allow them to continue to operate in a manner that does not result in statutory nuisances. Whilst the applicant has concluded entertainment noise will not be significant compared to background noise, general noise has been found to be in excess of 50dB during the daytime and in excess of 45dB at night. The noise assessment makes reference to Appendix 3 of BCC's PCGN(v6) 2020. However this is for low rise conventional developments only. Given the Custard Factory Living (Plot CF2) is 7 storeys and has large full length windows, Appendix 3 is not relevant. Full façade calculations are required. With regards to air quality, the detailed application does not have any sensitive dwellings. Detailed Application: Concerns can be addressed through the following:

- a scheme of noise insulation to be submitted based upon a comparison between external and internal noise levels taking account of facade calculations including reference to window types, dimensions, glazing and full details of the external wall construction. The scheme shall be implemented in accordance with the agreed details prior to the first use of any residential unit and thereafter retained;
- Extraction and Odour Control Details;
- Noise Levels for Plant and Machinery;
- Entertainment Noise Restriction - Noise emanating from the premises identified for potential entertainment use (Leq, 5min) shall not exceed a level 10dB less than the background noise level (L90, 5min measured in the absence of the entertainment noise) in octave bands from 63Hz to 4Hz at the façade of any noise sensitive premises;
- Noise Insulation between the commercial and residential premises;
- Construction Method Statement/Management Plan;
- Contamination Remediation Scheme; and
- Contaminated Land Verification Report.

4.118 Outline application - The ES has considered existing noise sources. However the impact of noise from the proposed development and from existing sources in the noise development cannot be properly considered until more detailed plans have been provided. At each phase when full planning applications are made these should be accompanied by a noise assessment. Implementing all phases is likely to take a number of years, and as noise assessments are prepared they must reflect the most up to date guidance at that time.

4.119 The site will involve 800 parking spaces. The application refers to up to 10% electric vehicle charging. This is insufficient as provision should be at least 10%. The

Geotechnical and Geochemical Assessment has found the site to be potentially contaminated. For each phase of development further investigation and remediation as necessary will be required. The Air Quality Assessment is based on diffusion tube monitoring. It was to be supplemented with on site diffusion tube monitoring, however that was postponed in 2020 due to Covid. Prior to further applications a diffusion tube study should be carried out. In accordance with technical guidance this should be of at least 6 months duration including at least 3 months between October and March. On balance no objection subject to conditions:

- Construction Method Statement/Management Plan
- Contamination Remediation Scheme
- Contaminated Land Verification Report
- Requires the provision of a vehicle charging point(s) No fewer than one charging point for electric vehicles shall be provided at each residential unit with dedicated parking. No fewer than 10% of non-dedicated parking spaces shall be provided with electric vehicle charging points.

4.120 Highways England - The overall number of vehicular movements to and from the development site is not expected to present material impacts on the SRN in capacity terms. It is, however, recommended that the applicant develops a Construction Environmental Management Plan (CEMP) in order to ensure that vehicles leaving the site are clean and sheeted, and to confirm reciprocal requirements for receiving inert fill. Key personnel and a communications/contingency strategy in the event of accidental spillage on the highway will also need to be established. In order to better understand and manage the implications of construction traffic on the SRN, the CEMP should also provide details of construction traffic volumes and routing plans. The CEMP will need to be agreed prior to commencement, and be implemented and adhered to throughout the extraction and restoration phases of the development. As CEMPs are live documents, it should be noted that any changes to key personnel, activities and/or practices will need to be agreed with the Local Planning Authority.

4.121 Police - The proposal site is policed by the City Centre Neighbourhood Team and calls for service are high, currently the highest recorded crimes are anti-social behaviour 87%, violent crimes and sexual offences 81%, public order offences 36% and criminal damage 29%. Eastside Park was developed in 2016, and a condition of planning was that landscaping was maintained, this was not the case and very soon, trees and shrubbery had overgrown, restricting the capacity of the CCTV system and reducing the effectiveness of the lighting scheme. Criminality in the park increased (including robberies and drug abuse) and we do not want this to be replicated here. The introduction of residential uses and the creation of a mixed use community is welcomed. The new uses should increase the surveillance over the public realm in the area.

- Recommend limiting access to the Viaduct Park to two points located at either end of the park;
- Opening hours of the Viaduct Park should be managed to reduce the risk of anti-social behaviour at night;
- 1.8 metre high guarding to the Viaduct Park should be provided to deter people climbing over the wall;
- All areas covered by CCTV should be well lit;

- CCTV should be located within all entrance lobbies and cycle stores;
- Secondary entrances, other than fire escapes should be avoided on all buildings;
- All waste and cycle stores should have access control;
- Recessed entrances to building should be avoided;
- Residential buildings should be fitted with video intercom to main entrances;
- Shared retail and residential back of house areas should be avoided;
- designs of any buildings, or public open spaces, should adhere to the general principles of Secured by Design;
- All lighting schemes should follow the guidelines and standards as indicated in 'Lighting Against Crime' guide;
- Recommend a condition to require that a suitable site-wide CCTV scheme be installed. Cameras should provide coverage of the communal public space areas on the site, the main pedestrian and vehicle routes into and throughout the site and the main vehicle entrances to the site;
- Recommend a condition to require Hostile Vehicle Mitigation measures to protect some aspects of the development, such as public open spaces, gathering points and, potentially, certain individual buildings (subject to their specific use). These areas will be where large groups of the public can gather which could prove to be a target for offenders in vehicles;
- Recommend application of anti-graffiti coating to all accessible surfaces of the proposed works;
- Recommend a condition to require a management plan to maintain open spaces/landscaped areas;
- Recommend management plan to reduce crime at student accommodation at moving in moving out times;
- Access to the roof top communal space should be controlled and anti-suicide measures should be in place. This should also be applied to individual residential terraces. With the 'function space' being exclusive, the risk of falling (accidentally or otherwise) is reduced as the clientele is known, but suitable barriers should be considered;
- What measures have been put in place to ensure there will be sufficient Emergency Service Network 4G coverage for emergency radio contact to be upheld?

4.122 Fire Service - the development should adhere to Building Regulation.

4.123 Access Birmingham – most concerned that the extensive D&A Statement makes no reference to how the public realm and buildings make provision for the access needs of all the community in this substantial planning application.

4.124 The application has been advertised in the press, site notices have been posted and neighbours notified. 39

4.125 15 letters of objection have been received raising the following concerns:

- Concerned about the implications of residential neighbours on our heavy industrial business;

- concerns about parking and the impact of residential parking;
- it is not the right time to put this kind of stress onto small businesses. If we are affected then we would need full help and support
- object on the basis that it will cause nuisance to the residential tenants;
- we essential services to those who are homeless or at risk in the City and the proposals would cause serious detriment to our work and the trusted location for the most vulnerable;
- Further additional student housing alongside nightclubs, at a time when much student accommodation is compromised as a result of Covid 19 and different ways of working are being considered, is questionable.
- There is no consideration in this proposal of the outright need for truly affordable housing near to the City Centre. There are no plans to meet local housing need and provide a local opportunity for Live and Work schemes, for those employed in the area or within walking distance to the City Centre. This application proposes more transient housing for short term lets which would leave the area empty for much of the year.
- Consultation with local occupants has been negligible.
- It is very difficult to comment when we have had no information about the impact of these plans upon our business;
- Although the Annex at the rear of the St Basils, currently used as offices by the charity, are no longer stated as being marked for demolition, there appears to be a typo on the plans, where about a third of that building appears to be still marked as being for demolition. If that is indeed the proposal, then St Basils continues to strongly object to this proposal;
- St Basils offices on Allcock Street are marked for demolition, we have a long term lease on these buildings and have made a significant capital investment in them. St Basils cannot agree to any proposal that includes their demolition without identifying or proposing acceptable alternative accommodation which is affordable, and recompense for the costs that have already been incurred, and would be incurred in moving to another location;
- We cannot identify anything in the proposals about the inclusion of affordable housing. This is still a major concern. It is critical, particularly in light of the broader proposals, that there are affordable housing options in this development so close to the City Centre;
- The proposals “set clear parameters” which result in the loss of approximately half of my client’s buildings, with no agreement, and consequently no chance of success. Making this application, which has such a dramatic effect on the value

of my client's land before agreeing a proposal with them, can only be done in order to seek to reduce the value of my client's land;

- Irrespective, the applicants cannot make their proposals happen without agreement with my clients, and the application therefore has little chance of full implementation. It should therefore be reduced in scope;
- the majority of the application site is located within either the Digbeth or Warwick Bar Conservation Area. S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the legal duty in conservation areas for the decision maker: "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."
- The applicants are unable to calculate costs and value within a financial viability assessment having no control over the majority of the land included in the application. It seems that the only way this application can proceed sensibly is to reduce its extent to the area covered by the detailed application;
- parking provision needs to be flexible and adaptable so that it can easily be turned into productive and useful space when it is no longer required;
- More living developments need more everyday facilities not just green space;
- The River Rea should be treated in the same way as the Rea Valley SPD along this stretch in order to maximise the opportunity for this part of the City. In its present form, the application scheme does not seem to demonstrate significant improvements to the river corridor.
- The planning application suggests that my business premises are due to be demolished. What is the timescale for the proposed demolition? I am a small business, how and when will I be compensated to undertake relocating my business?;
- Our client's public house, which is Locally Listed, would be directly opposite the south east corner of the site. Plots V9, V8, V2a, V5, D1, D2 and A1 are all in close proximity to Dead Wax Digbeth. The busy public house regularly holds live music events within its garden. The public house and garden have a capacity of 480 people and can hold live music events every day of the week in busy periods. As an existing noise generator, the potential impact of the public house's operation upon future residents must be fully accounted for when determining this application;
- Appreciate the proposal (in relation to plots near to Dead Wax) is outline as this stage, so details are to be confirmed through later submissions. Note however that within the submitted ES Dead Wax is identified as a significant existing noise source. The ES makes clear that the potential impact of noise from entertainment venues upon future residents will be high and enhanced acoustic mitigation will be needed to residential facades;

- At this stage, it is unclear whether future residents of the dwellings, student accommodation and hotel proposed for those plots opposite Dead Wax would be suitably protected from any noise generated by the lawful operation of the public house;
- The scheme, up to now, does not show due regard to Dead Wax as an existing Locally Listed Heritage Asset and valuable community facility;
- draw attention to the 'Agent of Change' principle embedded in the NPPF;
- landowners of 28-29, 30-34, 35-38, 43-44 River Street raise concerns regarding the lack of any meaningful consultation and design review process prior to submission of the planning application;
- acknowledge that the application is made in 'outline however the application does set out design aspirations for the red line area that appears to underestimate the potential of the strategic ownership along River Street;
- the increased massing and heights in the immediate area surrounding St Basil's Church, a heritage asset, will have a substantial negative impact to the listed building;
- Concerns over the loss of the carpark area associated with St Basils that will encourage further street parking and is likely to cause congestion issues in the vicinity of the site, negative impacts on the amenity of the area and will cause issues for the Youth Centre's staff;
- two further ancillary office and reception buildings located to the north with are still earmarked to be removed. These buildings are proposed to be replaced with mainly residential accommodation. If these buildings are removed alternative space will need to be sought elsewhere on site.

1 letter of support commenting that:

- It is exactly the sort of comprehensive plan that Digbeth needs and the application clearly demonstrates a profound understanding of Digbeth's history and an articulate vision for its future.

5. Planning Policy

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

Supplementary Planning Policies (2008), Birmingham Curzon HS2: Masterplan for Growth (2015); Rea Valley Urban Quarter SPD (2020); Regeneration through Conservation: Birmingham Conservation Strategy (1999) Development Management in Birmingham (Publication Version 2019); Birmingham Design Guide (November 2020); Draft Car Parking SPD (2019), Our Future City Plan Central Birmingham 2040 (2021) and the revised National Planning Policy Framework.

6. Planning Considerations

Principle of Proposed Uses

- 6.1 In principle the proposed uses are acceptable in this location. Policy GA1 of the BDP promotes the City Centre as the focus for retail, office and leisure activity and supports residential uses where it provides well designed, flexible and adaptable high quality living environments.
- 6.2 The application site lies within the Digbeth Quarter under Policy GA1.3 where new development must support and strengthen the distinctive character of the Quarter to create a thriving creative and cultural hub within a high quality, exciting and easily accessible environment.
- 6.3 Policy TP24 promotes a diverse range of facilities and uses within centres.
- 6.4 The Curzon HS2: Masterplan for Growth covers a large area to the east of the City Centre including the application site and the wider Digbeth area. It is intended to maximise the potential of HS2 by identifying a range of development opportunities to capture and promote the area's growth potential.
- 6.5 The Policies provide support at a strategic level for the growth of the wider City Centre by promoting the range of uses proposed. However it is considered necessary to appraise the individual uses in more detail acknowledging the scale of development proposed.

Proposed Retail Uses

- 6.6 The proposed development includes 2,612sqm GIA of retail (Use Class A1 to A5) floorspace within the detailed application and up to 16,288sqm within the outline application to give a total retail floorspace of up to 18,900sqm GIA. Whilst the BDP and Curzon Masterplan support non-residential floorspace within the City Centre growth area the site lies beyond the City Centre Retail Core at an out of centre location, whilst retail uses are defined by the NPPF as main town centre uses. The proposed floorspace exceeds the NPPF threshold of 2,500sqm and therefore it is necessary to assess whether this amount of retail floorspace would have an impact upon the vitality and viability of the retail core or any local centre.
- 6.7 The applicants have advised that it is their intention to bring forward an element of retail use across the hybrid application as part of a mix of uses and it is intended to be occupied predominantly by independent retailers, in a similar way to how the Gibb Street area currently operates. Such an approach would align with Policy TP23 that

encourages independent and niche retailers across the City. Furthermore the retail offer is intended to contribute to the creation of a vibrant mixed use neighbourhood that has activity over a 24 hour period. The proposed development has the potential to deliver up to 1,850 new homes and it is important to ensure that the future residents would have access to supporting services like a local convenience shop.

- 6.8 In order to ensure that the proposed retail offer would be implemented as anticipated, and would not affect the vitality and viability of the City Centre retail core or any of the other neighbourhood centres, firstly it is proposed to limit the size of any retail unit to 1,050sqm (GIA). Secondly it is proposed to limit the quantum of A1 retail floorspace within the scheme to a maximum of 2,500sqm. A threshold of 2,500sqm is set out in the NPPF above which a retail impact assessment is required. It is noted that Policy GA1.1 advises that appropriate scale retail development will continue to be supported where it complements the existing Retail Core and as part of mixed-use redevelopments throughout the City Centre.
- 6.9 It is considered that these limitations, which would be enforced by conditions, would ensure that the proposed retail floorspace would be ancillary to the other residential and commercial floorspace. Notably the maximum total retail floorspace of 18,900sqm amounts to only 5.4% of the total floorspace proposed across the hybrid scheme and the limitation of Use Class A1 uses to a maximum of 2,500sqm represents just 0.7%. Given these restrictions to ensure that the proposed retail offer supports but also remains ancillary to the wider redevelopment of the site a conventional search for sequentially preferable alternatives has not been undertaken and this approach is considered acceptable for this particular application. It is considered that the retail offer would accord with Policies GA1 and TP21, TP22, TP23 and TP24, as well as the national policy requirements set by the NPPF.

Proposed Office (B1), and Leisure/Community/Cultural Uses (D1/D2)

- 6.10 The hybrid application proposes up to 180,000sqm of B1 office floorspace and up to 11,900sqm of leisure/community/cultural uses. The NPPF allows more flexibility when considering the location of these main town centre uses, with the Annex explaining that edge-of-centre for the purpose of these uses involves all locations within 300 metres of a 'town centre boundary'. It is considered that for the purpose of these uses the town centre is defined as the City Centre Growth Area, and as such the application site is appropriately located within the most sequentially preferable location. The HS2 Curzon Masterplan identifies the wider area as having the potential to create 36,000 net jobs and the office floorspace proposed would support this objective.
- 6.11 Furthermore it is considered that the introduction of these uses would support the establishment of a thriving community within the site and wider Digbeth area, where residents' day-to-day potential leisure, community and employment needs are met on a localised basis, resulting in social, environmental and economic benefits. Therefore greater weight is given to the flexibility that the NPPF gives to the location of these particular main town centre uses. It is considered that the proposed office

floorspace would accord with Policies GA1 and TP24, the HS2 Curzon Masterplan as well as the national policy requirements set by the NPPF.

Proposed Hotel (C1)

- 6.12 The outline application proposes up to 14,400sqm GIA of hotel floorspace, which equates to approximately 350 rooms. Whilst the NPPF defines a hotel as a main town centre use BDP Policies give greater flexibility with regards to their location with Policy TP25 supporting proposals that reinforce and promote Birmingham's role as a centre for tourism, culture and events and as a key destination for business tourism. The Policy further states that the provision of supporting facilities such as hotels will be important and that well designed and accessible accommodation will be supported. Saved Policy 8.19 of the Birmingham UDP also encourages the provision of additional hotels in order to provide a balanced range of hotel bed spaces, subject to local planning, amenity and highway considerations. Finally the HS2 Curzon Masterplan seeks to maximise the regeneration and development potential of HS2 in the City Centre. The Masterplan identifies the area as having the potential to deliver 60,000sqm of hotel floorspace. It is therefore considered that there is sufficient reason to support a hotel at this out of centre location.

Proposed Residential Uses

- 6.13 The current scheme could provide up to 1,850 residential units. Policies TP27 and TP28 lend support to the development of new residential properties advising where they should be located and how they should contribute to the creation of sustainable places. Whilst the site is considered to have a sustainable location there are further criteria relating to design quality, environmental sustainability, flooding, land contamination and the impact upon historic assets that are considered later in the report. The reasoned justification to Policy TP28 advises that it is expected that a minimum of 80% of homes will be built on previously developed land and the proposals would meet this aspiration. Notably the total number of homes is not known at this stage and neither are the house types therefore the density and range of house types sought by Policy TP30 cannot be confirmed, however the indication at this outline stage is that density would far exceed the 100 dwellings per hectare target with range of 1 to 4 bed dwellings. These details would be considered at the reserved matters stage. It is considered that the residential units at this location would accord with the principles of Policies GA1.1, TP28 and the HS2 Curzon Masterplan.

Proposed Sui Generis Uses – Student Accommodation

- 6.14 The hybrid application proposes 26,100sqm of sui generis floorspace. Separate to the residential offer this could result in the provision of 700 to 850 units of student accommodation. Policy TP33 states that proposals for off campus provision of purpose built student accommodation will be supported where a number of criteria are met including a favourable location and an acceptable design and layout. From the outset it is agreed that the location of the site is well located to serve the needs of Aston University and BCU. The proposed scale, massing and the principles of the design are discussed later in the report, although the detail of architecture is not

known at this outline stage. The first criterion of Policy TP33 requires a demonstrated need for the development.

- 6.15 A Student Needs Assessment was submitted with the original application. Following the release of the Council's Student Accommodation Supply and Demand Paper in January and queries by Planning Policy colleagues an Addendum was submitted earlier this year.
- 6.16 According to the Council's Supply and Demand Paper there is a current overall deficit of 12,355 student bed spaces across the City. The Paper also looks at future demand and supply, taking into account the approval of all current planning applications and schemes currently at pre application stage. However the Council's Report only covers the predicted increase in student numbers up to 2025/26.
- 6.17 The applicants have explained that the proposed student accommodation would meet the ongoing growth in students at the nearby universities over the next 10 to 15 years and it is more likely to be implemented post 2025/26. However notwithstanding this indication even if 850 units of student accommodation were to be delivered earlier than envisaged it would neither result in an oversupply of purpose built student accommodation within the City Centre at the present time nor in 2025/2026.
- 6.18 Colleagues in Planning Policy agree with the figures and assumptions made in the applicant's submission. However it is proposed to attach a condition to require any future reserved matters applications that propose student accommodation be accompanied by a full student accommodation need analysis relevant at the time of reserved matters submission. This would give officers the opportunity to assess the need based on up to date evidence at the time of submission and determine any application accordingly. It is considered that the principle of student accommodation at this location accords with Policies GA1.1 and TP33 of the BDP.

Proposed Sui Generis Uses – Multi Storey Car Park

- 6.19 The application proposes a total of 800 parking spaces within the outline application; zero spaces are proposed within the detailed application site. The total includes the provision of a multi-storey car park (MSCP) within development plot V2a, which is sited adjacent to the proposed Viaduct Park atop the existing disused Duddleston Viaduct. The MSCP would provide a maximum of 500 spaces.
- 6.20 This provision is contrary to the transport policies of the BDP which seek to promote walking, cycling and the use of public transport in preference to the private car. The proposed Clean Air Zone, which will encompass the application site, and the Consultation Draft Parking SPD also promote the movement of people rather than vehicles and this policy approach is supported by the implementation of the Controlled Parking Zone (CPZ) in Digbeth that came into force in November 2020. Again the CPZ encompasses the application site.
- 6.21 In response the applicants have advised that whilst they are supportive of the Council's sustainable transport policies primarily the MSCP is proposed as a transitional facility to serve the existing and proposed development as changes take

place within the site by way of the CPZ, as public transport facilities are enhanced and resulting from the delivery of the proposed public realm associated with the current scheme. Notably the CPZ will result in the loss of 209 parking spaces compared with the uncontrolled provision at the time of submission. The applicants consider that a level of parking provision is required to bridge the gap between the loss of existing spaces and measures such as enhanced public transport and pedestrian connections being delivered. The MSCP would serve the commercial uses across the application site and provide active uses at ground level with parking on the upper floors. It would also be designed so that it could be re-purposed in the future to accommodate alternative uses when the demand for parking in Digbeth changes. The overriding aim, as commented by the applicants is for the proposed development to be the catalyst for the future regeneration and enhancement of Digbeth to enable it to grow and flourish as a creative hub and an exciting and vibrant mixed use quarter of the City.

- 6.22 The Parking Consultation Draft SPD (2019) notes that applications for temporary car parks will only be supported where exceptional circumstances can be demonstrated. It is considered that the regeneration objectives of this 18.9 hectare site, the recent introduction of the CPZ, the timescale for the introduction of public transport enhancements, the adaptable nature of the proposed MSCP and the cap on total parking numbers that would be controlled via a mandatory requirement of the Design Code can collectively be considered to provide the exceptional circumstances the SPD notes. Therefore in this case there is sufficient reason to outweigh Policies TP38 and TP44 and the emerging Parking SPD.

Proposed Sui Generis Uses –Night Club

- 6.23 The final sui generis use proposed is a night club use. This could be sited in the single development plot V2a. It is considered that in principle the proposed use would accord with the role and function of the City Centre as explained by Policy GA1.1. The detail of such a use in terms of how it would operate and how noise would be mitigated would be submitted and considered at the reserved matters stage.

Principle of Proposed Uses – Conclusions

- 6.24 Paragraph 121 of the NPPF advises local planning authorities to take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. It is considered that there is in principle support for the majority of uses proposed and where there is not, as in the case of the proposed amount of retail floorspace and a MSCP there are sufficient material considerations or restrictions enforced by condition to outweigh strict compliance and avoid the obstruction of the long term policy objectives.

Proposed Design

- 6.25 Digbeth has an irregular street layout that can make navigation through the area difficult, however the juxtaposition of streets, waterways and viaducts also creates a

sense of discovery that is different to other parts of the City Centre. Unfortunately it is considered that there is a dominance of parking in the area believed to be as a result of people parking in Digbeth and walking to work in the City Centre. It is however anticipated that the dominance of commuter parking will be reduced as a result of the Digbeth Controlled Parking Zone that commenced in November last year. Digbeth lacks significant public spaces, has very little high quality public realm and is sometimes considered to offer a poor sense of safety. Poorer quality additions to the built environment in recent decades have also had a negative impact on the historic streetscape with vacant plots undermining the historic tight urban grain of development.

- 6.26 The key objectives proposed within the hybrid application are to:
- i. Forge key connections through the heart of Digbeth;
 - ii. Create public open spaces along key routes;
 - iii. Open up the lanes and yards;
 - iv. Enhance the waterways;
 - v. Open up the arches under Bordesley Viaduct;
 - vi. Transform Duddeston Viaduct into Viaduct Park;
 - vii. Provide development to frame the Duddeston and Bordesley Viaducts;
 - viii. Create a critical mass of workspace concentrated around the Custard Factory;
 - ix. Create a landmark building at the intersection of the viaducts; and
 - x. Respect the existing heritage assets.
- 6.27 In addition to the Design Specification and Parameter Plans a Design Code has been submitted to secure the vision, character and quality of the detailed design of the development plots within the outline application. Whilst it is not intended to be prescriptive, the Code provides the overarching design principles that should be adhered to within the subsequent reserved matters applications.

Design Code

- 6.28 The Code is set out as a series of layers:
First there are the 10 Framework Principles or key objectives (listed as i to x above).
The next layer is the site wide codes that refer to:
- The existing built fabric – retention of buildings with and without works, alteration, demolition;
 - Built form – routes, height, roofline facades, special corners, block typologies;
 - Design standards – daylight and sunlight, inclusive design, noise, materials;
 - Land use;
 - Landscape strategy – public realm, communal open spaces, tree strategy;
 - Lighting;
 - Transport and access; and
 - Art strategy - street art, public art
- 6.29 Some examples of these site wide codes:

- Built form/Vertical Access - a minimum of two publicly accessible vertical access points to the Viaduct Park, must be provided, within the zones indicated on Parameter Plan 04 Access & Connectivity;
- Built form/Height and Massing - Maximum height of zone must not be applied to the entire plot extent. Buildings must have different heights and be articulated to form an aggregated skyline;
- Design standards/daylight and sunlight - Residential units with single aspect facing north must be avoided;
- Land use/Active Frontages - Where car parks are provided on the ground floor they should not front the street;
- Landscape strategy/Courts and Yards - A minimum of 15% surface area must be planted;
- Lighting - Feature lighting should be restricted to the viaduct arches and key architectural thresholds such as building entrances, building perimeters and lanes;
- Transport and access/Car parking - No more than 500 car parking spaces must be provided in the multi-storey car park located on Lower Trinity Street;
- Art strategy - Commissioned Street art must be provided at key locations such as the southern façade of Wild 2, the arch under Bordesley Viaduct crossing Floodgate Street and the northern façade of number 35 Floodgate Street.

6.30 Finally there are specific area codes that relate to 6 character areas and 4 landscape areas. The definition of each character area has been informed by the analysis of the existing spaces, the proposed land use, urban form, access, circulation and public realm strategy:

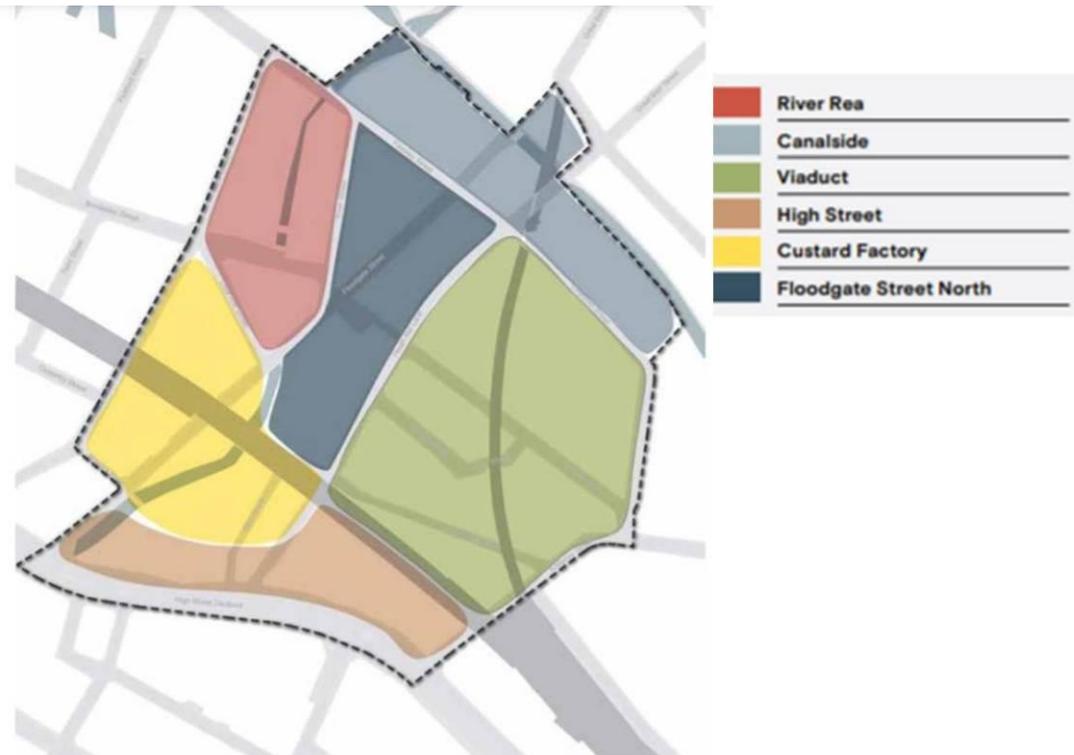


Fig 5: The Six Design Code Character Areas

| <u>Character Areas</u> | <u>Landscape Areas</u> |
|---|-------------------------------|
| River Rea (Development Plots R1-R6) | Active streets |
| Custard Factory (Development Plots CF1-CF4, B1-B4) | River Rea & Grand Union Canal |
| High Street (Development Plots H1-H4) | Lowline |
| Floodgate Street North (Development Plots F1 – F15) | Viaduct Park |
| Canalside (Development Plots C1-C8, A4, D5-D6) | |
| Viaduct (Development Plots V1-V10, A1-A3,B5, D1-D4) | |

6.31 The six character areas give guidance in respect of proposed built form, land use, communal open space, access and connectivity. The landscape areas guide low level and tree planting, materials and lighting. Some examples of the character areas codes:

- River Rea/Secondary Route - A Lane within plot R3 must be provided following the route of the River Rea and linking the corner of Little Ann Street and Floodgate Street to the new east west connection;
- Custard Factory/Articulated Roofline - The minimum percentage of articulated roofline must be 25% across development plot CF4;

- High Street/Height and Massing - Taller elements should be located away from the street edge and towards the viaduct, to preserve the street character and not dominate the street view;
- Floodgate Street North/Secondary Routes - The Passages on plots F5 and F7 must connect Heath Mill Lane to Floodgate Street;
- Canalside/Height and Massing - On plot C5 the taller buildings of the plot must be oriented perpendicular to the canal edge to encourage visual permeability;
- Viaduct/Active Frontages - Minimum percentages of active frontages must be provided as indicated (30%/40%/50%)

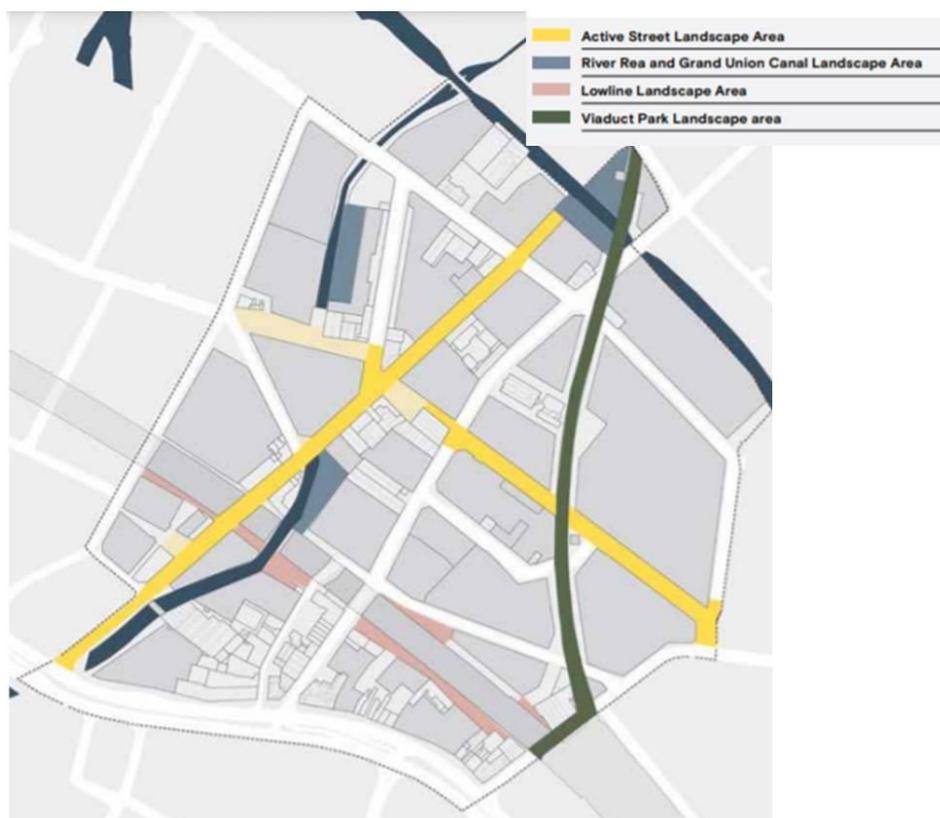


Fig 6: Design Code Landscape Areas

- Landscape Active Streets/Material - Along existing streets, access points into yards, car parks, loading spaces or building entrances should be demarcated with cobbles;
- River Rea & Grand Union Canal/ Lighting - Must have sensitive lighting that respects ecological corridors;
- Lowline/Material - Pedestrian priority areas must be predominantly Dutch Clay or Light Dutch Clay Pavers to contrast the dark brick of the Bordesley Viaduct structure

- Viaduct Park/Lighting - An adequate level of lighting must be provided to allow the park to be used at night
- 6.32 Some guidelines within the Design Code are mandatory, providing certainty with regards to the quality and character of the development. Other guidelines are recommended, providing a degree of flexibility to allow alternative design solutions. The Design Code has been submitted as a control document and the mandatory guidelines have been arranged as a checklist in the Appendix to test the compliance of the subsequent reserved matters applications.
- 6.33 To reiterate, the design and layout of the site is to be controlled by the development specification, the Parameter Plans, the Design Code and the Retention Plan. These are considered in the light of Policy PG3 of the Adopted BDP and saved policies 3.14 to 3.14D of the superseded UDP that will continue to be in force until the adoption of the emerging Development Management DPD. This latter document was published for consultation in January 2020 and contains development management policies relating to environment and sustainability, economy and networks of centres, homes and neighbourhoods, and connectivity. Only limited weight can be attached to its policies due to its status as emerging policy.
- 6.34 The proposed design of the outline and detailed parts of the application are considered separately below.

Outline – Layout

- 6.35 Parameter Plans 04, 05 and 06 identify the proposed connections through the site and the areas of public realm. They also set out a hierarchy of street types and thereby types of movements from vehicular streets with public transport to pedestrianised streets.
- 6.36 Two key routes, crossing the site from east to west and north to south are proposed to mark the heart of the development. The north/south route, running along Floodgate Street, would connect Deritend High Street to the Grand Union Canal. The new east/west route would create a more direct link to the City Centre via a new connection linking Bordesley Street to Allcock Street. These key routes would prioritise pedestrian movements and encourage ground floor activities to spill out into the public spaces. A variety of ground floor uses are proposed to provide activity throughout the day while improved street lighting would create a safe environment by night. These connections are also important to link to the wider area, as recognised within The Rea Valley Urban Quarter SPD (2020) and the Birmingham Smithfield Masterplan (2016).



Fig 7: Looking Eastwards Along Floodgate Street (a key route)

6.37 New open spaces are proposed to punctuate these key routes introducing secondary connections, marking key confluences or emphasising historic buildings. As highlighted in the plan below the series of open spaces would be scattered throughout the site to provide amenities for the local working and living communities and visitors.

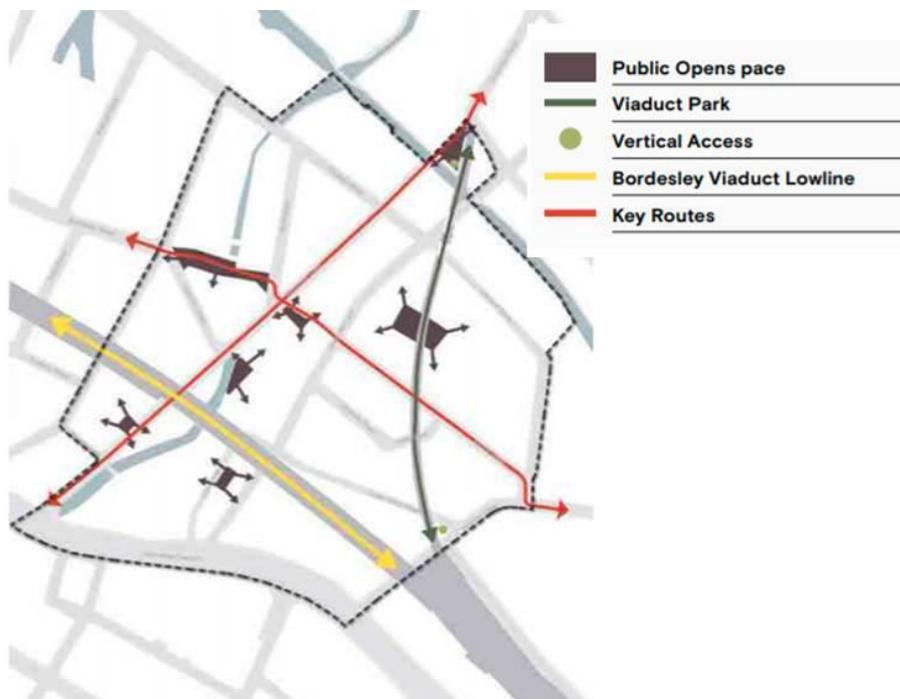


Fig.8: Proposed Areas of Public Open Space

6.38 The existing routes of the River Rea and Grand Union Canal are proposed to be revealed via a series of open spaces along the waters' edges. Notably existing buildings are proposed to be removed between Barn Street and River Street and the

culverted river reopened with a new bridge and public space around it. A second new bridge to cross the River is also proposed next to the Custard Factory (this is within the full part of the application). A third new pedestrian bridge is proposed across the Grand Union Canal, connecting Floodgate Street to two new areas of public open space either side of the canal, adjacent to Development Plots C4 and C6.

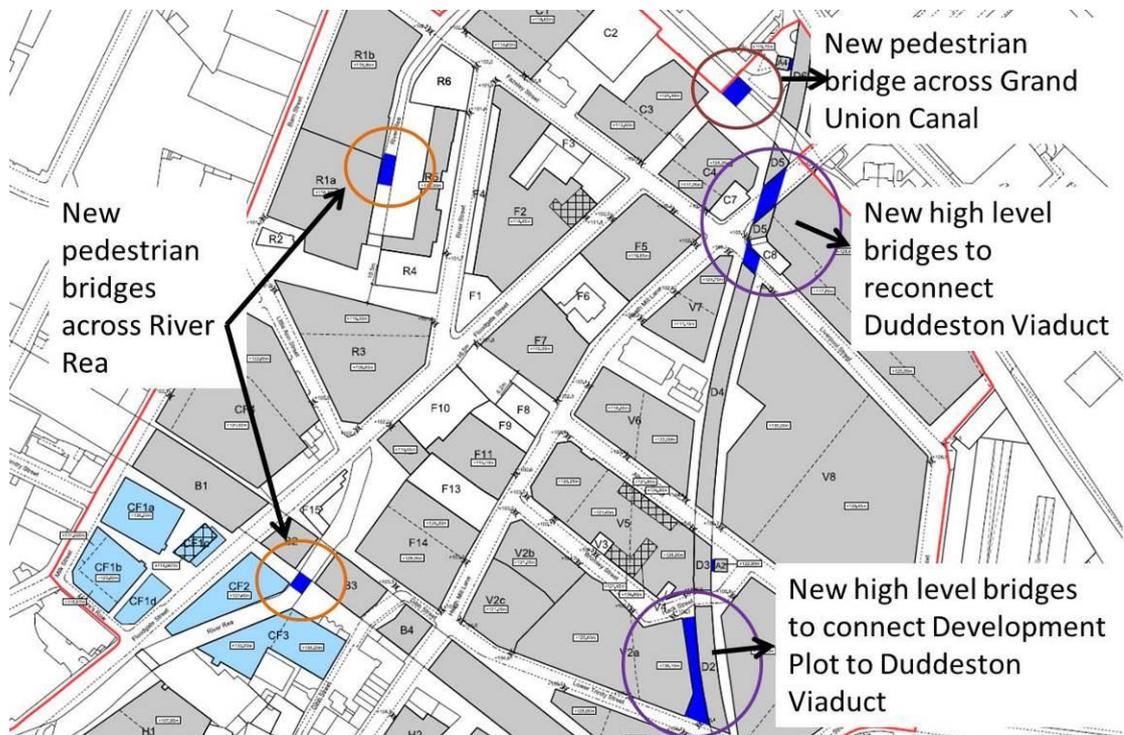


Fig 9: Proposed New Bridges



Fig10: Illustration of Proposed Opening up of River Rea between Barn Street and River Street

6.39 The 400m long Duddeston Viaduct runs through the site and is a prominent but disused landmark within Digbeth. It was built approximately 170 years ago with the

intention of it being used as a train line. However, tracks were never laid and it has lain untouched ever since. It has been colonised by weeds and shrubs and currently is not accessible to the public. A linear park to be known as 'Viaduct Park' is proposed to transform the existing Duddleston Viaduct into a new piece of green infrastructure. This would require new bridges across Heath Mill Lane and Liverpool Street to bridge the missing high level links, to enable the new park to stretch the entire length of the viaduct creating an elevated public space from Adderley Street to Montague Street. It would include a publicly accessible raised pedestrian walkway with a mixture of hard and soft landscape, street furniture, play equipment and viewing platforms. As a minimum, stepped access would be provided at the northern end of the viaduct connecting to a green space adjacent to the Grand Union Canal, and at the southern end of Lower Trinity Street. Lift access would also be provided from development plot V2a.

6.40 The reinvention of the Viaduct as a park for public access has been a driving factor from the first inception of the current proposals. There is an opportunity to create a vibrant public space that would be of benefit not only to the existing business and residential community within the application site, but to the rest of the City Centre, wider Birmingham and the West Midlands, and the appetite for the proposed sky park are highlighted within the HS2 Curzon Masterplan. The current hybrid application provides a real opportunity to realise this aspiration and its associated benefits, and it would create a real destination in this part of the City and a unique feature within the City.

6.41 The key elements of Viaduct Park as proposed in the application are the:

- Creation of public access to the Viaduct Park via external stairwells and through buildings. Level access is to be provided at the southern end of the park;
- Creation of a raised walkway on the viaduct to ensure connectivity between access points and provide views over the existing parapet;
- Creation of a bridge to link across Liverpool Street where the viaduct is currently severed. The bridge will be created from appropriate materials to match the industrial character of the area;
- Enabling vegetation to be established and colonise itself, with the planting design aiming to replicate and take inspiration from the existing vegetation character;
- Creation of opportunities for local initiatives such as community growing and events;
- Ensuring overlooking from existing and new buildings adjoining the viaduct to create activity and natural surveillance of the spaces;
- The design of the Viaduct Park will be influenced by the nature of the buildings which face it, with more opportunities for more active spaces created adjacent to buildings in commercial use, and areas of significant planting and low intensity spaces created next to residential buildings; and

- Creation of opportunities for community and events space at the southern end of Viaduct Park where there is an existing area of hardstanding.
- 6.42 The Design Code in conjunction with the Parameter Plans introduce mandatory minimal separation measurements or ‘critical distances’ to create a street hierarchy, ensure good levels of daylight to the new public spaces and routes and to preserve the privacy of users.

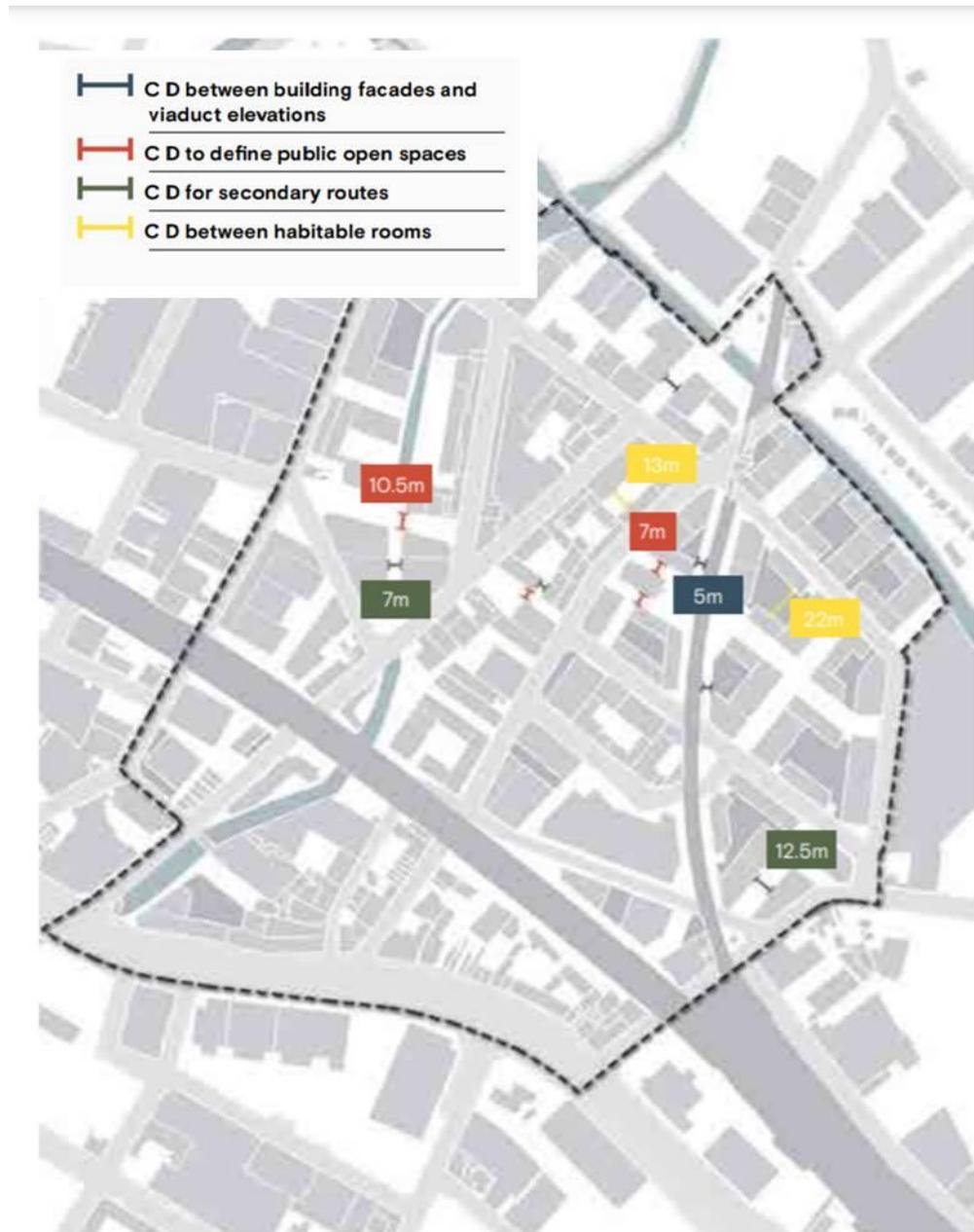


Fig 11: Diagram to Show Examples of some of the Critical Distances

- 6.43 Parameter Plans 02 (Typical Ground Floor Uses) and 03 (Typical Upper Floor Uses) identify the types of uses for each of the development plots. Retail, leisure, galleries, cafés and restaurants are predominantly concentrated on the ground and lower levels of buildings and in the viaduct arches facing key routes and open spaces. These would provide active uses to animate the public realm, encouraging uses to

spill out and offer passive surveillance to encourage pedestrian footfall and an improved a sense of security.

Outline – Scale and Massing

- 6.44 Digbeth does not have one homogenous building type, age, height or style; rather its character is defined by the variety of buildings. However in terms of existing scale the hybrid site is all relatively low scale with the majority reaching a height of between 1 and 3 storeys. The Custard Factory, Devonshire House and the Green House are the tallest buildings on site with the latter reaching seven storeys.
- 6.45 The proposed approach to heights and massing responds to the existing topography and the existing scale of development, as well as the need to create a distinctive townscape. Lower buildings are proposed within the natural middle ‘bowl’ created by the River Rea and within those parts of the site that are more sensitive due to heritage. Taller buildings are proposed to frame the viaducts and highlight two landmarks. The proposed heights of the development plots would be controlled by Parameter Plan 01 that sets maximum building heights, the plan does however make a 4m allowance for rooftop plant, lift overruns, aviation and telecommunication requirements and articulated roofs.

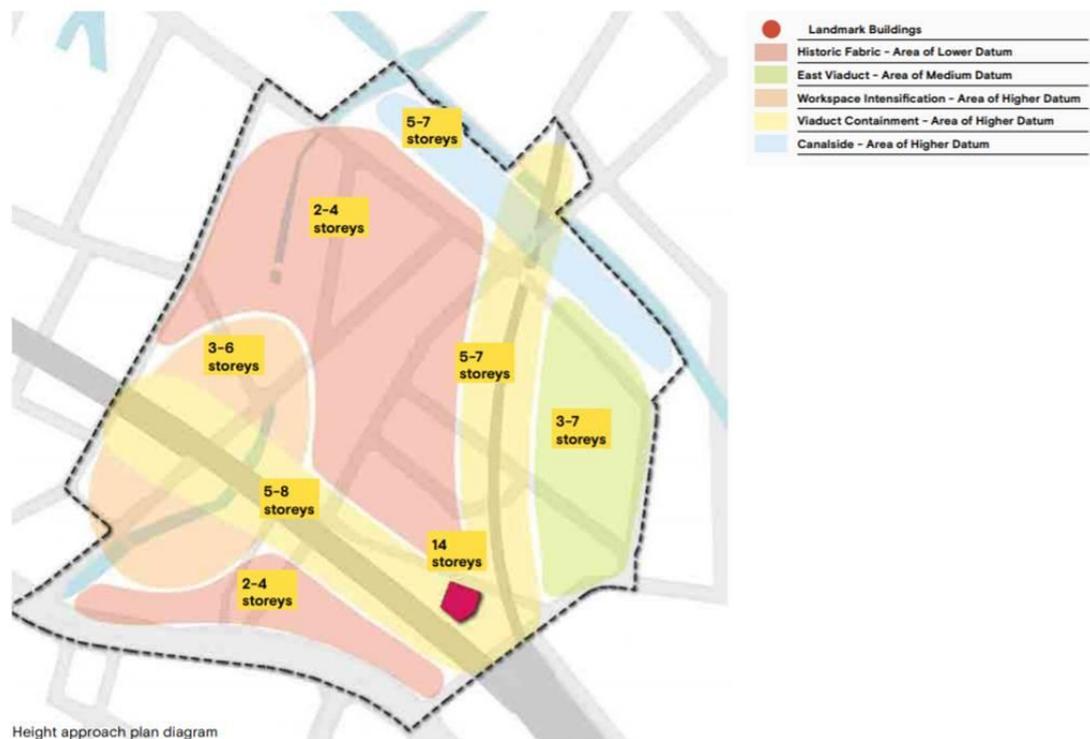


Fig 12: Proposed Illustrative Massing and Heights

- 6.46 The proposed height and massing design principles would:
- Create a sense of containment and passive surveillance by providing greater height to the development plots overlooking the two viaducts. These development plots are shown on the Parameters Plan at their maximum

ranging from approximately 2m to 41m higher than the existing Dudeston Viaduct (or proposed Viaduct Park). Meanwhile the development plots north and south of Bordesley Viaduct heights would range, again at their maximum, from approximately 2m to 37m above the existing structure creating animation and intensity when entering the City Centre by train;

- Define the canal edge by stepping up to 7 storeys to the north of Fazeley Street;
- Step down to respond to the existing lower-rise context of the Conservation Area with 1 to 4 storeys shown in the centre of the site;
- Create a critical mass of height around the Custard Factory to mark the entrance to the application site from the High Street and highlight the cluster of workspaces (8 storeys are shown as part of the detailed application on the Wild Works site); and
- Provide a landmark at the intersection of Bordesley and Duddeston viaducts to pinpoint the beginning of Viaduct Park, with a 14 storey building and the arrival point to Digbeth to train passengers.

6.47 A Townscape and Visual Impact Assessment has been submitted as part of the ES and this demonstrates the impact of potential scale of the proposed development upon the townscape of the site. The visual assessment considers the impact on a number of existing and potential views within the site, within 200m radius of the boundaries of the site and from further long distant views where identified as being relevant. The ES describes the impact of the development on these 25 representative viewpoints together with 5 townscape areas within the site. It concludes that there would be a significant beneficial effect on 4 of the 5 townscape character areas and 8 of the representative views. Some examples of these representative viewpoints are shown below:



Fig 13: Grand Union Canal Towpath Looking in a South East Direction
(View as tested in the ES based on maximum massing without detailed façade design or application of Design Code)

6.48 This shows the potential view along the canal towpath framed by various warehouse buildings to the south including the locally listed Bond Warehouse in the middle.



Fig 14: Floodgate Street – Looking north from junction with High Street
(View as tested in the ES based on maximum massing without detailed façade design or application of Design Code)

6.49 Whilst this view focuses on two of the full application plots (Custard Factory Living and Custard Factory Extension) it also shows the change on scale and massing of the development plot in the foreground fronting the High Street where, at its maximum, a part 4 part 3 storey development is proposed.



Fig 15: Little Ann Street – Looking South

(View as tested in the ES based on maximum massing without detailed façade design or application of Design Code)

- 6.50 The Proposed Scheme would introduce dominant new massing to both sides of Little Ann Street that would be significantly taller than the existing development, proposing 4 to 6 storeys. The massing would alter the character of this view, by greatly reducing the extent of visible sky and creating a stronger sense of containment to the street. Negatively the increased scale and massing for example could appear overly dominant and would reduce the amount of sky visible. However it should be acknowledged that the proposed roof articulation and architectural design principles, as controlled by the Design Code, would bring about greater visual interest.



Fig 16: Lower Trinity Street – Looking west from Adderley Street
(View as tested in the ES based on maximum massing without detailed façade design or application of Design Code)

- 6.51 The proposed scheme would create greater containment of this street view by introducing substantial new development, of greater height and scale to both sides of the street, within the foreground and background of the view. To the foreground the visibility of the viaduct would be changed by development on both sides of the street reaching 4 to 7 storeys high.



Fig 17: Allcock Street – Looking West
 (View as tested in the ES based on maximum massing without detailed façade design or application of Design Code)

- 6.52 The proposed scheme would create greater containment of this street view by introducing substantial new development of greater height reaching 6 and 7 storeys.



Fig 18: B4100 High Street - Looking West
 (View as tested in the ES based on maximum massing without detailed façade design or application of Design Code)

- 6.53 This viewpoint shows the potential height of the proposed development fronting the High Street reaching 3 and 4 storeys in height with the Custard Factory Extension and Wild Works site beyond.
- 6.54 In addition, the height parameters along Liverpool Street consider the emerging height at Bordesley Wharf where development of between six and twelve storeys has recently been approved along this street frontage (Ref: 2020/01796/PA).

Outline – Appearance and Materiality

- 6.55 Digbeth is primarily characterised by a simple palette of materials, including red, brown and blue bricks. In addition to these primary materials a number of complimentary materials can be found such as corrugated metal, cut stone, fair-faced concrete and painted bricks. As part of the Design Code there are site wide codes that refer to two material palettes, a primary and complementary material palette. The primary material palette is selected to be compatible with existing materials and positively contribute to the existing character of the Conservation Areas and comprises red, brown, grey and blue bricks. One of the site wide codes states that primary materials must be used on all façades of new buildings facing existing streets; facing the two viaducts, and facing the Grand Union Canal.
- 6.56 The proposed complementary material palette consists of glazed bricks, terracotta tiles, stone, concrete, metal, glass and timber. According to the Design Code these must be used as the predominant opaque material on façades of extensions to existing buildings, façades on infills to the viaduct arches, new bridges and vertical access points to the Duddeston Viaduct. In addition they may be used as the predominant opaque material on façades facing new streets and facing enclosed courtyards.

Design Conclusions – Outline Application

- 6.57 The application site sits at the heart of Digbeth and encompasses some landmark buildings and spaces. However it has also suffered from poor long term investment, deteriorating built fabric and accommodates some buildings of limited architectural or historic value and undeveloped plots that cause harm to the character of the area create poor public realm, low footfall and poor surveillance. The hybrid application covers a significant area of 18.9 hectares and it has to be recognised that whilst there may be significant redevelopment opportunities they need to be managed. It is considered that the three layers comprising the proposed quantum of development, Parameter Plans and Design Code offer an appropriate way of controlling the design of development.
- 6.58 The provision of new routes through the site, opening up the waterways and making them more accessible, creating Viaduct Park that will become a destination in its own right and delivering new areas of communal open space are most exciting prospects. They would add to the existing vitality that Digbeth currently offers whilst linking to the Rea Valley, Smithfield, Curzon Station and the City Centre core to increase the accessibility of this area.
- 6.59 As the illustrations above show however changes to the accessibility of the site also brings with it changes to the existing built form, particularly in terms of its scale and massing. This is encouraged by the Curzon HS2 Masterplan and is required in order to sustain the economy of Digbeth and to provide the public realm highlighted. It is however considered that taking the matter of scale alone the proposals would provide a more consistent building line to the existing streets whilst the detailed design of the individual plots would secure their quality in terms of appearance and character, providing visual interest via varied articulated rooflines and materials. Furthermore it

is proposed to upgrade the lighting and surfacing of the streets within the site. Plus it should also be acknowledged that the scale of development is expressed in terms of the maximum footprints and heights; the development plots may not be built out to these maximums.

- 6.60 Therefore the design principles are considered acceptable for the outline application in accordance with Policy PG3 of the BDP, saved Policy 3.14 of the UDP, the emerging Development Management Policies and the NPPF. However consideration of the impact of the design principles upon the existing heritage assets is considered separately.

Detailed Application - Proposed Design

- 6.61 The full part of the application is divided into three distinct plots:

- The Wild Works site (Development Plot CF1);
- Custard Factory Living Development Plot CF2); and
- Custard Factory Extension (development Plot CF3)

The Wild Works site Plot CF1 - Layout

- 6.62 The existing buildings on site comprise the Wild 2 building, Wild 3 building and former canteen. It is proposed to remove boundary walls, industrial sheds within the yard, a substation, the workshop extension to Wild 2 and the rear portion of Wild 3. It is then proposed to construct two new buildings (Wild 7 and Wild 8) that would both have a frontage to Milk Street providing a total of four buildings on site (Wild 2, Wild 3, Wild 7 and Wild 8).



Fig 19: Proposed Layout of Development Plot CF1 –
The Wild Site (Detailed Application)

- 6.63 The front of the Wild 2 building is proposed to be retained and refurbished as it is considered to be a good example of a mid-20th Century Works building, a key characteristic of the Conservation Area. However the rear workshop extension is of lower architectural quality and interest. The architectural merit of the Wild 3 building is focused on the characterful brick front range facing Floodgate Street, comprising of a distinctive stepped gable wrapping the corner onto Moore's Row with a canted bay. The existing Wild 3 canted corner, at the junction of Moore's Row and Floodgate

Street, the façade to Floodgate Street and roof structure are to be retained whilst the other existing canted corner, at the junction of Moore's Row and Milk Street Milk Street side of the building is proposed to be removed. The proposed Milk Street and Moore's Row facades of the proposed new buildings, Wild 7 and Wild 8, would maintain the back of pavement line with a new canted corner of similar geometry on the proposed Wild 8 building.

- 6.64 As presented in the layout diagram above the proposed redevelopment would open up access through the site to forge new connections between Milk Street, Moore's Row, Floodgate Street and the existing Bordesley Viaduct arches. In keeping with the fine grain of Digbeth the new routes (named Wild Walk and Wild Passage) would be narrow linear routes connecting to a new central communal space (named Wild Yard). Measuring approximately 328sqm in area Wild Yard aims to become a flexible open space that could be used for events. Active frontages are also proposed to overlook and animate the key routes through the site and the highways. The section of Floodgate Street directly in front of the Wild site is proposed to accommodate sustainable urban drainage planting beds, parking areas, a loading bay and a pedestrian crossing point

The Wild Works site Plot CF1 - Scale and Massing

- 6.65 The proposed building heights would range from 1 to 8 storeys and their arrangement is proposed to respond to the scale of the existing buildings around Gibb Street, in particular the Custard Factory and Devonshire House, while the massing would be stepped and shaped to minimise the impact of the development on the its immediate surroundings.

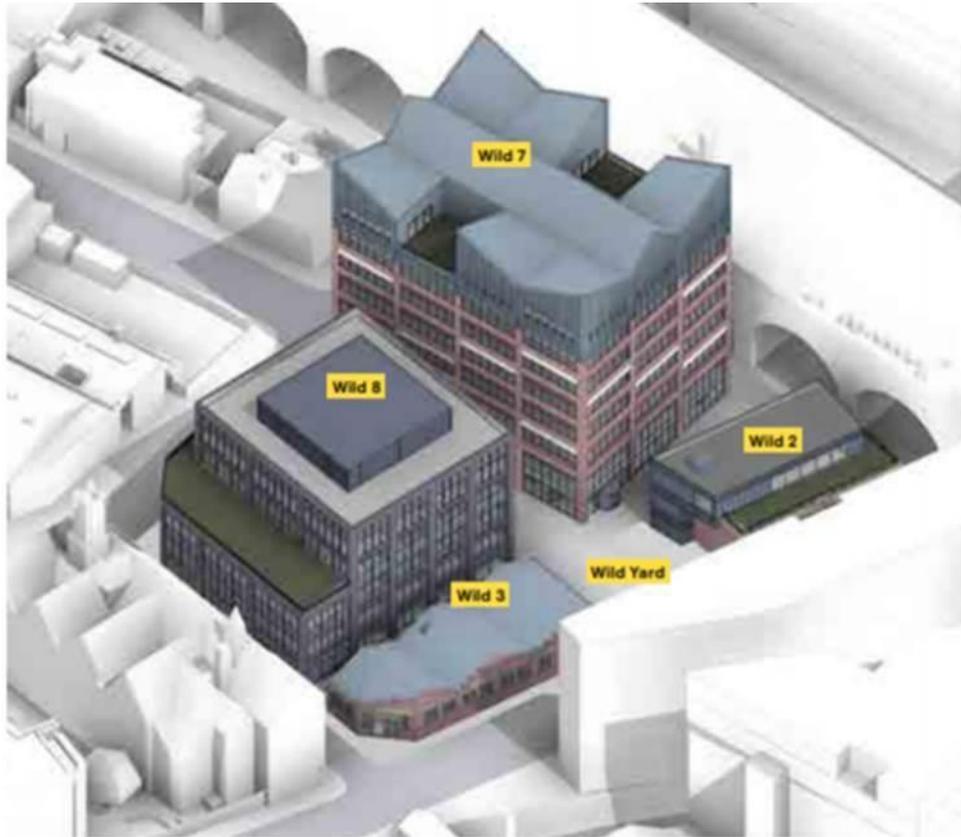


Fig 20: Axonometric Representation of the Wild Site

- 6.66 Wild 2 and Wild 3 are 1 to 3 storeys in height and the proposed alterations to the form and massing seeks to retain their historic character and their presence on Floodgate Street. A single storey rooftop extension and three storey rear extension are proposed to Wild 2, with the proposed extension overhanging the rear of the block and set back from the frontage to ensure that the original building would retain its prominence. Wild 3 would remain as a single storey structure retaining the existing articulated roof and stepped gable to Floodgate Street.



Fig 21: CGI View Looking North Eastwards towards Bordesley Viaduct with Wild Works 2 & 3 in the foreground

- 6.67 The tallest building, Wild 7 is located to the northwest of the site, running parallel to the railway viaduct. At 8 storeys with an articulated roof the building would be highly visible from Bordesley Viaduct creating a sense of enclosure from the railway. Two terraces are proposed to cut into the top floor, one looking towards the City Centre and the other towards the railway.
- 6.68 The massing of Wild 8 is stepped from 3 to 5 storeys facing the adjacent grade II* listed Former Floodgate School to provide a terrace at a similar height to the eaves height of the Former School. The lowest two floors of Wild 7 would be inset to provide a partial overhang to maximise the width of Wild Passage, which would run between Wild 7 and Wild 8. The scale of WW7 and WW8 are aligned to the Custard Factory to increase the prominence of this part of the hybrid application site as a destination and a cultural hub.

The Wild Works site Plot CF1 - Appearance

- 6.69 The retained stone and brick facade of Wild 2 would be cleaned and the brickwork re-pointed and repaired where necessary plus all windows would be removed and refurbished if possible. The proposed three storey extension would be clad with blue metal infill panels. The consistent blue colour of the new element would provide a simple extension which due to its set back position would help it to appear subservient to the detailed front façade of the existing building. The side elevation facing Wild Yard would also offer an opportunity for street art encouraging animation to this communal area.
- 6.70 The front range, canted bay and part of the north and south elevations of Wild 3 would be retained. All existing facades would be cleaned, brickwork re-pointed and repaired where necessary and windows would be refurbished where possible. The

existing metal roof trusses would be retained and refurbished and the roof renewed with corrugated blue metal. A new external wall is proposed to the west that would be clad in perforated corrugated blue metal panels to match the roof and window colour. The use of the accent blue material on the alterations to the building would clearly distinguish them from its original features without competing with its character and attractive frontage to Floodgate Street.

- 6.71 The existing industrial roofline of Wild 3 would be amplified on Wild 7 to provide a unique roofscape and crown to the building based on the letter 'W' of Wild, contributing to the characterful Digbeth skyline. The proposed blue metal crown would be in contrast to the red tone brick grid on the elevations that would provide order to the elevations and generous light filled spaces. Concrete lintels are proposed to be randomly applied to a number of windows across all of the elevations to add a sense of imperfection associated with the character of Digbeth. Wild 7, due to its height at 8 storeys and dramatic roofline is the most striking of the Wild site buildings.
- 6.72 The primary material of Wild 8 that would rise from 2 to 3 to 5 storeys is blue engineering brick arranged to create dominant vertical piers and an elongated grid. Blue metal infill panels are proposed to disrupt the grid and introduce diagonal fins, to add a layer of finer detail and irregularity. Whilst this building would have a flat roof the diagonal fins on the elevations reference the articulated roofline of Wild 7.
- 6.73 Whilst the site comprises of four separate buildings including parts of two existing buildings it is considered that the chosen palette of materials based on red bricks and blue metal would tie the buildings together with a nod to its industrial past and the adjacent viaduct.

Custard Factory Living Plot CF2 - Layout

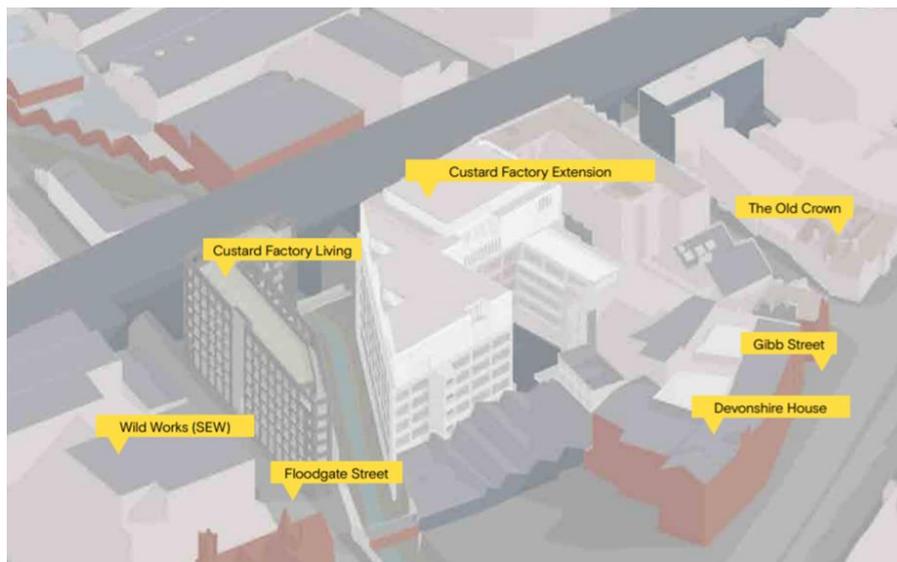
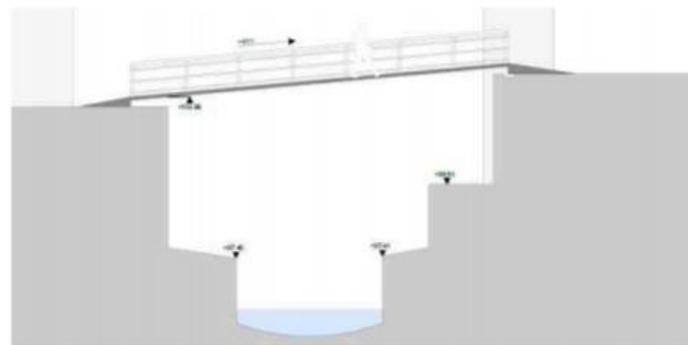
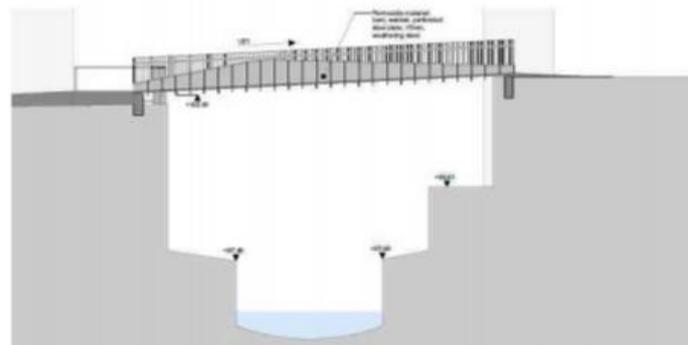


Fig 22: Axonometric Representation of the Wild Site, Custard Factory Living and Custard Factory extension

- 6.74 This site, informally known as the 'Triangle' site currently accommodates some poorly maintained single and two storey buildings positioned between Floodgate Street and the River Rea which, due to its low lying level can hardly be seen from this plot.
- 6.75 The proposed layout shows a triangular shaped building that at seven storeys high would fill the plot with a café and restaurant at ground floor and 40 residential units above. At ground floor this would provide active frontages to Floodgate Street and the proposed new thoroughfare that would provide a better connection between Floodgate Street and Gibb Street via a new pedestrianised bridge crossing the River Rea. These commercial uses would also have windows overlooking the River at either end of the building with a walkway aligning the River to allow pedestrians to be able to walk round the whole of the building. An access point to the River from the western end of the site is proposed with a gated ladder. This would only be used by authorised people for maintenance purposes.
- 6.76 At first floor a triangular shaped terrace is proposed for residents again overlooking the River, and the front doors to the upper floor apartments would all be positioned on this rear façade, behind a deck access. This is to give the best daylight to the living and bedrooms positioned on the north east and north west elevations.
- 6.77 The existing bridge that spans the River Rea is sited directly below the Bordesley Viaduct. The bridge is old and unfortunately does not allow for access for all. It is proposed to provide a replacement accessible structure that would not only improve access but also safety whilst also freeing up the arches for events. The design of the bridge would reference the industrial vernacular of other bridges in the conservation area and would be a dark coloured steel.

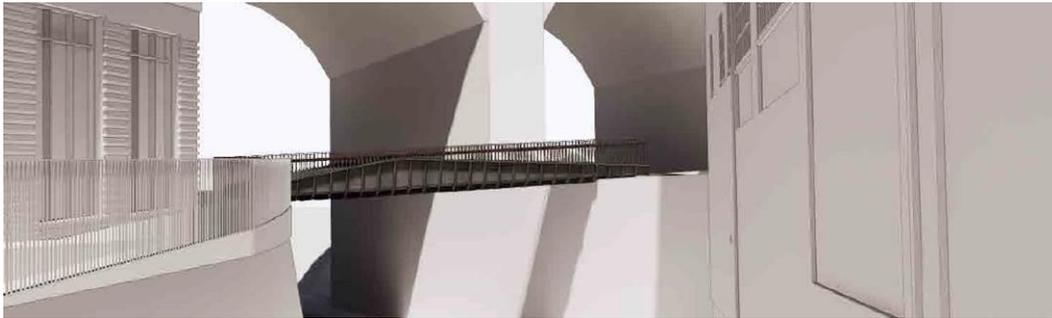


The existing bridge - 1/11 fall



The proposed bridge - 1/21 fall

(above) **Fig 23:** Existing and Proposed Pedestrian Bridges across the River Rea within Detailed Application Site



(above) **Fig 24:** Proposed Bridge in Context
Custard Factory Living to lhs, Custard Factory to rhs

Custard Factory Living Plot CF2 – Scale and Massing

- 6.78 At seven storeys in height the scale is designed to create a relationship with the railway line, providing a sense of enclosure and intrigue for rail passengers entering the City and maintaining a cluster of increased height around the Custard Factory to mark the entrance to the application site from the High Street. Whilst taller than the existing Custard Factory, the new building seeks to complement its scale rather than compete with it.

Custard Factory Living Plot CF2 – Appearance

- 6.79 The simple, rhythmical facade of the Custard Factory has been transferred to the facade of this adjacent plot. As such the building has been designed to read as a continuation of the Custard Factory, appearing as if it was one building split by the River with a private amenity terrace at first floor providing a buffer space between them. Due to the immediate neighbourhood's character: the whiteness of Custard Factory and dark brown/blue-purple-red tints of Bordesley Viaduct a grey building is proposed by the applicant to reflect the white of the Custard Factory. However as previously explained the applicants are proposing a series of architectural/design principles, one of which is a coherent palette of materials to positively contribute to the character of the Conservation Area. It is considered that the proposed use of grey brick would not meet this principle and neither would the colour result in the redevelopment be read alongside the Custard Factory as one plot. The City Design Manager and comments made by the Conservation Office support this opinion. Therefore it is proposed to re-consider the colour brick via a suitably worded condition.

Custard Factory Extension Plot CF3



Fig 25: CGI of Custard Factory Living and Custard Factory Extension

Custard Factory Extension Plot CF3 – Layout

- 6.80 The three storey rooftop extension would provide two storeys of flexible use office space and a further top floor that would be smaller in area for use as function space and an outdoor roof garden. The floor plan would continue the shape of the existing building upwards providing an additional 3,440m² (GIA) of B1 office floorspace. In addition an extension of 36sqm is proposed at ground floor facing the new throughfare between Floodgate Street and Gibb Street.

Custard Factory Extension Plot CF3 – Scale and Massing

- 6.81 At street level, the proposed extension would be able to be viewed from Floodgate Street and would be a noticeable beacon within Digbeth and from the railway line on Bordesley Viaduct. The additional height would ensure that the Custard Factory would retain its prominence on the skyline and with this in mind has been designed with an inset on the top floor to change the profile of the roof to add interest. This top floor has the opportunity to become an exclusive venue.

Custard Factory Extension Plot CF3 -- Appearance

- 6.82 Taking its cue from the surrounding metal work in Digbeth the extension would be constructed in a light coloured metal that would accommodate key clear windows, windows with aluminium translucent mesh and windows with opaque mesh panelling where required to give privacy. The mesh would contrast with the existing more solid and heavier brickwork of the existing Custard Factory creating a light glow that would read as a lighter more delicate addition. The combination of translucent and opaque facades would add visual interest to the building without making it top heavy and marking it as a primary destination within Digbeth. The existing Custard Factory has been painted and re-painted over the years and by adding a neutral extension, it is

hoped that the rooftop extension would appear fitting with any future changes and colour trends.



Fig 26: Axonometric View of Wild Site, Custard Factory Living and Custard Factory Extension

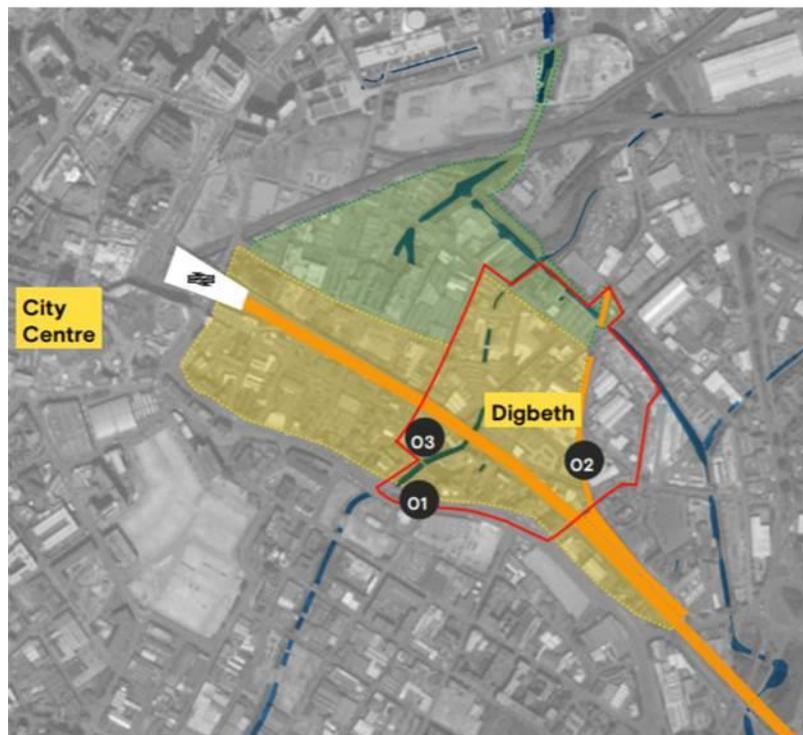
Design Conclusions – Detailed Application

- 6.83 The City Design manager has commented that the three distinct plots within the detailed application respond to a different aspect of Digbeth’s industrial past without being pastiche or literal. The proposed Wild 7 building and Custard Factory rooftop extension have the potential to become iconic whilst conditions prescribing and fixing quality detailing should help deliver an exceptional suite of architecture.
- 6.84 In terms of their scale the three plots would not adhere to past trends of development in this part of Digbeth and would conflict in part with the Conservation Area Appraisal and Management Plan. However on pure urban design grounds the City Design Manager comments that this would achieve two things. Firstly, it would mark the Custard Factory cluster as the key destination within Digbeth, creating a critical density and feeling of tight, dense drama, critical to delivering the energy still anticipated in this Quarter. Secondly, the scale would start to deliver sporadic enclosure to the Bordesley Viaduct that currently dominates the area in an isolated way. From the railway there is currently no sense of arrival into the bustling City as the views are largely of low scale sheds. Instead arrival into the City could be identified by interesting and dynamic architecture. It is considered that the proposed detailed application would secure a high quality design that would create a destination and an attractive place in accordance with Policy PG3 and the NPPF.



Fig 27: Illustration of Proposed Custard Factory Extension and Wild Works Site from Bordesley Viaduct

Impact upon Heritage Assets



Emerging schemes diagram



Fig 28: Hybrid Application Site within the context of existing Conservation Areas

(01 River Rea / 02 Duddeston Viaduct / 03 Wild Works Site)

- 6.85 Over half the site lies within the Digbeth, Deritend and Bordesley High Streets Conservation Area or the Warwick Bar Conservation Area as shown in the Figure above. The majority of the existing buildings on the site date from the mid-19th Century onwards with a significant proportion constructed either from the closing decade of the 19th Century or from the interwar period. Typically buildings are between one and three storeys in height with the exception of some of the landmark buildings in the area, notably the early 20th century unlisted Custard Factory.
- 6.86 The site accommodates 6 listed buildings including the grade II* listed Crown public house located on High Street and 22 locally listed buildings and structures, as listed at paragraphs 2.6 and 2.7 and shown in the Figure below. As defined on the following plan the grade II* listed Floodgate Street School, a gothic revival board school by renowned Birmingham architects Martin and Chamberlain sits just outside the southwest boundary of the application site and forms part of the setting of the detailed planning application site.

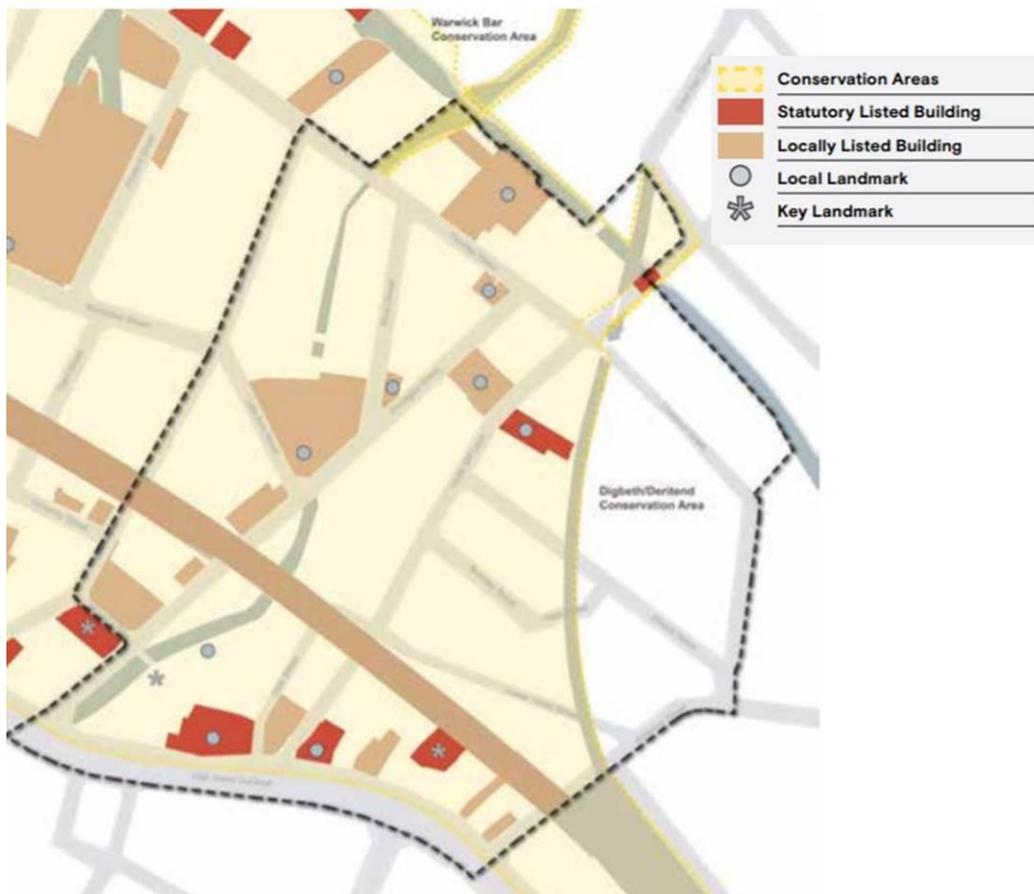


Fig 29: Hybrid Application Site with Heritage Assets

- 6.87 In determining this application the Local Planning Authority (LPA) must comply with the statutory duties relating to listed buildings and conservation areas. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires LPA's to have special regard to the desirability of preserving listed buildings or their setting or

any features of special architectural or historic interest which they possess. In addition Section 72(1) of the Act 1990 states that LPA's should pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Case Law has now firmly established that the "special regard" and "special attention" duties of the Act requires that the decision maker should afford "considerable importance and weight" to the desirability of preserving a listed building along with its setting and preserving or enhancing the character or appearance of a conservation area. It has also been established that "preserving" means "doing no harm" for the purposes of interpreting this duty.

- 6.88 The NPPF states that when determining applications, LPA's should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal. Great weight should be given to the conservation of heritage assets and any harm to, or loss of the significance of a designated heritage asset should require clear and convincing justification. LPA's should look for opportunities for new development within conservation areas and within the setting of heritage assets, to enhance or better reveal their significance. Where potential harm to a designated heritage asset is identified, it needs to be categorised as either less than substantial harm or substantial harm (which includes total loss) to identify which policies in the NPPF (paragraphs 194-196) apply. Within each category there is no grading scale for heritage harm and where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset paragraph 196 of the NPPF requires that this harm should be weighed against the public benefits of the proposal. Paragraph 197 applies to locally listed buildings that are defined as non designated heritage assets. In weighing applications that directly or indirectly affect such assets, the NPPF states that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage assets. Policy TP12 of the BDP states that great weight will be given to the conservation of the City's heritage assets and that development affecting a designated or non-designated heritage asset or its setting, will be expected to make a positive contribution to its character, appearance and significance.
- 6.89 In addition to the BDP are the policies of the Digbeth, Deritend and Bordesley High Streets Conservation Area Character Area Appraisal (DD&BHS) and the Warwick Bar Conservation Area Character Area Appraisal, which are also material considerations. Both Appraisals state that there will a presumption against additions and alterations to buildings which adversely affect their character and appearance or that of the Conservation Area. It seeks to retain buildings that make a positive contribution including buildings of contextual or group value. However within the DD&BHS appraisal it is acknowledged that the decline of local industry from the mid-1970's onwards combined with the severance from the City Centre core and market area caused by the post war road system has resulted in many temporary uses and void buildings, a large number of gap and underused sites and buildings that suffer from neglect and a lack of maintenance. This was recognised by the Council in 1984 within the Central Area Local Plan where Digbeth, including Warwick Bar

Conservation Area, was identified as one of the six distinctive quarters around the city core where regeneration should seek to enhance the existing urban environment. Furthermore the DD&BHS Appraisal states that, "*The large size of the area affords the opportunity not only to include important historic buildings and structures but sites of lesser quality where sensitive redevelopment will be actively encouraged in order to create a harmonious street scene.*"

- 6.90 The following key design principles are established for new development within both Conservation Areas:
- a) back of pavement building line;
 - b) the scale of buildings - (DD&BHS: should not be significantly higher or lower than their neighbours normally limiting new build to a maximum of six industrial/commercial storeys, new development north and north east of Bordesley Viaduct should respect the height of the viaduct parapet), (Warwick Bar: limiting new buildings to a maximum of three domestic or four industrial/commercial storeys);
 - c) roof forms and rooflines of new buildings must complement the roof forms and roof lines of the surrounding and/or adjoining buildings;
 - d) plan form and architectural treatment of new development should complement the historic and architectural character;
 - e) windows (DD&BHS: new development should respect the proportion of solid to void found in the elevations of traditional buildings), (Warwick Barr: window openings in new buildings should be regularly spaced);
 - f) local identity should be reinforced through the use of materials traditionally employed in the area;
 - g) architectural detail of high quality and which contributes to scale, proportion and legibility will be encouraged;
 - h) parking or servicing areas should be concealed;
 - i) new buildings must preserve views and vistas characteristic of the Conservation Area and respect the setting of key historic landmarks. the creation of new landmarks will be discouraged; and
 - j) new buildings should be accessible to all users.

The following additional key design principles are advised in the Warwick Bar Conservation Area:

- k) The creation of private landscaped spaces beside the canal will be resisted; and
 - l) The creation of any direct open access from the public realm, i.e. the street, to the canalside will not be allowed.
- 6.91 Within the application site the DD&BHS Appraisal identifies significant views in a north easterly and south westerly direction along Floodgate Street, to the west and east along High Street, north easterly from the High Street along Heath Mill Lane and easterly adjacent to Bordesley Viaduct at its junction with Heath Mill Lane.
- 6.92 Within the Warwick Bar Conservation Area Appraisal significant views are identified along the Grand Union Canal and in both directions at the junction of Fazeley Street and the River Rea.

- 6.93 The planning application submission includes a Heritage Assessment alongside the Design and Access Statement and the ES that includes chapters on Town and Visual Impact, Built Heritage and Cumulative Effects. The development would be controlled by the Development Specification, Parameter Plans, Design Code and Retention Plan.
- 6.94 The Retention Plan identifies statutory and locally listed buildings and those that have been identified as ‘positive contributors’ to the relevant Conservation Area. It indicates which buildings are proposed for retention and those proposed for alteration or demolition. Each building is given a category as follows:
- Demolition – meaning total or very significant demolition;
 - Alteration – meaning extension and/or partial demolition;
 - Retain (with works) - meaning minimal building works which largely retain the existing building at present; or
 - Retain (without works) – meaning no building works proposed.
- 6.95 The Council’s Conservation Officer has taken all of these documents into account when considering the harm to the significance of the heritage assets. From the outset the Conservation Officer considers that the Heritage Assessment methodology is sound and references the appropriate guidance documents. Furthermore the effect of a change in the setting of the designated and non-designated heritage assets within a wider study area that extends approximately 200m beyond the application site boundary has been referenced by the applicants, and this study area is considered to be appropriate. This wider study area includes 17 listed buildings and structures and 46 locally listed buildings and structures. The listed buildings are as follows:
- i. Roving Bridge over entrance to Birmingham and Warwick Junction Canal – Grade II listed;
 - ii. 85 Digbeth High Street – Grade II listed ;
 - iii. 122 Fazeley Street – Grade II listed;
 - iv. Ringway Engineering Service Company – Grade II listed;
 - v. The Anchor Public House, Rea Street – Grade II listed;
 - vi. Public toilets Liverpool Street / Great Barr Street – Grade II listed;
 - vii. White Swan Public House, Bradford Street – Grade II listed;
 - viii. Road Bridge North of Bordesley Junction – Grade II listed;
 - ix. Birmingham Gun Barrel Proof House – Grade II* listed;
 - x. 58 Oxford Street – Grade II listed;
 - xi. Canal Side Warehouse (Warwick Bar Dock & Stop – Grade II listed;
 - xii. The Old Crown Public House – Grade II* listed;
 - xiii. Former Church (just off Deritend High Street, Dolphn Showers) - Grade II listed;
 - xiv. 224 and 225 High Street – Grade II listed;
 - xv. Former Floodgate School, Floodgate Street – Grade II* listed;
 - xvi. St Basils – Grade II listed; and
 - xvii. Devonshire House – Grade II listed.

- 6.96 The key heritage issues to be taken into consideration in assessing the proposed development are the direct effects on the Conservation Areas and the indirect effect of the development on the significance and setting of the designated heritage assets within and beyond the application site. The Heritage Assessment provides a schedule of 70 individual or groups of the buildings and structures within the site that make a contribution to one of the two Conservation Areas. It then goes on to highlight whether these 70 buildings are proposed to be demolished, altered, retained, or retained with works. Of this number 48 buildings are identified as to be demolished, including 5 that would be part demolished. The proposed demolition includes part of the locally listed building at Wild 3 (part of the detailed site) and the Rea Studios at the junction of Floodgate Street and Little Ann Street (outline application). There would be alterations to locally listed buildings within the Wild Site (detailed application), within The Bond complex accessed off Fazeley Street (outline site), 48-52 Floodgate Street (Jukes Limited, also known as The Arch) facing Heath Mill Lane (outline site), buildings fronting River Street and Floodgate Street (outline site) and the Bordesley Viaduct (outline site).
- 6.97 It is also acknowledged that there needs to be a consideration of the heritage impacts on a cumulative basis. However with a site of nearly 19 hectares of which the significant majority is located within a conservation area and numerous listed and locally listed buildings it is considered more manageable to consider the impacts on a block by block basis. These blocks, named A to T, are as defined in the Financial Viability Assessment (FVA). This block plan is used alongside the submitted Phasing Plan as the latter is purely illustrative rather than the FVA block plan that is tied to spending on the public realm. The blocks/phases within the outline application are considered first followed by those within the detailed application. The cumulative impacts will then be considered at the end of this section.



Fig 30: Extract from Financial Viability Assessment Proposed Block Plan

Outline Phase 1a - Blocks K, P & T

- 6.98 This part of the outline application site is located in the Digbeth, Deritend and Bordesley High Streets Conservation Area although the disused Duddeston Viaduct extends up into a small section of the Warwick Bar Conservation to the east. The existing disused viaduct is proposed to become a linear area of open space known as Viaduct Park, and it is described within the Heritage Assessment as a positive contributor to the character and appearance of the Conservation Area. A mid-20th Century Art Deco style building identified as the Former Warehouse at the corner of Lower Trinity Street and Heath Mill Lane is also considered to be a positive contributor. Both are highlighted in yellow on the plan of Phase 1A below.

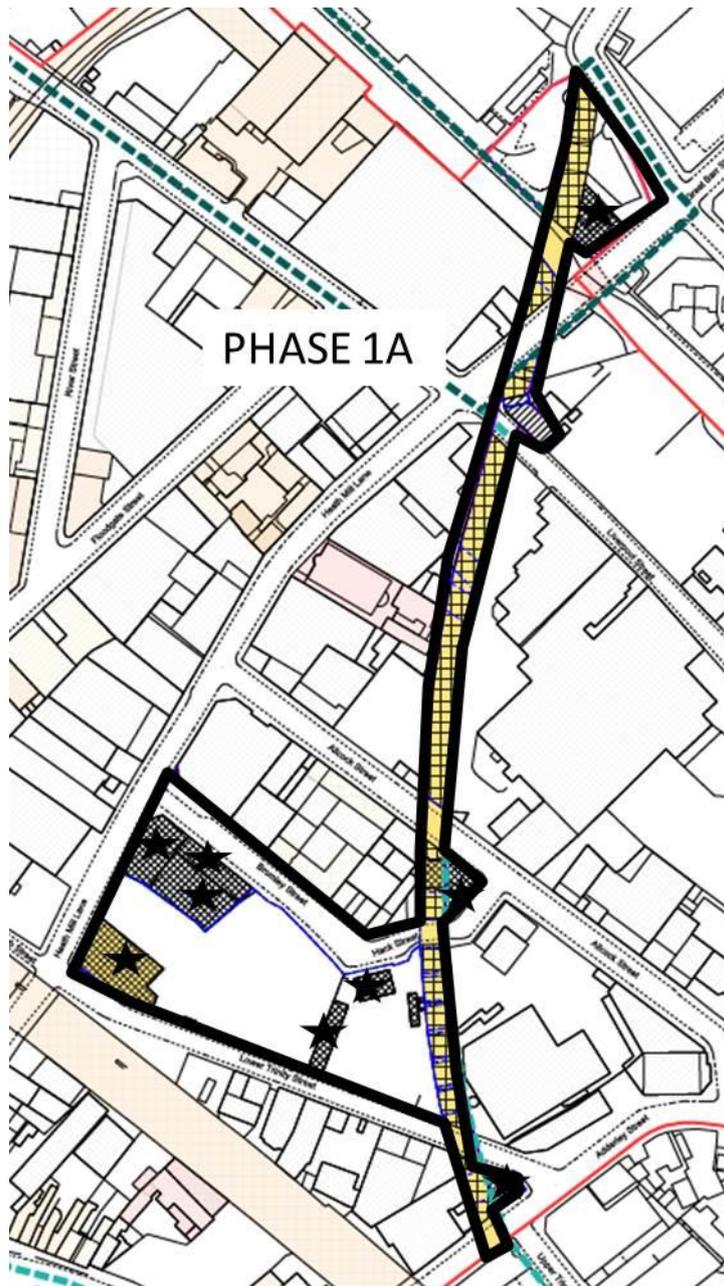


Fig 31: Phase 1a - Blocks K, P & T

(Yellow = positive contributor to Conservation Area / ★ = to be demolished)

- 6.99 As the above figure shows, all of the existing buildings with the exception of the viaduct are proposed to be demolished. The Conservation Officer considers that the loss of the art deco former warehouse would cause less than substantial harm to the character and appearance of the Conservation Area through its demolition, and the preference for it is to be retained. The remainder of Phase 1A site has been identified as having neutral to negative impact on the character and appearance of the Conservation Area. This site also contains large areas of hardstanding car parks and metal fencing that would benefit from enhancement.

Outline Phase 2 – Blocks E & R

6.100 Phase 2 is located within the outline application site and the part to the west of the Duddeston Viaduct lies within the Warwick Bar Conservation Area. It excludes the Duddeston Viaduct, although the structure dissects this Phase. The Phase also accommodates the grade II listed Canal Road Bridge and the locally listed 180-182 Fazeley Street, Bond Warehouse (rear of 180-182 Fazeley Street), former Gas Retort House (rear of 176 Fazeley Street) and River Rea. A positive contributor to the character and appearance of the Conservation Area are the late 19th century cottages at 178 Fazeley Street. The Heritage Assessment identifies the significance of the Bond group of buildings, their historic associations to one another and how the Canal contributes to the functional relationship of the buildings and the wider historic industrial context and development of the Bond complex. The Canal itself is also considered to be a non designated heritage asset.

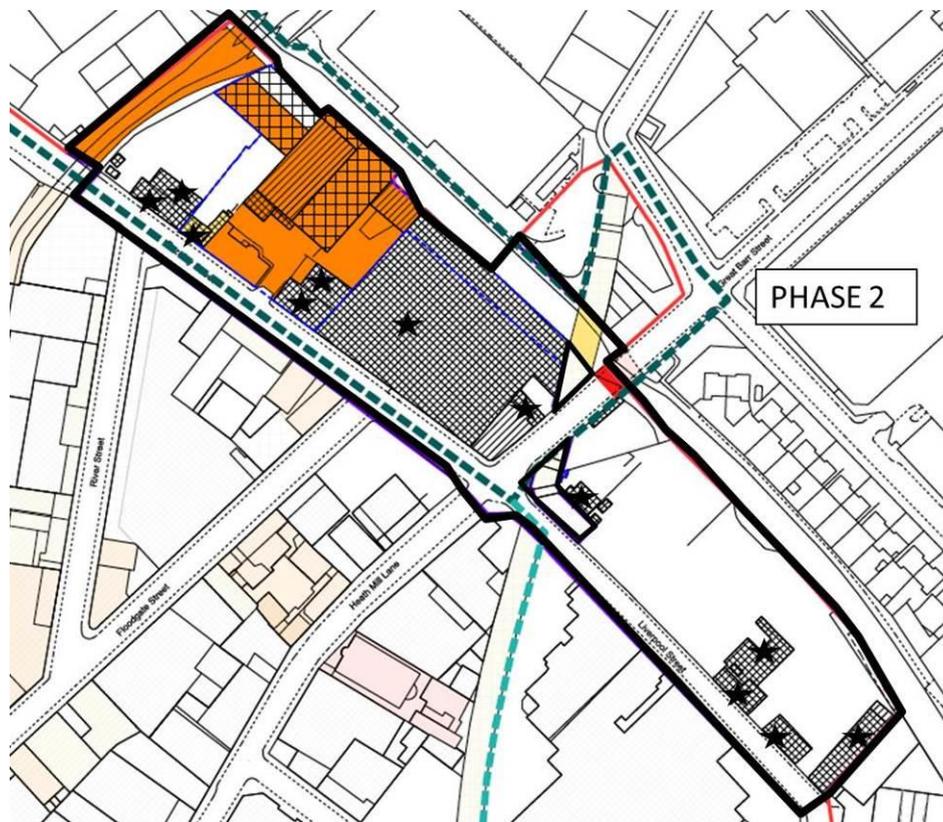


Fig 32: Phase 2 Blocks E & R (Orange = locally listed / Yellow = positive contributor to Conservation Area ★ = to be demolished)

6.101 The proposals indicate that the locally listed Bond complex would be either retained without works, retained with works or altered. As noted by the Conservation Officer the amount of works or alteration is not clear and such alterations could potentially cause harm to the significance and setting and to the character and appearance of the Conservation Area. The former Crown Metal Works now known as Teamworks Karting and the late 19th century cottages at No.178 Fazeley are also proposed for demolition. It is considered that these cottages alongside the Bond complex and other former cottages and offices along the canal have group value due to their proximity and townscape value as a row of domestic scaled 19th century properties. Therefore the proposed demolition would diminish an aspect of the character and

appearance of the Conservation Area causing less than substantial harm to the significance of the Conservation Area and the significance of the Bond group of locally listed buildings. The Conservation Officer would prefer that 178 Fazeley Street be retained. The Heritage Assessment also acknowledges that the large gabled roofline of the former Crown Metal Works (Teamworks Karting), an element that contributes to its character and appearance, would also be lost, again causing less than substantial harm to the significance of the Conservation Area.

Outline Phase 3 River – Blocks B & C

6.102 This part of the outline application site lies wholly within the DD&BHS Conservation Area with a border to the Warwick Bar Conservation Area to the north. It accommodates the locally listed W.J.Wild No.4 Works (Rea Studios), former Wild Works No.1 at No.93-96 Floodgate Street, the Floodgate Tavern PH (now known as The Ruin) and the River Rea. In addition there are a number of buildings identified in the Heritage Assessment as positive contributors to the Conservation Area: 1 Barn Street, 18-19 Barn Street, 'Anopol' Barn Street Works, 44 River Street and 35-38 River Street.

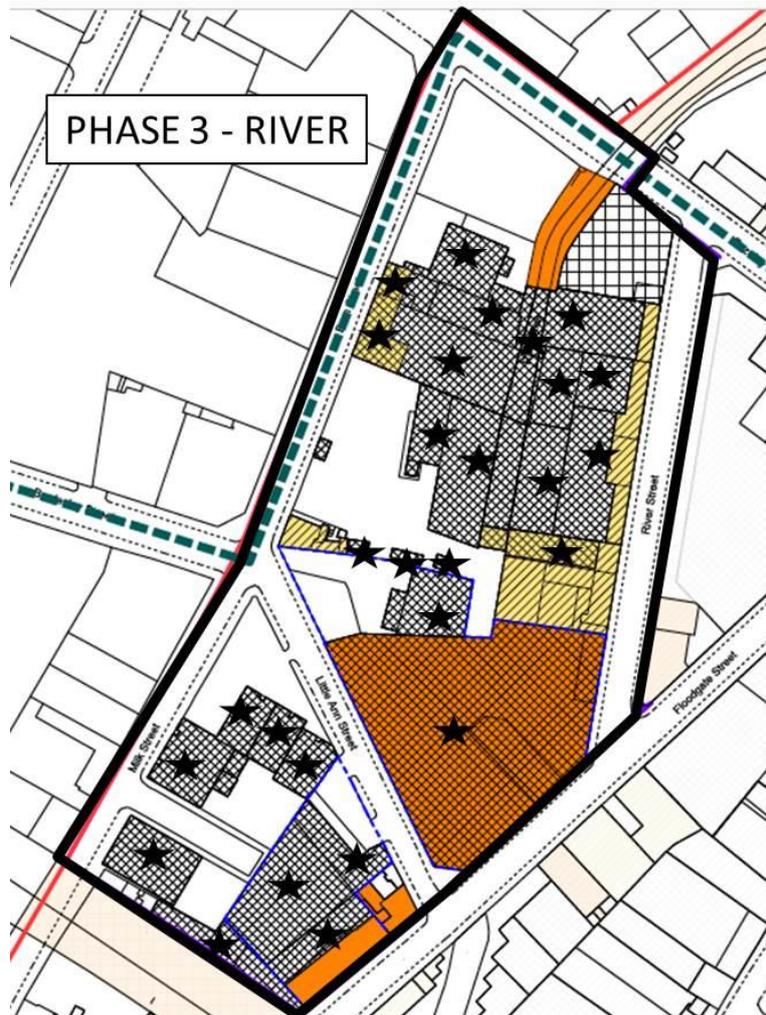


Fig 33: Phase 3 River – Blocks B & C (Orange = locally listed / Yellow = positive contributor to Conservation Area / ★ = to be demolished)

- 6.103 The proposals for this part of the site include the complete demolition of the locally listed W.J.Wild No.4 Works (Rea Studios) and the demolition of 18-19 Barn Street, 'Anopol' Barn Street Works, and virtually all the rear ranges to River Street and Barn Street. The River Street frontages and 1 Barn Street would be retained with works and the former Wild Works No.1 at No.93-96 Floodgate Street and the Floodgate Tavern PH (The Ruin) would also be retained with no works.
- 6.104 The loss of W.J.Wild No.4 Works (Rea Studios) would result in the total loss of significance of the locally listed building thereby leading to the complete loss of the asset. The development would also lead to harm to the setting and thereby significance of the remaining Wild Works group of buildings arising from the diminution of the completeness of the group and the reduced ability in the future to appreciate the expansion of the Wild Works company along the street. The loss of the buildings would also result in some erosion of the Conservation Area's industrial architectural character leading to less than substantial harm to the Conservation Area.
- 6.105 The demolition of 18-19 Barn Street, Anopol' Barn Street Works, some of the associated rear works/ranges, and partial demolition of 44 River Street (rear range) would result in complete loss or partial loss of buildings identified as positive contributors to the Conservation Area by virtue of the loss of industrial architectural character therefore leading to loss of its significance. The loss of this significance would lead to the less than substantial harm to the Conservation Area. The Conservation Officer has not objected but has raised concern at the loss of the above buildings proposed to be demolished.

Outline Phase 3 Bordesley – Blocks L & S

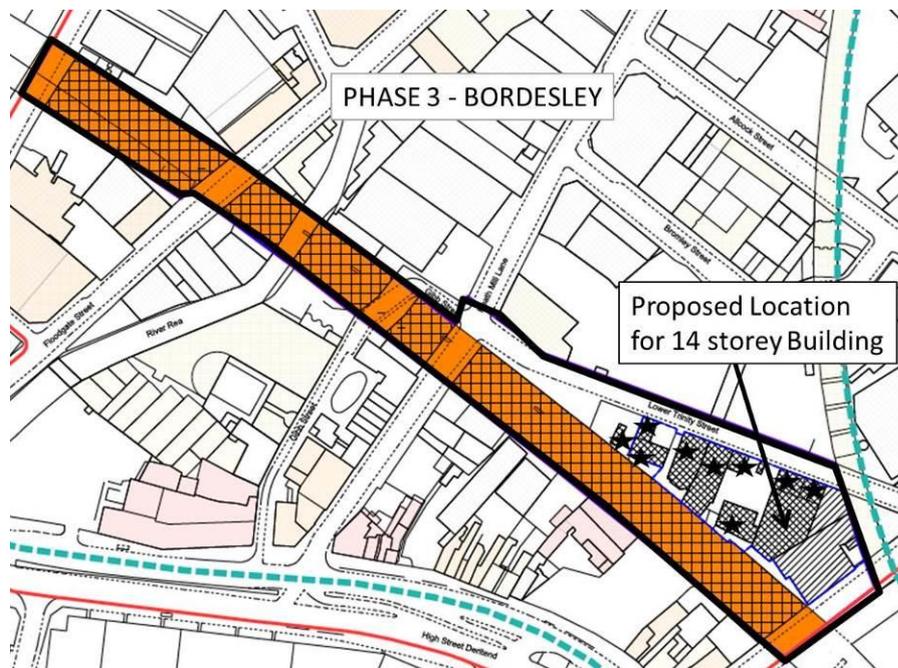


Fig 34: Phase 3 Bordesley – Blocks L & S
 (Orange = locally listed / ★ = to be demolished)

- 6.106 This part of the outline application accommodates the locally listed Bordesley Viaduct and a parcel of land to the south of Lower Trinity Street all of which lies within the Digbeth, Deritend and Bordesley High Streets Conservation Area.
- 6.107 The Bordesley Viaduct is noted as forming a locally important element within the industrial townscape of Digbeth and its scale, form and massing as an example of a 19th century engineered structure experienced alongside adjacent buildings from a variety of locations across the surrounding street pattern. The Assessment considers that the Viaduct is primarily a functional element of the industrial infrastructure of the area and the Council's Conservation Officer agrees, however it goes on to describe that views to and from it make a limited contribution to its significance. The Conservation Officer disagrees with this conclusion and considers that the ability to appreciate this structure and its prominence in Digbeth's industrial landscape contributes to its significance in more than a 'limited' way.
- 6.108 The proposals seek permission to alter and possibly bring forward additional floorspace to animate the existing arches of the Viaduct. However of greater concern are the proposals within this part of the site to provide redevelopment ranging from 5 to 14 storeys (Plot V1). Comments regarding the proposed landmark scale of 14 storeys has been raised by the Civic Society, the Victorian Society, and Historic England. The Heritage Assessment acknowledges that the increased height of development next to the Bordesley Viaduct would obscure parts of the structure although it concludes that there would be no harm to this asset. In contrast while the Council's Conservation Officer can accept that some views would be retained and new ones created the experience of the scale, form and massing of the Viaduct and the structure's prominence as an example of 19th century engineering and currently experienced in a relatively low scale townscape would be diminished by the introduction of the new taller buildings. Therefore the conclusion of no harm to the Viaduct is not accepted and it is considered that as a result of the reduction of its visual dominance it would lead to a small degree harm to the significance of this non-designated heritage asset. In addition the diminution of the contribution it makes to the industrial character of the Conservation Area would lead to less than substantial harm to the character and appearance of the Conservation Area.

Phase 3 High Street – Part of Block G & Block Q

- 6.109 This part of the outline application contains the highest density of listed and locally listed buildings and the whole of this Phase lies within the DD&BHS Conservation Area. The Figure below indicates that it accommodates the Grade II*listed Old Crown PH, the Grade II listed Devonshire House and the Grade II Listed former church (now known as the Dolphin Works). In addition there is the locally listed Former Lloyds Bank, Deritend Free Library, 179 to 182 High Street, 164 High Street, 160 High Street (the Rainbow PH) and the Devonshire Works Chimney. The Heritage Assessment also submits that 162 to 163 and 177 High Street plus the southern part of the Custard Factory are positive contributors to the character and appearance of the Conservation Area.

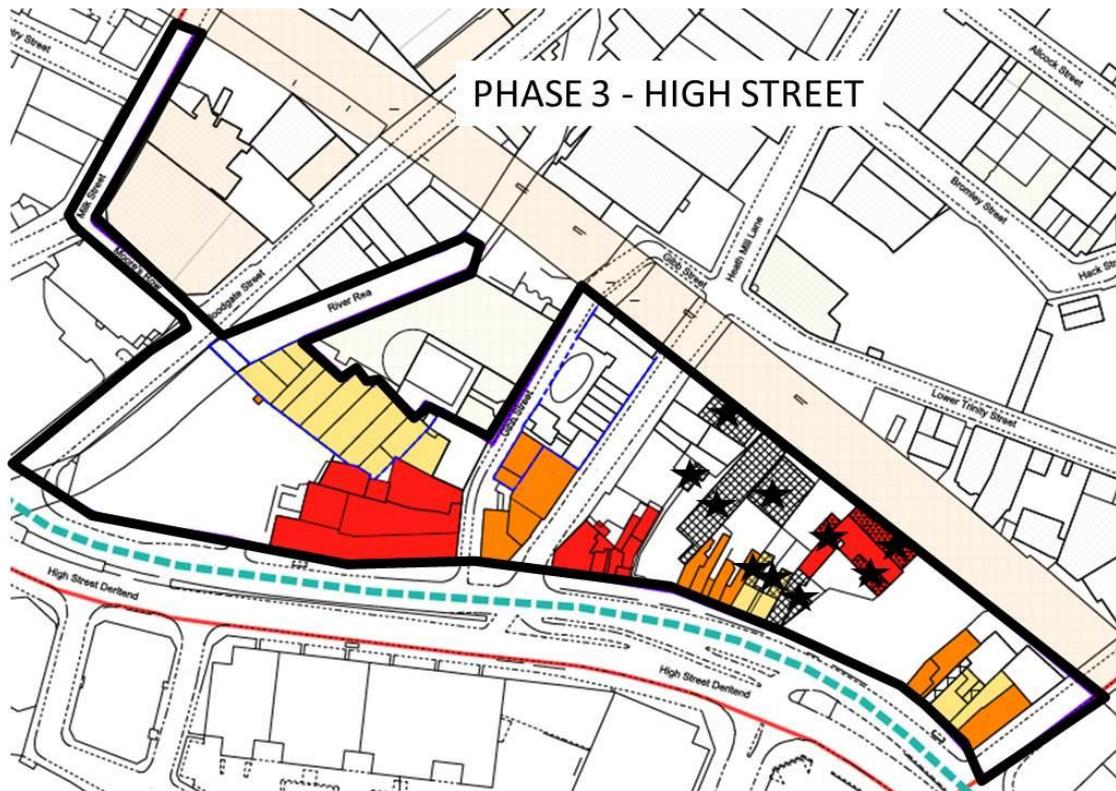


Fig 35: Phase 3 High Street – Part of Block G & Block Q (Red = listed building / Orange = locally listed / Yellow = positive contributor to Conservation Area / ★ = to be demolished)

- 6.110 The figure above shows that the majority of heritage assets within this phase would be retained without works. The proposals do however identify the demolition of No.175 High Street and the rear ranges to 177, 179 to 182 and 183 to 184 High Street, plus the demolition of later lean-tos adjoining the listed former church (Dolphin Works). However these latter works to the former listed church would require the separate benefit of listed building consent. Those buildings proposed for demolition would be replaced by buildings of 1 to 4 storeys in height.
- 6.111 The Heritage Assessment has identified the positive contribution to the Conservation Area of the variety of building types, styles and uses with the widest range of building types, architecture and detailing found along the High Street reflect its historic commercial vitality. The demolition of some buildings on or to the rear of the High Street would remove some examples of these building types, notably No.175 High Street which is an example of a former townhouse/commercial property. The Assessment has concluded this building to be a neutral contributor to the Conservation Area generally due to its poor condition and loss of original features, considering it to detract from the historic commercial frontage of the High Street. However, as the Conservation Officer comments, the condition of a building does not justify its loss, and although in a derelict state it could be restored so that it no longer detracts from the appearance of the Conservation Area. The recommendation is to retain this building. The loss of this historic building and a number of 19th and 20th century industrial rear ranges next to the Bordesley Viaduct would result in some

erosion of the Conservation Area's industrial character that would cause less than substantial harm to the Conservation Area.

Outline Phase 3 Viaduct – Blocks J, H, M & N

6.112 All of the land to the west of the Duddeston Viaduct is located within the DD&BHS Conservation Area. The Phase accommodates the Grade II St. Basils Church and listed curtilage buildings. Buildings that positively contribute to the Conservation Area are also identified as 8-10 Bromley Street, 'Night Dental' Bromley Street, the unidentified building between 'Premier' and 10-11 Hack Street and former works on Allcock Street. Whilst the Duddeston Viaduct dissects this Phase it falls outside this phase as it is identified within Phase 1A. The DD&BHS Character Appraisal describes the townscape quality of Heath Mill Lane as "... fragmented by gap sites and setbacks which dissipate the traditional sense of enclosure."

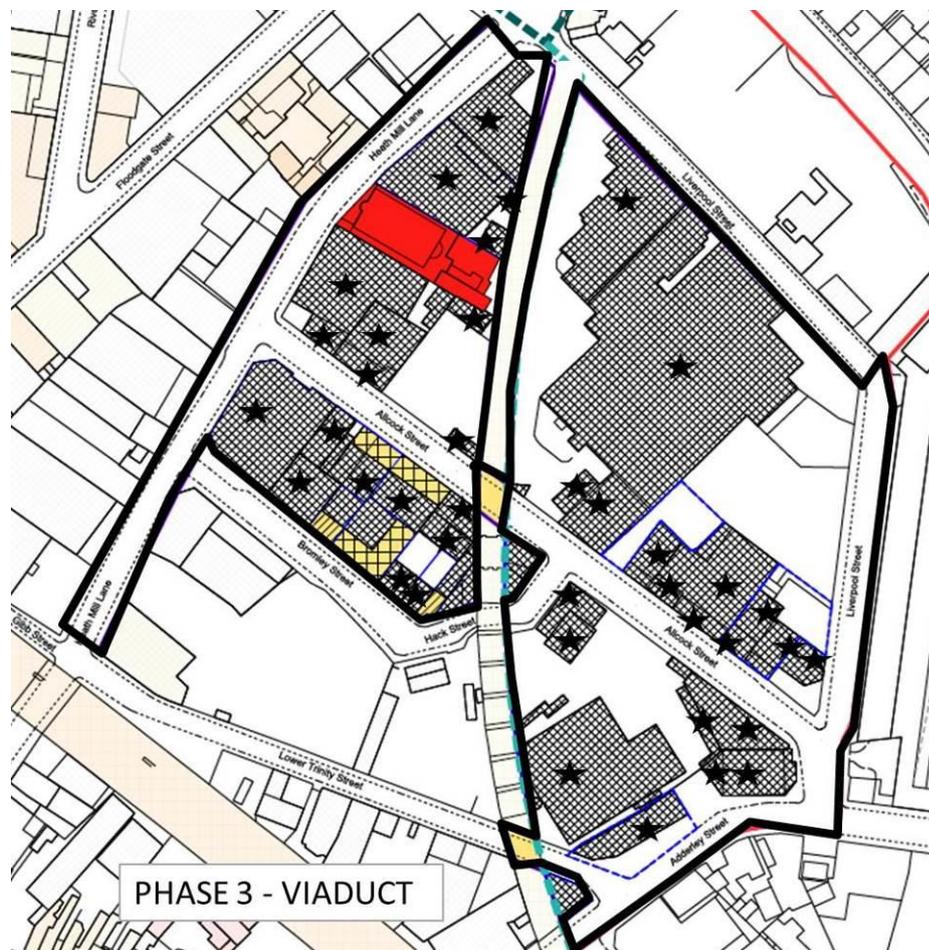


Fig 36: Phase 3 Viaduct – Blocks J, H, M & N (Red = listed building / Yellow = positive contributor to Conservation Area / ★ = to be demolished)

6.113 The original plans have been amended to exclude the demolition of the curtilage listed outbuildings to St. Basil's Church located between the Church and the Duddeston Viaduct. The Council's Conservation Officer has commented that there is agreement with regards to the positive contribution that the buildings (identified in yellow above) make to the Conservation Area. In addition there are other buildings

that are also considered to positively contribute to the Conservation Area that the Heritage Assessment concludes as neutral, namely Premier' Bromley Street, 10-11 Hack Street, 31-41 Bromley Street, Progress Works Heath Mill Lane, Works on Allcock Street, 71-75 Allcock Street, 123-125 Heath Mill Lane and Frontier MOT Centre. The Heritage Assessment limits the contribution made by these buildings to the Conservation Area based on their alteration however all of these buildings display a number of features such as age, use, materiality, roof form, back of pavement building line, scale and overall industrial character that the Conservation Officer considers contribute to the significance of the Conservation Area and in accordance with the positive key characteristics outlined within the same Assessment.

6.114 Whilst the proposals indicate that a number of the positive contributors would be retained it is considered that the amount of proposed demolition within this phase would cause less than substantial harm to the character and appearance of the Conservation Area.

Phase 4 - - Blocks D & E

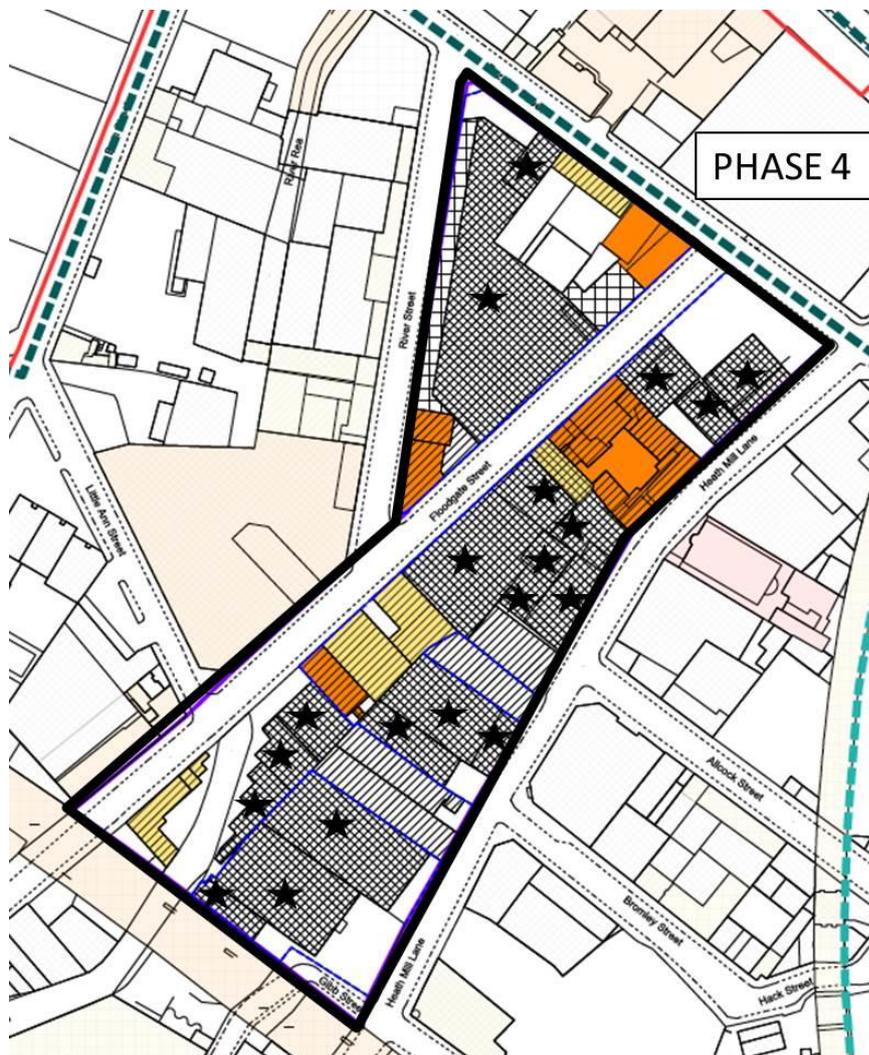


Fig 37: Phase 4 - - Blocks D & E (Orange = locally listed / Yellow = positive contributor to Conservation Area / ★ = to be demolished)

- 6.115 This final outline Phase sits entirely within the DD&BHS Conservation Area. The Phase accommodates the locally listed 48-52 Jukes Limited Floodgate Street (known Floodgate Street and River Street and the former Chapel and Sunday School located on Fazeley Street (all of these are identified in orange above). Positive contributors to the Conservation Area as identified in the Heritage Assessment comprise the Former Iron Foundry/Rolling Mill (Fazeley Street), the Former WJ Wild No.5 Works (30-32 Floodgate Street), 35 Floodgate Street, Ashton Engineering Co. Limited (Floodgate Street) and 46 Floodgate Street. The Council's Conservation Officer concurs with this consideration.
- 6.116 In addition the Conservation Officer has commented that there are a number of buildings in this Phase that have been identified on the Retention Plan and in the Heritage Assessment as neutral contributors to the Conservation Area, however contrary to this conclusion they are considered to display positive characteristics. The most notable are the ranges to the west and south west of former Iron Foundry on Fazeley Street, the range to rear of Former Iron Foundry Fazeley Street, the Former Wellington Mills Fazeley Street (and elevation to River Street), the Garage at the corner of Fazeley Street and Heath Mill Lane, Eastside Projects at 86-89 Heath Mill Lane, the Former Metal Finishing Works, Heath Mill Lane and the series of former works on Heath Mill Lane and Floodgate Street. These buildings are considered to display the following positive key characteristics of the Conservation Area: variety of building types, historic context, height and grain, functional architecture, varied roofscape and back of pavement building line.
- 6.117 The proposals seek approval to retain with works all of the locally listed buildings with the exception of the former Chapel and Sunday School located on Fazeley Street that would be retained without works. In addition all of the buildings identified within the Heritage Assessment as positive contributors to the Conservation Area would be retained with works; the exception would be the demolition of No.46 Floodgate Street, a mid 20th century flat roofed industrial premises immediately adjacent to the locally listed Arch complex. The submitted mitigation is the potential recording of this building and the dissemination of information through public realm/ public art. In addition there would be the demolition of many buildings in the centre of the Phase that, contrary to the conclusions of the Heritage Assessment, are considered by the Conservation Officer to positively contribute to the character and appearance of the Conservation Area. It is considered that the combined loss of these 19th and 20th century industrial buildings and some loss of the existing articulated roof lines would cause less than substantial harm to the character and appearance of the Conservation Area.
- 6.118 The Heritage Assessment also concludes a degree of harm to the significance of the locally listed 48 to 52 Jukes (Birmingham) Ltd (The Arch) and W.J. Wild No.6 Personnel Department, both located in Floodgate Street. The harm arises from the change along Heath Mill Lane and Floodgate Street that would erode the assets' industrial setting and the ability to appreciate the expansion of the Wild Works company along Floodgate Street. The Conservation Officer concurs with this assessment of harm.

Conclusions regarding Impact upon Heritage Assets within outline application site

- 6.119 It is acknowledged many streets such as Fazeley Street, Heath Mill Lane and Flood Street, Liverpool Street and Allcock Street would be the subject of comprehensive demolition and rebuild with the loss of a number of original buildings, some of which are locally listed or considered to contribute positively to the character and appearance of the Conservation Areas.
- 6.120 The key design principles of the DD&BHS Character Appraisal advises that new development should not be significantly higher or lower than their neighbours normally limiting new build to a maximum of six industrial/commercial storeys. The illustrative heights plan demonstrates a general overall increase in scale across the Conservation Areas, the greatest being around the Bordesley Viaduct with generally 5 to 8 storeys, plus there is a development plot of 14 storeys (Plot V1). However in general lower heights are proposed in the more sensitive parts of the site; these tend to be around the central 'bowl' of the Conservation Area with taller buildings proposed in parts of the site that are considered to be less sensitive to change. These are located towards and outside of the Conservation Area boundaries and respond to the larger scale of the Bordesley Viaduct and the Custard Factory. Furthermore the Design Code allows for mitigation at the reserved matters stage in terms of roofline, design and materials. However it needs to be acknowledged that scale across a large part of the Conservation Area would change the historic character of the overall area impacting upon the existing lower scale industrial character. This would cumulatively have some negative impact causing less than substantial harm to the significance of the Conservation Area.

Phase 1 - Block A and part of Block G

- 6.121 The first and detailed phase of the hybrid application encompasses three distinct plots: the Wild site (Plot CF1), the 'triangle site' (Plot CF2) to be redeveloped as Custard Factory Living and the Custard Factory itself (Plot CF3).
- 6.122 All of this Phase is within the DD&BHS Conservation Area and the site accommodates the locally listed former W.J.Wild No.2 Works at 104-108 Floodgate Street (closest to the Viaduct) and the locally listed W.J.Wild No.3 works at 119 Floodgate Street. The Custard Factory and the part of the River Rea that runs through this Phase are also identified within the Heritage Assessment as positive contributors to the Conservation Area.
- 6.123 Part of the locally listed Bordesley Viaduct is located to the north but does not fall within the Phase detailed application site. The Grade II* Former Floodgate School is located outside but very close to the application site, at the junction of Floodgate Street and Moore's Row. This Grade II* building forms part of the immediate setting for the Wild Works site. Its significance is identified as principally arising from its architecture and historic association with education reform and the gabled Gothic form of the building that is distinctive within the surrounding area. The Council's Conservation Officer considers that the Assessment correctly identifies that there are no designed or intended views of the Grade II* building but rather a series of glimpsed views created by the ad-hoc re-development of the area that followed the

construction of the school. The Assessment concludes that the setting of the asset does not contribute to its historic or architectural significance and whilst the Conservation Officer generally agrees with this conclusion the ability to appreciate or experience significance is also considered to be a setting consideration.

6.124 The Wild Works buildings (Nos. 2 and 3), the Custard Factory and the existing buildings on the 'triangle site' all have key positive characteristics of the Conservation Area pertaining to a variety of building types and architecture, the height and grain of the buildings, the functional architecture of the industrial buildings, the varied roof scape, the existing street pattern, the back of pavement building line, the visual layering of views and the quality street art. The Wild Works site also displays negative characteristics as such as the loss of enclosure and vacant and under-utilised buildings.

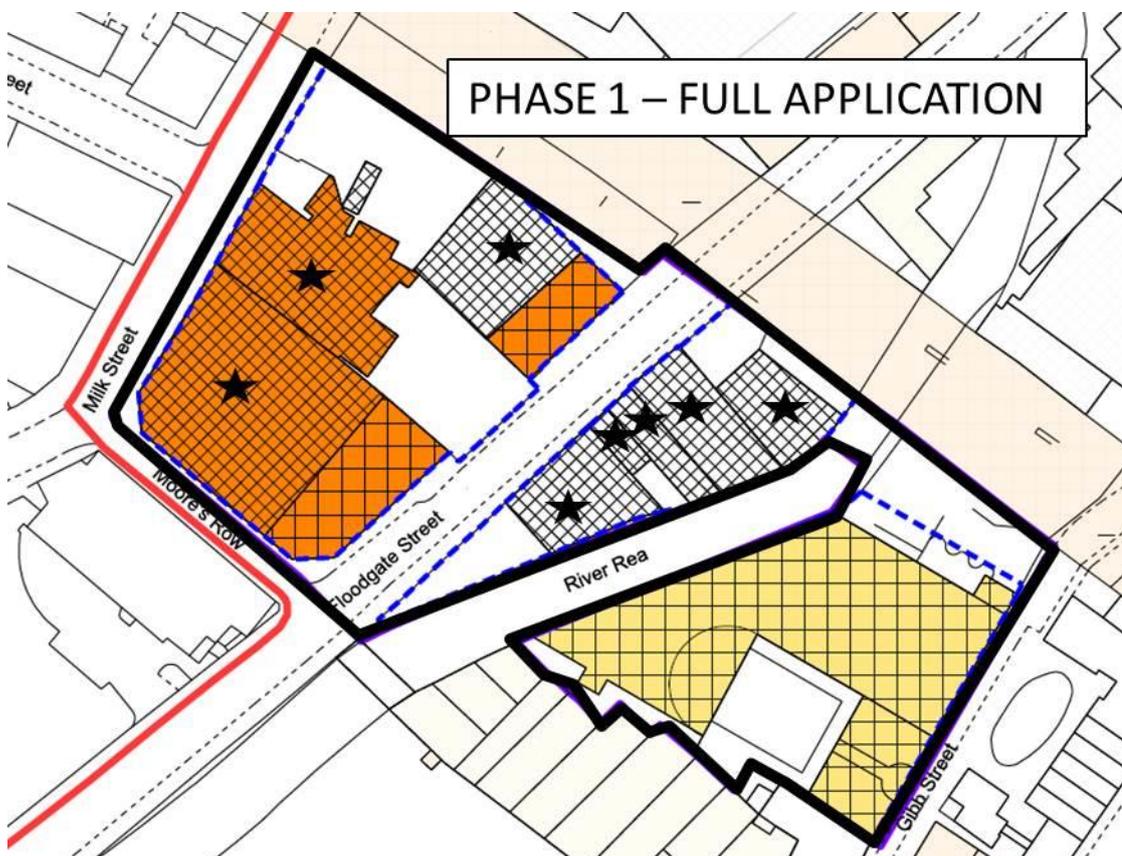


Fig: 38 Phase 1 - Block A and part of Block G Phase 4 (Orange = locally listed / Yellow = positive contributor to Conservation Area / ★ = to be demolished)

6.125 The Heritage Assessment identifies Wild No.3 (Wild 3) as a little altered example of a purpose built 1940's workshop premises characteristic of the area's 20th century industrial heritage, and it is also identified for its group value as forming part of the W.J. Wild works grouping along Floodgate Street. Wild No.2 works (Wild 2) is described as of local significance as an example of a purpose built 1930's workshop premises characteristic of the area's 20th century industrial heritage. The River Rea, (locally listed in another part of the hybrid site but not at this location) is identified as significant for its historic interest in relation to its role in the development of the City

and the growth of Digbeth. The River is also significant for its setting in relation to the wider industrial landscape and the surviving historic buildings.

- 6.126 The detailed application proposals would result in the demolition of the rear part of Wild Works No.3 (Wild 3) and the loss of historic fabric. The front portion and principal elevation that wraps around Moore's Row would be retained as a standalone building. Note that the adjoining former canteen building is not included within the local listing description.
- 6.127 The sheds to the rear of Wild Works No.2 are also proposed to be demolished, however these are excluded from the local listing.
- 6.128 The Conservation officer considers that the partial loss of Wild 3 would erode the completeness of the Wild Works grouping whilst the loss of completeness to both Wild 2 and Wild 3 and their acknowledged contribution to the Conservation Area would contribute to the erosion of the industrial character of the Conservation Area. It is noted that the principal Floodgate Street frontages of both Wild 2 and Wild 3 would be retained and therefore some elements of their historic and architectural significance sustained.
- 6.129 The new standalone buildings titled Wild 7 and Wild 8 to the rear of the locally listed buildings would be significantly taller than the existing buildings rising to 5 and 8 storeys respectively; thereby taller than the established scale of the Conservation Area. The proposed new buildings would be sited close to Bordesley Viaduct and the Custard Factory, existing structures of some height within the Conservation Area, that has informed the height strategy for this part of the site. The Heritage Assessment comments that the range in heights across the detailed plots would create a variety typical of the Conservation Area, as well as a juxtaposition and layering in views. Historic England is not convinced by the current design approach and scale in the context of the Conservation Area, commenting that Wild 8 would be of a design that does not appear characteristic of the Conservation Area due to its large footprint and framed design influenced by the Custard Factory. HE consider that these elements would not transition comfortably to the roof design that is too contrived to emulate an industrial roof. However the Conservation Officer considers that the buildings demonstrate a contemporary response to the character of the Conservation Area through a high quality design, construction and materiality and on balance considers the design of these buildings to be acceptable
- 6.130 In terms of the impact upon the significance of the locally listed Wild 2 and Wild 3 buildings harm would arise from the partial demolition of Wild 2, which would diminish the ability to appreciate the historic extent and function of the asset, the completeness of the W.J. Wild works grouping along Floodgate Street and the ability to appreciate the expansion of the company along the street. Therefore the redevelopment of the Wild site would lead to less than substantial harm to the significance of the Wild Works grouping. As a result of the detailed phase of development the Heritage Assessment concludes that there would be no harm to the significance of the River Rea and the Conservation Officer supports this assessment. Officers consider that the scale, form and massing of the locally listed Bordesley

Viaduct reveals the structure's prominence as an example of 19th century engineering. It is currently experienced in a relatively low scale townscape and, following the development of the three detailed plots, this experience would be diminished by the introduction of the new buildings and the Custard Factory roof top extension. As such the Conservation Officer disagrees with the Heritage Assessment's conclusion that no harm will be caused to the significance of Bordesley Viaduct and it is considered that as its visual dominance would be reduced a small degree of harm would be caused to this non-designated heritage asset.

- 6.131 Historic England has raised concerns over the impact of the detailed scheme on the setting of the Grade II* building Former School, as in particular the proposed Wild 8 building would obscure views of the school's decorative ventilation tower. However the Conservation Officer advises that the views of the listed building are incidental and whilst its architectural qualities are readily experienced in the context of its relatively low-scale immediate setting any harm perceived through introducing taller buildings would be balanced through the creation of a number of new views from the proposed Wild Walk and new roof terrace. The general increase in scale would have some impact on the setting of the listed building and the ability to appreciate some elements of the building from some vantage points however the proposed design would mitigate for this via a layered approach. The retention of the single-storey frontage to Wild 3 and the stepped-down height of Wild 8 to the Milk Street elevation would help to retain views and through the site. Plus new residents, workers and recreational users alongside an enhanced public realm would be likely to draw fresh audiences into this part of Digbeth and allow for a wider appreciation of the asset.
- 6.132 With reference to the 'triangle' site (Plot CF2) the Heritage Assessment identifies the removal of a number of 20th century sheds with brick frontages to Floodgate Street and acknowledges that, although in a dilapidated condition, the frontages survive and exhibit characteristic features. Given the extent of their alteration the buildings have not been identified as positive contributors to the Conservation Area, although the Conservation Officer considers that their loss would result in some erosion of the Conservation Area's industrial architectural character. Therefore their removal would cause some harm to the character and appearance of the Conservation Area.
- 6.133 In terms of the Custard Factory Living redevelopment the Conservation Officer does not support the use of grey brick as it would be uncharacteristic to the Conservation Area. The colour has been chosen by the applicants to 'visually bridge' between the white painted brick of the Custard Factory and the blue engineering brick of Bordesley Viaduct rather than as a contextual response. This detailed element can however be controlled via a condition.
- 6.134 The Custard Factory is identified in the Heritage Assessment as a positive contributor to the Conservation Area as an important example of a larger works within Digbeth. The functional use of brick and large windows contribute to the industrial character of the Conservation Area with the building illustrating a trend in the late 19th/early 20th century for works to increase in terms of their scale and mass.

- 6.135 The proposed three storey roof top extension is described as light weight and would not be overly dominant to the host building. The applicants seek it to be a complementary yet distinctive marker in the heart of Digbeth with a restrained and industrial materiality in neutral colouring. Within the context of the Conservation Area an upwards extension could be supported and is considered by the Conservation Officer to be a contextual response to the identified key positive Conservation Area characteristics of the variety of building types and architecture. There is considered to be no harm to the character and appearance of the Conservation Area as a result of this part of the detailed scheme.
- 6.136 Concluding the impacts of the development of Phase 1, the detailed part of the application, upon the heritage assets it is considered that the proposed demolition and the proposed scale of the redevelopment would lead to less than substantial harm to the significance of the Digbeth Deritend and Bordesley High Street Conservation Area, the proposed demolition and would lead to a small degree of harm to the locally listed Wild 2 and Wild 3 buildings and the scale of the proposed development would lead a small degree of harm to the setting and therefore significance of the locally listed Bordesley Viaduct.

Impact of the Hybrid Application upon Heritage Assets Outside of the Application Site

- 6.137 The impact upon the significance of the 11 listed buildings and structures outside of the application site but within the Heritage Assessment study area (i.e. within 200m of the application site boundary) is summarised below and the Conservation Officer has raised no concerns with the conclusions:
- i. 85 Digbeth High Street (Grade II) – positive impact upon its setting, significance sustained;
 - ii. 122 Fazeley Street (Grade II) – ability to appreciate the group of buildings connected with the Canal and listed Canal Side Warehouse would be unaffected, significance sustained;
 - iii. 106-110 Fazeley Street (Ringway Engineering Service Company) (Grade II) - ability to appreciate the group of buildings connected with the Canal and listed canalside warehouse would be unaffected, significance sustained;
 - iv. Birmingham Gun Barrel Proof House (Grade II*) – due to the intervening distance and limited inter-visibility no effect significance sustained; 58 Oxford Street (Grade II) - architectural and historic interest and overall significance sustained;
 - v. 58 Oxford Street (Grade II) - the architectural and historic interest and overall significance of would be sustained;
 - vi. Canal Side Warehouse at Warwick Bar, Dock and Stop Lock (Grade II) - ability to appreciate the group of buildings connected with the Canal would be unaffected, significance sustained;

- vii. 224 and 225 High Street (Grade II) - positive impact upon its setting, significance sustained;
- viii. Former Floodgate School (Grade II*) – no harm, as discussed earlier in report relating to Phase 1 detailed application proposals;
- ix. Roving Bridge over Entrance to Birmingham and Warwick Junction Canal at Bordesley Junction with Warwick and Birmingham Canal (Grade II) – no affect on its significance;
- x. The Anchor Public House, Rea Street (Grade II) – development would not alter the urban character of its setting or the way in which its architectural or historic interest is appreciated significance sustained; and
- xi. White Swan Public House, Bradford Street (Grade II) – development would not alter the urban character of its setting or the way in which its architectural or historic interest is appreciated, significance sustained.

6.138 Beyond the study area the impact upon the significance of the grade II listed Rotunda has been considered. The Heritage Assessment identifies the building as a prominent landmark, visible from numerous locations around the City and correctly acknowledges that its visibility would be lost when looking west along Lower Trinity Street, as a result of the development to the south of the Bordesley Viaduct. The Conservation Officer agrees that this reduced visibility would reduce its the landmark qualities and to a sense of place thereby causing less than substantial harm to the significance of this heritage asset.

Archaeology – Hybrid Application

6.139 The Council's archaeological expert broadly agrees with the conclusions of the submitted Desk-Based Assessment (DBA) and supporting chapter in the ES. The hybrid application area has the potential for significant buried archaeology dating from the medieval period onwards and the site is one of the most significant locations for archaeology in Birmingham that provides a unique opportunity to gather evidence on the origins and development of the City.

6.140 The basic archaeological overview of the area from the DBA is that the greatest potential lies closest to Deritend High Street and then decreases northwards with the exception of a few outlying mapped sites. Based on previous archaeological field work and map sources Officers agree that this is not an unreasonable conclusion to draw but it does however perhaps underestimate the potential of the areas where no previous work has been undertaken and where there is an absence of evidence rather than evidence of absence. The submitted information suggests that the ES perhaps underestimates the significance and potential for some of the outlying areas away from the High Street. The fact that most of the area is covered by standing buildings, many of which are still occupied, means that the opportunities for undertaking archaeological evaluations with trial trenches at the pre-application stage were very limited. There is no objection in respect of the impact upon archaeology subject to the agreement to condition a programme of archaeological work within an

agreed submitted written scheme of investigation. The programme of archaeological work should contain proposals for archaeological evaluation followed by mitigation works, post-excavation analysis, reporting and publication.

Individual and Cumulative Harm

6.141 Taking the phases and blocks individually and cumulatively the proposed development would lead to the following harm upon the heritage assets located within the application site:

- Phase 1a (outline) Blocks K, P & T - less than substantial harm would be caused to the character and appearance of the Digbeth Deritend and Bordesley High Street Conservation Area;
- Phase 2 (outline) Blocks E & R - less than substantial harm to the significance of the Warwick Bar Conservation Area and a degree of harm to the significance of the Bond group of locally listed buildings;
- Phase 3 River (outline) Blocks B & C - total loss of significance of the locally listed W.J.Wild No.4 Works (Rea Studios), harm to the setting and thereby significance of Wild Works group of buildings and less than substantial harm to the Digbeth Deritend and Bordesley High Street Conservation Area;
- Phase 3 Bordesley (outline) Blocks L & S - harm to the significance of locally listed Bordesley Viaduct and less than substantial harm to the character and appearance of the Digbeth Deritend and Bordesley High Street Conservation Area;
- Phase 3 High Street (outline) Part of Block G & Block Q - less than substantial harm to the Digbeth Deritend and Bordesley High Street Conservation Area;
- Phase 3 Viaduct (outline) Blocks J, H, M & N - less than substantial harm to the character and appearance of the Digbeth Deritend and Bordesley High Street Conservation Area;
- Phase 4 (outline) Blocks D & E - less than substantial harm to the character and appearance of the Digbeth Deritend and Bordesley High Street Conservation Area and harm to the setting and therefore significance of the locally listed to buildings known as 48 to 52 Jukes (Birmingham) Ltd (The Arch) and W.J. Wild No.6 Personnel Department both within Floodgate Street;
- Phase 1 (detailed) Block A and part of Block G - harm to the significance of the locally listed Wild 2 and Wild 3 buildings and to the Wild Works group of buildings along Floodgate Street, harm to the significance of the locally listed Bordesley Viaduct and less than substantial harm to the Digbeth Deritend and Bordesley High Street Conservation Area; and
- Hybrid Application - cumulative harm to the character and appearance of the Digbeth Deritend and Bordesley High Street and Warwick Bar Conservation

Areas resulting from loss or partial loss of locally listed buildings, loss of buildings that contribute positively to the character and appearance of the conservation areas, and through the introduction of increased scale to parts of the areas. This would cause less than substantial harm to both conservation areas. This harm would be greater for the Digbeth Deritend and Bordesley High Street Conservation Area but still falls within less than substantial harm.

- 6.142 Therefore there is total loss of significance of W.J. Wild Works No.4 (Rea Studios), a non designated heritage asset, plus some harm to the significance of a small number of locally listed buildings and structures also defined as non heritage assets within the application site. There is individual and cumulative harm to both Conservation Areas however this harm is at a level of less than substantial. There is also less than substantial harm to the Grade II listed Rotunda that is located outside of the application site.
- 6.143 In accordance with Paragraph 196 of the NPPF where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, as in this case, this harm should be weighed against the public benefits of the proposals, including where appropriate, securing its optimum viable use. Paragraph 197 also requires a weighing exercise with respect to harm to non designated heritage and a balanced judgement is required having regard to scale of any harm or loss of the significance of the heritage asset. This harm 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. This weighing exercise or planning balance is considered within the conclusions to this committee report.

Drainage and Flood Risk

- 6.144 The hybrid application site accommodates the River Rea that runs through both the detailed and the outline parts and the Grand Union Canal that passes through the outline site. The River Rea is located slightly west of the centre of the site and flows in a northerly direction through a partly culverted channel, with little opportunity to see or interact with it. At present, the applicants have advised that there is no evidence that any SuDS are present within the site with all surface water discharging freely to the sewers and the River Rea. The site sits within flood zones 1, 2 and 3, with almost half of the site within Flood Zones 2 and 3.
- 6.145 The following documents have been submitted to assess the impact of flooding, to explain the proposed drainage strategy and to describe how access to the River would be opened up as part of the proposals both to provide greater access for the public and for maintenance purposes.
- Flood Risk Assessment;
 - Sustainable Urban Drainage Strategy;
 - Digbeth – River Rea Proposed Phase 1 Development Model Report;
 - Digbeth – River Rea All Outline Phases Addendum Model Report;
 - Project Digbeth: FRA addendum;
 - Project Digbeth: Hydraulic Modelling – Cover Note;

- Custard Factory Living, River Rea Retaining Wall Structural Statement; and
- Chapter 17 of the ES

6.145 The FRA describes that flooding from the River, surface water, groundwater, Bartley Reservoir, the Grand Union Canal and sewers have been considered and that consultation has taken place with both the Environment Agency (EA) and the Lead Local Flood Authority (LLFA). The Updated River Rea Hydraulic Model (URRHM) was obtained from the EA in order to assess the impact of flooding from the River Rea for the different parts of the proposed development.

Flood Risk – Outline site

6.146 Parts of the outline application are sited within flood zone 1, 2 and 3. The latter is where there is the highest risk of flooding. At this stage, as the detailed design of the outline plots is not known, hydraulic and flood compensation modelling has been based on the submitted Parameter Plans that define the maximum plot extents. The EA has agreed that more detailed modelling could be undertaken on a phased basis as plots are brought forward with future reserved matters applications. In the meantime the applicants have agreed to a flood strategy based on the following principles:

- The Technical Guidance of the NPPG determines the flood risk vulnerability classification of particular uses, defining them as more vulnerable and less vulnerable. Following the objectives of the sequential test for flooding, as set out in the NPPF, which steers new development to areas with the lowest risk of flooding the majority of vulnerable uses (which includes residential) are located within the eastern part of the outline site, which lies in flood zone 1. Where this is not possible, the strategy proposes that building entrances would be located in areas of lower risk, with the more vulnerable uses located on the upper floors;
- flood resilience measures would be adopted such as raising power sockets above the design flood level based on the flood risk vulnerability classification of the building, and using flood compatible materials on new buildings in flood zones 2 and 3;
- providing a safe access route from each development plot where necessary to the nearest area that is not at risk of flooding as required via the proposed Design Code;
- no reducing available flood storage volume. There is a requirement to compensate approximately 625m³ of flood volume within the site, this represents approximately 4% of the existing flood volume. Areas of open space, located outside the flood extent, have been identified as locations for flood compensation that would be detailed once the relevant phase is brought forward; and
- opening up some sections of the culverted River Rea, agreed in principles with the EA subject to securing permit applications.

- 6.147 As there are limited more vulnerable building uses located on upper floors within flood zone 3 it is still necessary for the applicants to undertake the exception test in accordance with the NPPF and the guidance of BDP Policy TP6. In order to pass the exception test it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk and that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere and where possible would reduce flood risk overall.
- 6.148 The applicants consider that the provision of more vulnerable or residential uses across the site is necessary to improve the character of the area as well as to develop a safer and more inclusive environment in Digbeth. The FRA indicates that the outline proposals are expected to result in an overall betterment for all flood events and would increase the area for flood water storage by approximately 16%. Applying these comments plus the benefits of residential units within the application site it is considered that the requirements of the exception test are passed.
- 6.149 Whilst the EA are satisfied with the proposed approach a condition is recommended that requires that any bridge proposed as part of the outline application across the River Rea must have levels set in excess of 600mm above the 1 in 100 plus climate change flood level. A new pedestrian route is proposed over the River Rea between plots R3 and R4 linking Bordesley Street to Floodgate Street. As this route is considered by the EA to be a bridge then the condition as drafted by the EA would mean that the underside of the bridge in this location would have to be set 1.1m above the surrounding ground levels. The applicants consider that this would not be feasible as it would mean that where the route crosses the River, it would not be flush with the surrounding ground. The applicants have requested that this condition be amended so that it requires bridge levels to be agreed at the reserved matters stage to enable appropriate assessment of each bridge proposal, based on site specific circumstances, to be undertaken. There is another EA recommended condition that requires hydraulic modelling to be submitted at this later stage, and the submission of additional modelling would address any change to flood risk. This amendment is considered reasonable.
- 6.150 The applicants have also queried an EA condition regarding the timing of the implementation of the route and separate bridge across the River as it is the EA's preference that no other works can be commenced within the outline application site. Acknowledging the area of the outline site at 18.9 hectares and the 10 to 15 year construction period, amending the timing of implementation is again considered to be reasonable.

Flood Risk – Detailed Site

- 6.151 The Wild Site (Plot CF1) is located within flood zone 3 however the risk from flooding from all sources is considered to be low. Flood resilience measures and SuDS are proposed (see proposed drainage below), safe access and egress to the site would be provided and there would be an increased area for floodwater storage. The plot would not accommodate any more vulnerable uses.

- 6.152 Between the Wild Site (Plot CF1) and the Custard Factory Living site (Plot CF2) SuDS are proposed within the Floodgate Street adopted highway to increase floodwater storage by 14m³.
- 6.153 The Custard Factory Living site (CF2) has a boundary to the River Rea and whilst the flood map for planning defines it within flood zone 3 the URRHM sites it entirely within flood zone 2. A mix of ground floor commercial uses and upper floor residential uses are proposed within this plot, however both less vulnerable and more vulnerable uses are permitted within Flood Zone 2, and therefore the residential proposals are appropriate at this location. The FRA concludes that the flood risk from all sources is low, flood resilience measures and SuDS are proposed (see below), safe access and egress to the site would be provided and there would be increased area for floodwater storage.
- 6.154 Plot CF3, the Custard Factory extension also has a boundary to the River Rea, and the site is located within flood zone 2. The commercial use of the proposed extension at ground floor and at roof level would be defined as less vulnerable, and they are therefore acceptable within this flood zone. The FRA states that the flood risk from all sources is low and the position of the existing entrances indicate that the building would stay dry. During flood events dry routes could be achieved for the purpose of safe access and egress.

Drainage - Outline Site

- 6.155 The Sustainable Urban Drainage Strategy assumes that surface water discharges freely to the River Rea via the public sewers at present, whilst all foul water sewers route towards the combined sewers along the edges of the site boundary. It advises that Severn Trent Water have confirmed that there is capacity for the proposed development within the local sewer network.
- 6.156 BDP Policy TP6 requires developments to manage surface water runoff as close to its source as possible in accordance with the following hierarchy:
- Storage of rainwater for later use;
 - Discharge into the ground (Infiltration);
 - Discharge to a surface water body;
 - Discharge to a surface water sewer, highway drain or other drainage system; and
 - Discharge to a combined sewer
- 6.157 The Strategy states that all plots within the outline application site would consider the use of SuDS within the proposals with an aim to incorporate SuDS into the fabric of the building and landscaping. Again as the detailed design of the plots within the outline is unknown it is proposed that the viability of each of the discharge methods above would be assessed and submitted as part of reserved matters applications following the hierarchy above.

Drainage - Detailed Site

- 6.158 For Wilds Works (Plot CF1) a controlled discharge to the existing surface water sewer in Floodgate Street is proposed as the most suitable method of discharge. The site would include a combination of blue roof attenuation on Wild 8 and below ground storage to achieve acceptable surface water discharge rates.
- 6.159 For Custard Factory Living (Plot CF2), controlled surface water discharge to the River Rea is proposed as the most suitable method of discharge. The site would include a combination of a green/blue roof attenuation and below ground storage to achieve acceptable surface water discharge rates. There is also the potential for permeable paving.
- 6.160 For Custard Factory Extension (Plot CF3), the report notes that attenuation at roof level is not structurally possible, hence it is proposed to discharge surface water from the roof extension to the River Rea via existing rainwater pipes. It is proposed that the external area between the Custard Factory and Bordesley Viaduct provide below ground attenuation prior to discharging to the River Rea via an existing outfall.

Access To and Over the River Rea and the Grand Union Canal

- 6.161 The Grand Union Canal and River Rea are important existing landscape features which run through the application site, but are not currently celebrated or generally known about by visitors. The Council has acknowledged its aspiration to reimagine the River Rea as a green corridor and this is set out in the Draft Rea Valley Quarter SPD. In addition Policy TP7 seeks to expand the green infrastructure network within the City. The Grand Union Canal forms part of this network and the Policy seeks to enhance its social, economic and environmental benefits.

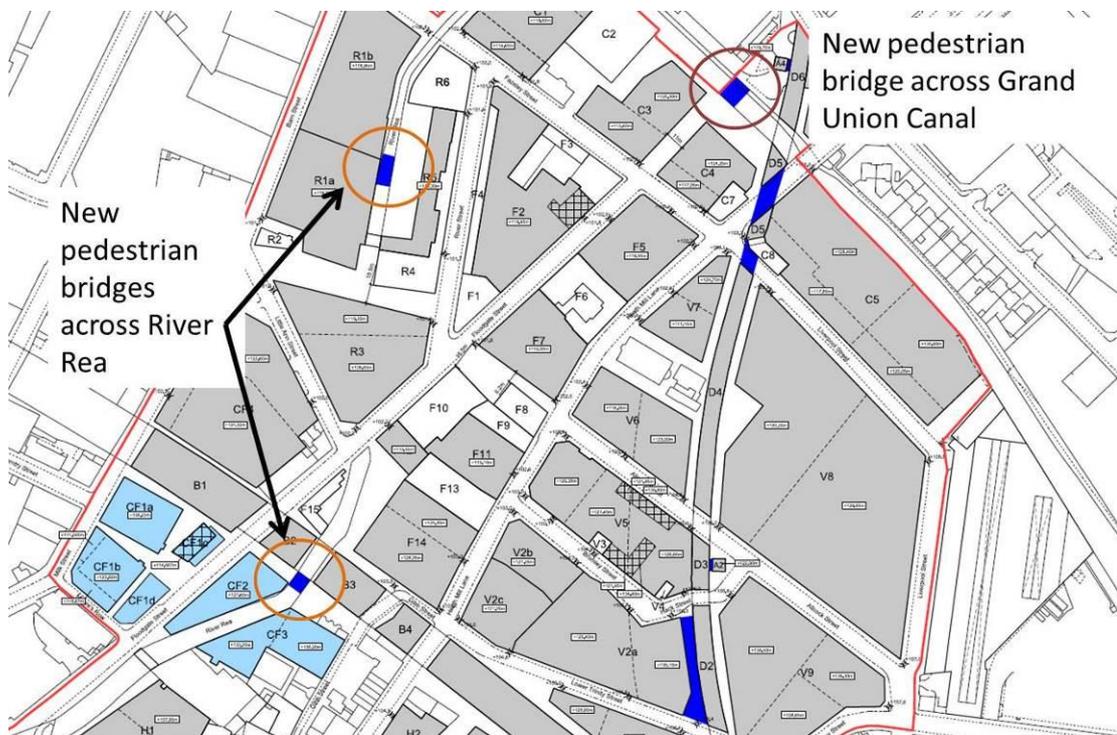


Fig 39: Position of Proposed Pedestrian Bridges

6.162 As part of the hybrid application it is proposed to expose and celebrate these waterways by constructing three new pedestrian bridges:

- i) across the Grand Union Canal with an area of public open space at each end and a link to the bridge from Fazeley Street within the outline site;
- ii) across the River Rea to the north of the site with an area of public open space at each end linking to a new east west pedestrian route though part of the outline site. The bridge would be sited to the rear of Barn Street and River Street and the detailed proposals would be developed during the reserved matters applications ensuring that that any works near the River would not increase the risk of flooding; and
- iii) across the River Rea between the Custard Factory Living Site and the Custard Factory linking Floodgate Street to Gibb Street. This would replace the existing bridge. The existing bridge spans the River Rea directly below the Bordesley Viaduct and does not allow access for all.



Fig 40: Existing Bridge Crossing River Rea below Bordesley Viaduct
(to be Replaced) with Plot (CF2) to be redeveloped as
Custard Factory Living in Background

6.163 The proposed bridge height has been set as high as possible, providing a ramped access at 1:20; the steepest gradient that is permitted to meet the DDA requirements. The height would also help to reduce flood risk. It has been designed with reference to the industrial character of the Conservation Area and would be constructed in steel.



Fig 41: View from the Proposed Bridge towards Custard Factory Living (Plot CF2)

- 6.164 The EA has also highlighted that there is a lack of maintenance access along the River Rea and therefore the detailed application would also provide improved access points comprising a mixture of vehicular access to the river wall and a gated access point to the river from the Custard Factory Living plot (CF2). This would improve the ability for the EA to maintain the River and lower any equipment or qualified personnel down to the river channel. Details of the access would be determined and agreed with the EA via condition.
- 6.165 In their comments the EA have requested that the hybrid development provide an 8m easement to the River, however in response it is acknowledged that the existing structures align the river bank and in some cases span over the River. Therefore the existing conflict with this easement would be reduced. In addition access to the watercourse would be improved as part of the development and recognising its historic context, space constraints and the viability of the scheme it would not be possible to provide an 8m easement at this stage for all of the outline plots. It is further agreed that the existing containment of the River is part of the character of the Conservation Area that should be retained and the River should not be naturalised, as promoted as part of the River Rea SPD to the south of the application site. Hence where the River is proposed to be opened up and de-culverted, to the rear of River Street, it would have a hard landscaped terraced setting rather than a green natural setting. The applicants have agreed to review the easement as part of the reserved matters applications.

Flooding and Drainage Conclusions

- 6.166 It is acknowledged that the detailed design of the development plots within the outline application site is not known. However appropriate flood risk and sustainable drainage strategies have been submitted and it is considered that determining the individual proposals for flood and drainage at the reserved matters stage against these strategies is an appropriate approach. The EA and LLFA are also in agreement with this approach subject to conditions to require the necessary details. It is considered that the applicants have considered and passed the requirements of the sequential and exception tests
- 6.167 The details submitted for the detailed proposals are considered satisfactory subject to conditions to secure the necessary details and ongoing maintenance responsibilities.
- 6.168 The three proposed bridges across the two waterways are considered to be a significant benefit of the hybrid application, providing recreational opportunities, improving ecology and biodiversity, promoting a better image of Digbeth, offering safer routes for people and helping to manage flood risk and water attenuation. They will also provide better access to the River Rea for maintenance purposes. As such the proposals to mitigate flood risk, provide sustainable drainage and to open up the waterways are in accordance with Policies TP6, TP7 and PG3 of the BDP.

Noise and Vibration

Outline Application

- 6.169 There are a number of existing noise sources across the site including vehicular traffic and a live railway located on the Bordesley Viaduct. Digbeth has also become renowned for its entertainment venues with live music premises such as The Rainbow Venues and the O2 Institute, clubs including Spotlight and Boxxed and festivals including the Peaky Blinders and Saint Patrick's.
- 6.170 It is acknowledged that currently there are few residential uses or sensitive noise receptors within the site. However the impact upon these existing and recently approved noise sensitive receptors together with the proposed residential receptors that are part of the current scheme are material considerations.
- 6.171 Furthermore noting Digbeth's night time economy and the need to maintain this important part of Digbeth's character there is a need to ensure that the proposed residential occupiers that form part of the proposals do not threaten the viability of these premises. As paragraph 182 of the NPPF states, "*Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established.*"
- 6.172 Various environmental noise and vibration surveys have been conducted by the applicant between July and November 2019, to quantify prevailing ambient, background, road traffic and maximum event noise levels. The surveys comprised a combination of both attended and non-attended measurements. In addition a survey also conducted in November 2015 has been included as it was pertinent to the site boundary. The topic of noise is also discussed as part of the ES.

6.173 The ES identifies a total of 37 sensitive receptors both within and outside of the application site ranging from No.180 Fazeley Street (residential use on the first floor) to Birmingham Central Backpackers, to the Mulberry Guesthouse on Fazeley Street to the approved Lunar Rise development on the opposite side of the High Street. This list has been added to as a result of recent planning approval granted at Bordesley Wharf, the Irish Centre, the Stone Yard (Bull Ring Trading Estate) and the current application at Upper Trinity Street.

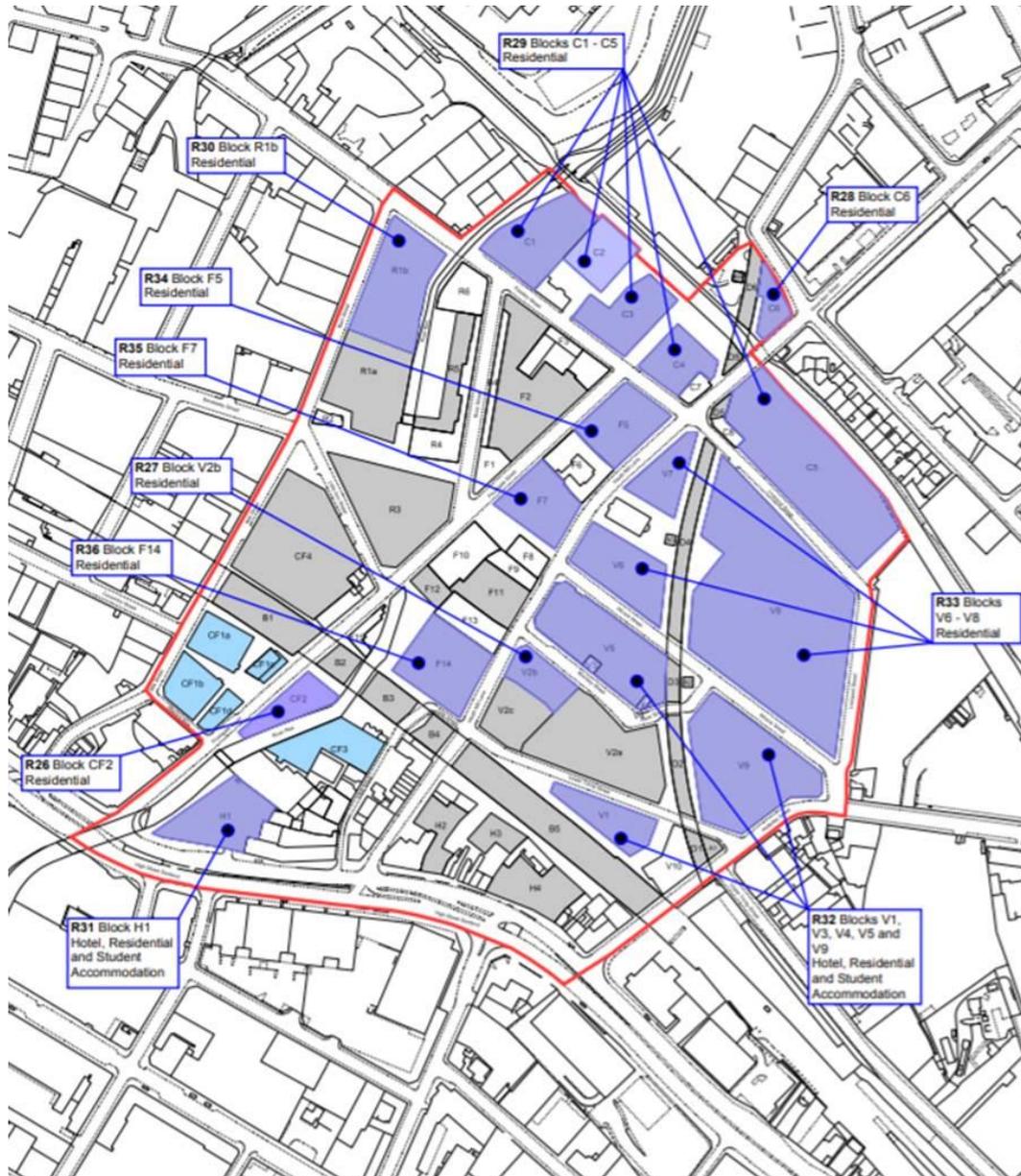


Fig 42: Proposed Sensitive Receptors within the hybrid application site

6.174 In addition the following late night entertainment venues have been assessed as sensitive receptors:

- a) 158 Fazeley Street (art, dance, creative spaces and events hire);
- b) Dead Wax, 28 Adderley Street (residential at first floor, late-night entertainment at ground floor)

- c) The Old Crown, High Street Deritend (guest house, late-night entertainment);
- d) The Ruin, 92 Floodgate Street (residential at first floor, late-night entertainment)
- e) The Rainbow Venues Units 1 to 5, Lower Trinity Street (late-night entertainment)
- f) The Rainbow Venues Custard Factory Car Park and The Arena, Lower Trinity Street (late-night entertainment);
- g) The Rainbow Venues The Mill and Fabfit, Lower Trinity Street (late-night entertainment);
- h) The Night Owl, Lower Trinity Street (late-night entertainment);
- i) Quantum Digbeth, 77A Upper Trinity Street (late-night entertainment);
- j) The Rainbow, High Street Deritend (late-night entertainment);
- k) Monastery, 173-174 High Street Deritend (late-night entertainment);
- l) Stag Digbeth, The Custard Factory, Gibb Street (late-night entertainment); and
- m) Ghetto Golf, The Custard Factory, Gibb Street (late-night entertainment).

Outline Site - Impact of Road and Rail Movements

- 6.175 HS2 is likely to be operational by the time the outline proposals are implemented. In addition the proposed Midlands Metro and the Rapid Transport Network are also likely to be operational changing the mix of vehicles predominantly on High Street Deritend. The applicants consider that the location of HS2 is satisfactorily far enough away from the site that it is not expected to increase future baseline noise levels in its current configuration.
- 6.176 The Bordesley Viaduct passes through the site. The Midlands Rail Hub and in particular the Camp Hill Chords that form one part of this improvement scheme may have implications for Birmingham Moor Street Station and the Bordesley Viaduct. The Strategic Outline Business Case (SOBC) submitted to the DfT in 2019 refers to the potential need to increase capacity on the rail network. One option is to provide an additional four railway tracks (six tracks in total) on the existing Bordesley Railway Viaduct between the Bordesley Station area and Birmingham Moor St Station. The SOBC together with the comments of Midland Connect and WMRE/TfWM refer to widening Bordesley Viaduct to accommodate additional track(s) with the consultees estimating the necessary increase to the width to the north of the Viaduct is approximately 10m (5m for the additional structure and 5m for a temporary construction area). This intervention would have implications in terms of rail noise by virtue of more trains passing through the application site and trains running closer to the development plots on the north side of the Viaduct.
- 6.177 To take account of the unknowns, the ES reports a provision of a 3dB increase in daytime noise levels for the nearest proposed buildings to the Bordesley Viaduct has been assumed. This potential 3dB increase takes account of the widening of the Viaduct closer to the proposed residential plots to the north of the Viaduct.
- 6.178 In terms of noise from predicted road traffic Transportation Officers have confirmed that it is to be treated as zero percent growth implying no additional impact to the existing prevailing conditions.

Outline - Noise from Existing Entertainment Venues on Proposed Sensitive Receptors

- 6.179 The proposed scheme would introduce up to 1,850 homes within 19 separate development plots within an area that accommodates established late night entertainment premises. The ES advises that the 'Agent of Change' principle has been assessed in a simple manner at this stage to avoid lengthy detailed assessments based on assumptions that are likely to become redundant or out of date over the course of the 15-year development period. As such the ES has adopted a simplified approach following a principle from the Institute of Acoustics guidance on entertainment noise whereby the background noise level (the underlying noise level for more than 90% of a time period) with no entertainment noise present has been subtracted from the measured ambient noise level (average noise over the same period of time) containing entertainment noise. Thereafter the difference in level has been compared to the assessment criteria. The ES reports that the existing identified late night entertainment premises have a high sensitivity to the presence of the proposed new homes.
- 6.180 The applicants are therefore proposing to submit a noise assessment for each new residential development located within the outline application at the reserved matters stage. The noise assessment would include noise mitigation measures specific to that development plot based on the survey information gained at that point time. These mitigation measures could be in the form of:
- façade design including sound insulation specification to achieve British Standards and City Council guidance on internal noise;
 - orientating the habitable rooms to avoid bedrooms overlooking existing noise generating sources;
 - enhancing internal sound insulation and vibration transfer between non-domestic uses and new homes; and
 - Providing ventilation to all proposed residential units where necessary.
- 6.181 It needs to be acknowledged that by following this approach planning permission would be granted in principle for up to 1,850 residential units at this outline stage, but with the noise mitigation requirements being agreed to at a later date, at the time of the reserved matters. Therefore worst case scenario a significant proportion of 1,850 residential units may require specialist glazing or be totally sealed with reliance upon mechanical ventilation in order to avoid a potential threat to the operation of existing late night premises.

Outline - Noise from Proposed Entertainment Venues on Existing and Proposed Sensitive Receptors

- 6.182 Taking account of the potential range of proposed retail/food and drink uses (use classes A1 to A5) plus the proposed leisure uses (use class D2) the outline proposals could introduce up to 27,822 sqm floorspace (GIA) of new late night uses, each of which may provide different entertainment attractions and could include amplified music and external spaces for patrons. The ES states that operational leisure noise generation has been assessed qualitatively at this stage, as the worst case noise

levels is not quantifiable and would be dependent on many factors including detailed design and the desires of the future operators. Mitigation could however be implemented in the form of controlling opening hours, restricting the use of external areas, the use of sound limiting devices and the ES points to:

- enhancing internal sound insulation between non-domestic uses and new homes;
- restricting delivery and collection times to new commercial, retail, bar, restaurant and entertainment premises to exclude the hours outside of 07:00 to 23:00 hours; and
- Ensuring that internal vibration transfer between different building uses or from building services plant is designed to accord with British Standards and City Council guidance.

6.183 Again it needs to be acknowledged that by following this approach planning permission would be granted in principle for 27,822sqm (GIA) of retail and leisure uses, all of which could have potential late night noise effects. Again the noise mitigation requirements relating to these proposed premises would be submitted to and considered by officers at the later reserved matters stage.

Outline – Noise During Construction

6.184 During the construction phase, the ES predicts that there would be a significant adverse effect from noise and vibration resulting from construction activities (excluding traffic) and the demolition of structures on sensitive receptors. A worst case scenario based on all the potential phases of the proposed scheme being implemented concurrently over a 15 year period has been considered. However it would be controlled by the imposition of an agreed Construction Environmental Management Plan (CEMP) that would be submitted to and agreed in order to define how the noise effects would be controlled. The ES states that such a CEMP would include predictions of noise levels from the proposed working approach and temporary noise monitoring of boundary working activities adjacent to the identified sensitive receptors, with an adjustment of working hours as necessary in order to mitigate the effects.

6.185 Construction road traffic generated by development within the outline application site is proposed to be restricted to north of the Bordesley Viaduct on Milk Street to prevent use of the part of Milk Street south of the Viaduct between the Viaduct and High Street in order to restrict the impact of noise. This again could be agreed via the CEMP condition.

Detailed Application

6.186 According to the Noise Assessment submitted the existing noise sources relative to the detailed application site comprise firstly the Bordesley Viaduct that primarily carries cross-country rail passenger services to London with occasional freight movements. The Viaduct currently has two live tracks adjacent to the site. The Noise Statement advises that all rail movements past the detailed application site are at a relatively slow speed due to its proximity to Moor Street Station located approximately 400m to the north west.

- 6.187 Secondly there are late night entertainment uses close to the site. The venue known as The Crossing is located within the South and City College buildings at Milk Street and the O2 Institute is on the High Street located approximately 55m and 110m respectively from the Wild Works site (Plot CF1). Ghetto Golf is located to the east at a distance of approximately 60m from the proposed Custard Factory Living (Plot CF2), Birdies Bar at approximately 90m and The Ruin public house at approximately 65m. To the east of the Custard Factory beyond the Viaduct on Lower Trinity Street is Digbeth Dining Club.
- 6.188 Thirdly is the traffic noise associated with B4100 High Street Deritend that lies at a distance of approximately 100m to the south.
- 6.189 The impact upon existing sensitive receptors as a result of the proposed development is also a material consideration with the Birmingham Central Backpackers hostel the nearest residential accommodation to the Wild Works site (Plot CF1).

Detailed Site - Noise from Vehicle and Rail Movements

- 6.190 Unattended noise monitoring has been undertaken over a four day and an eight day period. The results have allowed for a future increase in rail traffic on Bordesley Viaduct that could consequently be expected to increase daytime levels by 3dB (i.e a doubling of train movements on the existing Viaduct or on a widened Viaduct where new lines would be set further away from the proposed residential development that forms part of Custard Factory Living). It is predicted that night time maximum levels would be unlikely to change with any increase in rail traffic.
- 6.191 According to the Noise Assessment the principal noise impact for the site is from traffic on the High Street with additional intermittent noise as a result of train movements on the Bordesley Viaduct.
- 6.192 The Assessment concludes that mitigation would be required to reduce noise from rail and vehicular traffic for future residential occupiers within the Custard Factory Living plot. This would be in the form of glazing.

Detailed Site - Noise from Entertainment Venues

- 6.193 Data from unattended noise monitoring equipment has been used to assess the noise impact from existing late night uses. The Assessment also includes reference to onsite data collated at Ghetto Golf from 2018 and a planning condition attached to the Birdies Bar planning permission (on Floodgate Street) that seeks to limit noise via the use of a noise limiting device. It is also noted that there is potential for entertainment noise from the Custard Factory site and the occasional use of the Market Hall within Custard Factory for functions.
- 6.194 The Assessment indicates that noise from Ghetto Golf, Birdies Bar, Digbeth Dining Club and any other commercial premises within the vicinity would not have any significant impact upon the proposed residential development on the Custard Factory Living site. Noise reduction is assisted by the presence of Bordesley Viaduct that

acts as a screen. Regulatory Services has suggested a condition to agree a scheme of noise insulation that takes account of window sizes proposed glazing and the construction of the external walls, in order to mitigate any impacts of noise from both traffic and entertainment.

- 6.195 Insulation between ground floor commercial units and the upper floor residential units would also need to be attached to achieve a minimum in-situ sound reduction as this forms a separate condition.

Detailed Site - Impact of Proposals Upon Existing Residential Use

- 6.196 It would also be necessary to ensure that activity noise break-out from the proposed use of the commercial units would not adversely impact upon nearby existing residential occupiers. The Noise Assessment considers it unlikely that there would be any significant noise break-out or transfer from premises that do not use loud amplified music. Regulatory Services have advised a condition to restrict the decibel level of noise emanating from the proposed uses at the façade of any noise sensitive premises. A CEMP is proposed to be submitted to minimise noise and vibration during the construction phase upon nearby noise sensitive premises. Construction road traffic generated by the detailed application is proposed to be routed either north or south along Milk Street, and such a measure can be controlled via a condition.

Detailed Site - Effects of Vibration

- 6.197 The site vibration measurements beneath the railway viaduct indicate that there is no significant vibration impact on the site from rail movements and levels are significantly below the screening trigger level given in the Council's guidance.

Noise and vibration – Conclusions

- 6.198 The Assessments and information submitted by the applicants advise that due to the lengthy construction period the preferred approach is to submit a noise assessment for each development plot that proposes to accommodate residential uses at the time of the reserved matters applications. Such submissions would include proposed means of mitigation noise from commercial uses based on up to date noise data at that time as it may be that, in the future, the noise environment changes. It is considered that adopting this long term approach is appropriate given the timescale for implementing the outline proposals and the flexibility of uses proposed within the individual development plots. Furthermore by utilising up to data noise data and up to date noise mitigation methods it would offer existing and future commercial premises owners comfort that there could be the option of agent of change agreements in the future if required. It does however need to be acknowledged that adopting a long term approach leaves less certainty regarding the noise mitigation that may be necessary and by agreeing the principle of residential development on 19 plots within the outline application area it is feasible that all of these 19 plots may require a range of mitigation from specific glazing to sealed units. Whilst this would be the worst case scenario it would remain a possibility in order to provide a satisfactory living environment and safeguard the existing entertainment uses in the area.

- 6.199 During the construction phase a CEMP to include a route that ensures that construction traffic avoids apart of Milk Street is considered appropriate to mitigate against any impacts on existing and future sensitive noise receptors.
- 6.200 Regulatory Services are satisfied with applying conditions to require mitigation for noise within the detailed site and following a longer term approach for the outline application and requiring further noise assessments at the reserved matters stage.
- 6.201 Based on these measures it is considered that the proposed development would accord with PG3 and emerging Policy DM2 of the Development Management DPD by making the best use of land and creating a sustainable neighbourhood and a functional place.

Air Quality

- 6.202 A baseline air quality review was undertaken to determine the existing air quality in the vicinity of the site, which is located within the city-wide Air Quality Management Area (AQMA) designation and within the proposed Clean Air Zone (CAZ), which will be introduced in June 2021. Air quality is generally expected to improve with time due to the increased uptake of cleaner vehicles and the implementation of the CAZ, however as the submitted air quality chapter of the ES clarifies, it is unclear whether the CAZ will be effective and therefore a worst case approach has been applied.
- 6.203 A three-month diffusion tube monitoring study commenced at several locations within the site at the beginning of March 2020. However due to the outbreak of Covid-19 and the subsequent lockdown the monitoring study was been temporarily suspended. The data from existing roadside air quality monitors operated by BCC has also been considered.
- 6.204 A total of 101 existing and proposed sensitive receptors have been identified within the review at locations representing the worst-case public exposure alongside roads within the site and positioned close to the Grand Union Canal. A worst case assumption has also considered the effects at existing and proposed receptor locations that allows for maximum flexibility in the proposed phasing of the development.
- 6.205 The ES acknowledges that the residual effects for construction road traffic emissions would be negligible following the implementation of a limit to the daily HGV and LGV trips on the road links within the study area to ensure sensitive receptors are protected from elevated NO₂ concentration from road traffic emissions. It is considered that restricting the number of HGV and LGV trips on the road via a condition would be unenforceable as monitoring this number over the whole of the outline site would be very difficult. However in response it is considered highly unlikely that such a condition would be required as in reality each plot would be independent and working to a different timescale. Therefore the volume of construction traffic across the whole area would be naturally limited and the worst case scenario would not transpire.

6.206 The impacts of emissions from the road traffic associated with the operation of the Proposed Scheme on NO₂, PM₁₀ and PM_{2.5} concentrations at sensitive receptors is considered significant. To mitigate for this impact it is proposed that mechanical ventilation be installed at the ground floors of the following development plots where the annual mean NO₂ concentration exceeds air quality objectives; C5, V7, V6, V5, V2c, B5, H2, H4 and H1. It is considered that as there is the potential for air quality to improve it is appropriate to require an air quality assessment for each reserved matters application that contains residential units within these aforementioned development plots with the necessary mitigation secured at the reserved matters stage. Following this approach it is considered that the proposals would comply with Policy GA1.1 and emerging Policy DM2.

Transportation

6.207 The hybrid application site has good public transport links and, as explained below, its accessibility via public transport will only increase in the future. It falls within the Digbeth Controlled Parking Zone that commenced last year. This has introduced a mixture of permit parking for local residents and workers, pay and display parking and areas of no waiting. The Zone seeks to prioritise parking for local residents and businesses and discourage commuters from using the area for all-day parking. It supports the Council's aim of encouraging sustainable travel into the City, an aim supported by the Clean Air Zone that will come into force in 1st June 2021 and the Midlands Rail Hub (MRH). The MRH is a largescale strategic rail proposal comprising of 20 interventions across the Midlands that may affect the outline site as explained below.

6.208 Currently, nine bus services operate within a 400m walking distance of the majority of the application site providing numerous high frequency services to and from the City Centre core. Furthermore Moor Street railway station is located approximately at a 800m walking distance.

6.209 In the future the proposed HS2 Curzon Street Station would be sited less than a 15 minute walk away. The site would also be accessible by the Eastside extension to the Metro connecting Digbeth to the new HS2 Curzon Street Station and providing improved links to New Street, and Snow Hill Railway Stations. Future stops are proposed on Bordesley Street and Adderley Street. Finally Sprint, a new rapid transit bus service will be delivered by 2026. This route will also run along High Street Deritend with a number of stops in close proximity to the site.

Outline Application

6.210 The Midlands Rail Hub (MRH) seeks to increase rail network capacity across the Midlands in phases between now and 2033 via 20 infrastructure interventions proposed across the region. One of the interventions is to connect the Moor Street to London railway line to the former Midland Railway Camp Hill Lane from Kings Norton to Water Orton. This would be achieved by the provision of the Camp Hill Chords (also known as the Bordesley Chords) comprising two new viaducts, or Chords, that would link to the East Midlands and the South West. At a local level the Chords would also increase the capacity of the Camp Hill line once it is reopened, increasing

the predicted 2 trains per hour via the approved new stations at Moseley, Kings Heath and Hazelwell into New Street Station, to 10 trains per hour into and out of Moor Street.

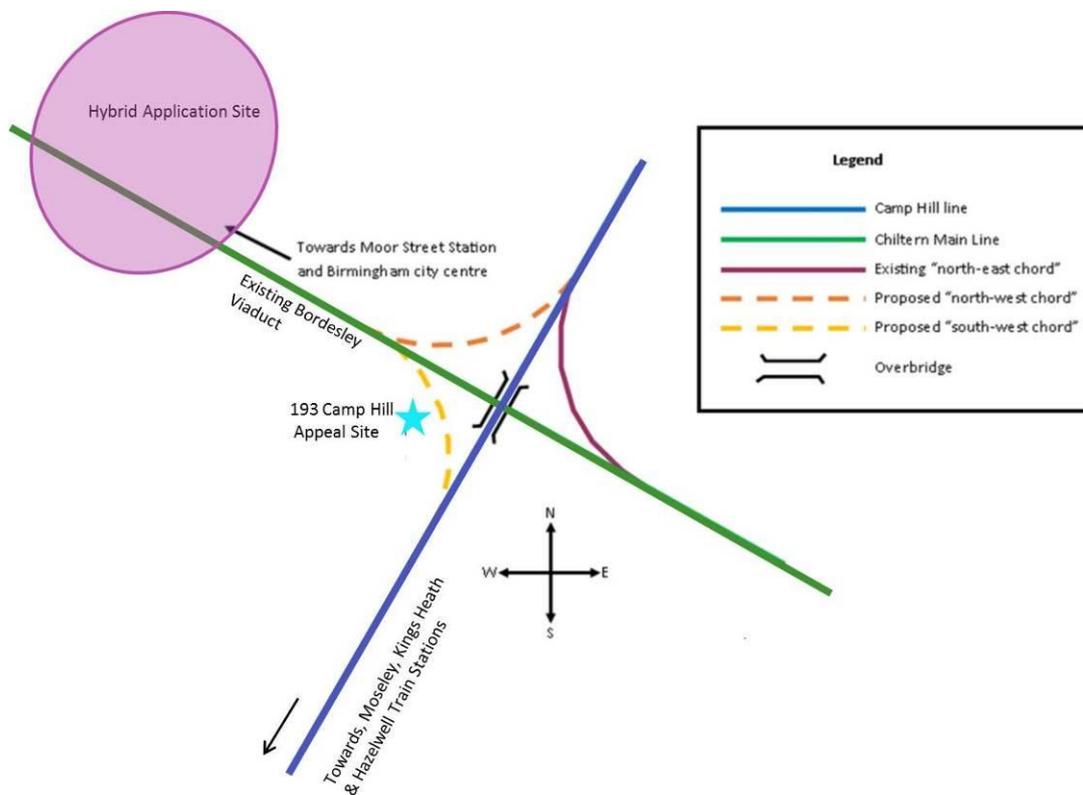


Fig 43: Schematic Diagram Showing Approximate Location of Existing Bordesley Viaduct, Current Application Site, Proposed Camp Hill Chords and Appeal Site at 193 Camp Hill

(Not to Scale and Does Not Accurately Represent the Exact Layout or Geometry of Existing and Proposed Infrastructures – Provided for only Illustrative Purposes to Provide a General Understanding of the Existing and Proposed Railway Infrastructure)

6.211 In order to provide the two Chords it may be necessary to provide additional tracks on top of the existing Bordesley Viaduct that runs through the hybrid site, and this may require the Viaduct to be widened to the north, one of the options that is suggested in the Strategic Outline Business Case (SOBC), submitted by Midlands Connect to the Department for Transport (DfT) in June 2019. The widening of the Viaduct to the north may affect the redevelopment of plots directly to the north of the Viaduct, however the MRH would need to progress through the Outline Business Case and the Full Business Case before it becomes a committed scheme, with a defined route not available until 2023 to 2024. Thereafter construction would not start until 2024 to 2029.

6.212 The City Council refused an application for the redevelopment of 193 Camp Hill to provide a mixed use scheme of 480 residential units and 1,480sqm of commercial floorspace in February 2020 (App. Ref. 2018/9467/PA). The primary reason for refusal focused on the potential prejudice to the operation, construction and operation

of the South West Camp Hill Chord, contrary to Policy TP38 and TP41 of the BDP, the principles of the Adopted Bordesley Area Action Plan (2020) and paragraphs 102 and 103 of the NPPF. The decision was the subject of an appeal, the Secretary of State decided to recover the appeal and, following a virtual public inquiry, issued his decision in March 2021.

- 6.213 Within the context of national, regional and sub-regional transport policy for rail, the Inspector agreed that the Chords is an intervention of recognised importance, highlighted by the fact that the DfT took over as the promoter of the Chords last summer and as such the potential prejudice to the provision of the Chords is a material consideration.
- 6.214 It was then determined by the Inspector that this potential prejudice would conflict with the strategic objectives reflected in Policies TP38 and TP41 of the BDP bringing the scheme into conflict with the development plan as a whole. These policies seek to ensure that land use planning decisions support and promote sustainable travel, and specifically support the delivery of the Camp Hill Chord scheme. However the Inspector acknowledged that the weight to be afforded to the conflict with these policies depends on the associated circumstances, including the degree and extent of any potential prejudice, the likelihood of that prejudice occurring and the effects of any prejudice. During the course of the inquiry the implications of such issues as the curvature of the line, line speeds, electrification and the impact upon heritage assets were tested with the conclusion that, based on evidence presented, there was sufficient flexibility to enable the Chord to be constructed alongside the appeal scheme such that, *“.....if the development proposed were to go ahead, the ability to construct the south-west Chord would not be lost.”*
- 6.215 Therefore the conflict with Policies TP38 and TP41 was afforded limited weight in the overall planning balance with greater weight given to the substantial benefits of the scheme.
- 6.216 With respect to the current application comments have been received from WMRE/TfWM and Midlands Connect highlighting concerns with respect to the impact of the current outline application upon the potential delivery of the Midlands Rail Hub. As indicated by Midlands Connect one of the key questions to be considered in the Outline Business Case is whether the Bordesley Viaduct will need to be widened to accommodate the additional train services. The current Viaduct accommodates up to four tracks, but within its footprint, could accommodate a fifth track. However, should a sixth track be needed then the Viaduct would require widening. This widening would almost certainly be on the north side of the Viaduct, bringing an enlarged structure very close to some of the proposed development plots. In addition a scenario where the Viaduct needs to be widened any development within the existing arches may pose construction and delivery challenges for Midlands Rail Hub. Notably neither Midlands Connect nor WMRE/TfWM nor Network Rail have raised objection, just raised concern.
- 6.217 Bearing these comments in mind, particularly the possible requirement to widen the Viaduct by 10m, the Inspector has given clear guidance indicating that the potential

prejudice is a material consideration, and that this prejudice would conflict with Policies TP38 and TP48 bringing the scheme into conflict with the development plan as a whole. Notably development plots CF4, F14, F15, V1 and V10 are located within this 10 zone. However as with 193 Camp Hill limited weight is given to this Policy conflict because there is no safeguarding policy within the BDP to preclude development to the north of the Viaduct, the Midlands Rail Hub is not a committed scheme and won't be defined as such until 2023 and this is the earliest point in time that the Council will know the exact alignment of the Chords and whether the widening of the Viaduct is required. Widening the Viaduct is only one of the options explained in the SOBC of 2019. The scoping of any detailed alignment for the Chords is at an early stage.

- 6.218 As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 it is for this limited weight afforded to the conflict with Policies TP38 and TP41 to be considered against the weight attached to other material considerations. This is undertaken in the planning balance section at the end of the report.
- 6.219 Moving onto other transport related items the up to parking 286 spaces that could be built out as part of the podiums of buildings, 18 spaces within development plot H1 on the corner of Floodgate Street and High Street, and 453 spaces within a multi storey car park on development plot V2a. This plot would provide a link via a bridge to Viaduct Park. The applicants have advised that up to 10% of proposed car parking will be accessible spaces. As discussed earlier in the report this parking provision goes against the aims of Policies TP39, TP40 and TP41 and the Parking Consultation Draft SPD that encourage trips by alternative modes of transport other than by the private car. However the total would be less than the maximum outlined within the current Car Parking SPD.
- 6.220 There is however parts of the outline scheme that support Policies TP39, TP40 and TP41. First, the existing pedestrian and cycling network will integrate with the planned improvements to provide Viaduct Park that would link to Grand Union Canal. Viaduct Park would include a pedestrian priority route along its entire length with a number of access points allowing pedestrian access onto Viaduct Park from street level. Bridges are also proposed across the Grand Union Canal and two across the River Rea promoting pedestrian and cycling links through the site. A new pedestrianised thoroughfare is also proposed to link Bordesley Street to Floodgate Street to Heath Mill Lane.
- 6.221 The applicants are also proposing a transport hub as part of the multi-storey car park within development Plot V2a, which will include vehicle sharing, electric vehicle charging, and centralised parcel drop-off and cycle storage facilities. The implementation of the hub and the overall management of the MSCP would be secured via condition.
- 6.222 It is considered that taking the outline application as a whole there is sufficient improvements to the public realm and additional links to encourage cycling and walking through the site to outweigh the conflict with Policies TP39, TP40 and TP41 by virtue of the provision of a multi storey car park.

- 6.223 Traffic flows associated with the future development both during the construction and operational phases have been considered within the TA. The minor impacts noted in the TA as a result of the development upon traffic on key junctions within the application site and its vicinity are forecast to operate within capacity.
- 6.224 BCC Highways have raised no objections subject to conditions. On this basis, the outline scheme is considered to be acceptable in highway terms in accordance with Policy TP44.

Detailed Application site

- 6.225 The three plots within the detailed site; the Wild Site, Custard Factory Living and the Custard Factory extension would have no parking provision, although 130 cycle spaces would be provide at the Wild site and 50 cycle spaces at the Custard Factory Living site. BCC Highways have raised no objections subject to conditions.

Biodiversity

- 6.226 The impacts of the development upon biodiversity have been assessed through the ES. The hybrid planning application is also supported by an Ecological Baseline Report that includes an ecological desk study, an extended Phase 1 habitat survey and a preliminary roost assessment for bats. The Report advises that there are no statutory designated sites of international, national or local nature conservation importance within the Site or within 2km of the site. There are two non-statutory designated sites of City importance within the site and these are The River Valley Site of Local Importance to Nature Conservation (SLINC) that runs through the site and the Grand Union Canal SLINC, part of which also runs through the site. Both sites are designated for their aquatic habitats and their landscape-scale connectivity through the City. There are four other SLINCs within 2km, all of which comprise canals and are hydrologically linked to the Grand Union Canal.
- 6.227 In addition The Duddeston Viaduct Potential Site of Importance (PSI) aligns the proposed Viaduct Park thereafter connecting to the south to Snow Hill to Solihull Railway PSI. Part of the detailed application site at development plot CF3 (Custard Factory Living) is located within the Floodgate Street PSI is also within the Site, within Development Plot CF3. Outside of the site to the north of Grand Union Canal SLINC lie the Land off Montague Street PSI that in turn connects to Curzon Junction PSI.
- 6.228 The site also falls within the Birmingham and Black Country Nature Improvement Area (NIA), a designation aiming to target landscape-scale nature conservation actions. The site falls within an Ecological Linking Area within the NIA, designed to encompass key wildlife corridors such as rivers, streams and canals. The desk study identified the River Rea as a 'Wildlife Corridor', which are protected through local policy.
- 6.229 The Ecological Baseline Report explains that the scope of Phase 2 surveys undertaken at the site was defined following the initial Desk Study and Extended Phase 1 Survey, based on the type and extent of habitats present within the site, the

presence of records for protected and notable species and professional judgement. Due to the long terms nature of the proposals, detailed and comprehensive Phase 2 surveys of each building were not carried out, however the Phase 2 surveys sought to gain sufficient information regarding the ecological receptors within the site, to determine the value of the resource that the site presents within the scope of the current development proposals. Phase 2 surveys have been undertaken for roosting and foraging bats and black redstarts. The Phase 1 and 2 surveys have identified the following.

- 6.230 Habitats - The principal habitat types within the site are described as buildings and hardstanding. The habitat on the top of the Duddeston Viaduct primarily consists of a mosaic of scrub and self-seeded, immature trees with open areas of grassland and small patches of bare ground and rubble. The combination of the type of habitat present and the lack of disturbance over an extended period mean this habitat is of local ecological value. Very little semi-natural habitat is present within the remainder of the site. Two invasive, non-native plant species are present within the site including Himalayan balsam.
- 6.231 Birds - Records of 13 bird species of conservation concern were noted during the desk study completed in November 2018. The site also presents suitable nesting and foraging opportunities for black redstart and there is potential for them to colonise the area.
- 6.232 Bats - The desk study returned records for four species of bats at numerous locations within 2km; overall, the majority of buildings within the site were assessed as providing negligible bat roost potential. However one building within the site was identified during the roost assessment as being of high potential and later confirmed as a bat roost. This building is located within development plot R6 that has frontages to Fazeley Street, River Street and the River Rea to the rear. The building is shown to be retained on the Retention Plan with alterations as part of the outline application.
- 6.233 The Grade II* listed Old Crown pub was found to be of high potential for bat roosts. Whilst this building lies within the outline site it is shown to be retained without any works. Existing buildings and structures within the following development plots were recorded as providing moderate bat roost potential
- C1: Outline site, adjacent to Grand Union Canal, buildings to be demolished and locally listed building altered;
 - C2: Outline site, adjacent to Grand Union Canal, locally listed buildings to be altered and retained with works;
 - C6: Outline site, adjacent to Duddeston Viaduct, buildings to be demolished
 - D6: Outline site, Part of Duddeston Viaduct, part of proposed Viaduct Park;
 - F3: Outline site, Fronting Fazeley Street, building to be retained with works;
 - F15: Outline site, adjacent River Rea, building to be retained with works;
 - V1: Outline site, adjacent Bordesley Viaduct, buildings to be demolished;
 - V5: Outline site, Adjacent Duddeston Viaduct, some buildings to be demolished, some to be retained with alterations

- 6.234 Existing buildings and structures within the following development plots were recorded as providing low bat roost potential:
- B1 - B5: Outline site, locally listed Bordesley Viaduct Arches, to be retained with works;
 - C1: Outline site, adjacent to Grand Union Canal, buildings to be demolished and locally listed building altered;
 - C7: Outline site, former Forge Tavern Fazeley Street, building to be retained with alterations;
 - C8: Outline site, adjacent to Duddeston Viaduct, buildings to be retained with alterations;
 - CF2: Detailed site, Custard Factory Living, buildings to be demolished;
 - D2 - D5: Outline site, Part of Duddeston Viaduct, part of proposed Viaduct Park;
 - F1: Outline site, Junction of River Street and Floodgate Street, locally listed buildings to be retained with works;
 - F6: Outline site, the Arches, locally buildings to be retained with works;
 - H4: Outline site, positioned between High Street Deritend and Bordesley Viaduct, buildings to be demolished;
 - R1a: Outline site, adjacent culverted River Rea, buildings to be demolished;
 - R1b: Outline site, adjacent culverted River Rea, buildings to be demolished;
 - R3: Outline site, River Rea Studios, locally listed buildings to be demolished;
 - V1: Outline site, adjacent Bordesley Viaduct, buildings to be demolished;
- 6.235 All other buildings were found to be of negligible bat roost potential whilst the brick structure of the Duddeston and Bordesley Viaducts provide crevices suitable for roosting bats.
- 6.236 In general, very limited bat activity was recorded during the surveys, with higher levels of activity recorded during surveys of buildings adjacent to either the River or the Canal. It is assumed bats use the habitats on top of Duddeston Viaduct for foraging and commuting. However, the majority of habitat within the site is of negligible value for foraging or commuting bats, due to a lack of semi-natural habitat and high levels of artificial lighting and human disturbance. Based on the assemblage of bats recorded during the multiple bat surveys undertaken within the site and their local and national conservation status, the bat assemblage is assessed as being of Local value.
- 6.237 Reptiles - The assessment of potential reptile habitat within the site concluded that the majority of habitats within the site are unsuitable for reptiles.
- 6.238 Policy TP8 seeks to ensure that the maintenance, enhancement and restoration of sites of local importance, such as SLINC's will be promoted and supported.
- 6.239 Development which directly or indirectly causes harm to SLINCs will only be permitted if it has been clearly demonstrated that the benefits of the proposal outweigh the need to safeguard, the damage is minimised and measures can be put in place to mitigate remaining impacts, and where damage cannot be avoided or fully

mitigated, appropriate compensation is secured. The Policy also seeks to maintain and encourage opportunities to enhance notable or protected species.

- 6.240 The ES reports that the proposal to open up part of the culverted River Rea to the rear of River Street has the potential to cause unavoidable, albeit temporary habitat loss and disturbance to the Rea Valley SLINC. Habitat loss and disturbance would be caused by the alteration of the habitats within and immediately adjacent to the SLINC and the noise, vibrations and increased human activity caused during construction works. However the SLINC is approximately 20km in length with only approximately 0.5km inside the hybrid site boundary. Therefore, habitat loss is estimated to be a small proportion (<2.5%) of the overall SLINC site and unlikely to change the baseline conditions such that it would affect the reasons for designation of the SLINC as a wildlife corridor. Furthermore the effects would be temporary as once construction is complete the SLINC would return to the same function and similar habitats as prior to construction.
- 6.241 The proposed scheme also includes the replacement of existing habitats with a raised pedestrian walkway plus soft and hard landscaping on top of the proposed Viaduct Park. This would result in disturbance from construction activities and unavoidable loss of habitat, including reptile habitat. There is no public access to the top of the Viaduct and the predicted magnitude of change is large. Effects are permanent since it is assumed that all habitats along with the structure and function of this feature would be lost and the chance of reversibility within a reasonable timeframe is unlikely. Therefore, the ES explains that there is likely to be a direct, permanent, long-term adverse effect. The Viaduct also provides potential bat foraging and commuting habitat and the increase in artificial lighting along the proposed linear park would significantly detract from this habitat.
- 6.242 The ES reports the loss of black redstart habitat from the site during the construction phase and based on the scale of the development advises that there is the potential for a significant effect on the wider population of black redstart present outside the boundary.
- 6.243 The proposed scheme would result in the phased demolition or refurbishment of buildings within in accordance with the submitted Retention Plan. The building at development plot R6 has a confirmed roost and several others listed above show low to high bat roosting potential.
- 6.244 The following is suggested to mitigate these impacts upon biodiversity:
- Production of a CEMP during the construction phase to include timing constraints on when works affecting sensitive habitats/species should be avoided and details of lighting to avoid impacts on habitats supporting nocturnal species sensitive to artificial lighting,
 - A Materials Management Plan would be implemented to control spillages, soil erosion or the generation of suspended solids to protect ecologically valuable aquatic habitats, including River Rea and Grand Union Canal plus any connecting SLINC sites such as Digbeth Branch Canal SLINC.

- Outside of construction footprints, retention and buffering of the Rea Valley and Grand Union Canal SLINCs would ensure these wildlife corridors are retained and protected during development.
- Dust suppression measures would be implemented to ensure no damage to retained vegetation or aquatic habitats,
- buildings and structures with bat roosting potential would be subject to pre-commencement surveys to identify any further mitigation which may be required. Works would be designed to allow the retention of existing bat roosting features within buildings where possible and if confirmed bat roosts are to be unavoidably affected, a European Protected Species Mitigation (EPSM) would be gained prior to commencement of works. In addition appropriate mitigation measures will be implemented to ensure compliance with the legislative protection for birds.
- Implementation of a reptile mitigation strategy for the habitats on top of Duddeston Viaduct to ensure compliance with the legislation protecting reptiles,
- Implementation of an invasive species management plan
- the incorporation of existing habitats within the soft landscaping proposals within Viaduct Park where practical. Where this is not possible the post-construction soft landscaping proposals should include the creation of a similar habitat structure and composition to that which is currently present.
- Provision of a mix of soft and hard landscaped public realm as shown on Parameter Plan 05: Public Realm

6.245 Acknowledging that the vast majority of the hybrid site is in outline, with the detail of the redevelopment development plots largely unknown the applicants approach is supported by Council ecology officers. It is noted that the integration of green infrastructure and ecological enhancements have been considered through the wider development from street level, canal side and River interventions to Viaduct Park. However it is advised that, given the timescale for implementation each phase would need to be presented with up to date protected species and invasive species data and accompanied by landscaping schemes showing ecological enhancement. Conditions are advised to require a CEMP, additional ecological surveys and details of enhancement and management.

6.246 The EA have commented that there is a missed opportunity to enhance the River Rea as a focal point of the development and that it is unclear which sections of the River Rea will be de-culverted. Furthermore there is a lack of detail regarding the proposed terracing around the River Rea. Historic development that has encroached on watercourses has severely impacted on their ecological value whilst new developments provide an opportunity to re-naturalise river corridors. This would help wildlife adapt to climate change and restore watercourses to a more natural state as required by the river basin management plan.

- 6.247 A condition is suggested to require a scheme to re-naturalise the River Rea wherever possible as supported by paragraphs 170 and 175 of the National Planning Policy Framework (NPPF) that recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity. It is also supported by legislation set out in the Natural Environment and Rural Communities Act 2006 and Article 10 of the Habitats Directive which stresses the importance of natural networks of linked corridors to allow movement of species between suitable habitats, and promote the expansion of biodiversity.
- 6.248 In response the applicants have confirmed that the application does not propose the naturalisation of the River Rea. Retaining the urban nature of the River has been agreed as an appropriate strategy in this part of Digbeth during pre-application discussions with the Council and the EA. Furthermore the Parameter Plans are clear that the River would only be opened up to the rear of River Street where there would be a new publicly accessible bridge and an adjoining area of open space that is indicated as predominantly hard surfaced. Naturalisation of the River is not proposed within the hybrid application and this is considered to be the correct approach acknowledging the tight urban character of Digbeth.
- 6.249 Notwithstanding the urban setting of the application site the proposals as submitted, particularly the opening up of the River Rea would, subject to safeguarding conditions, create habitat and biodiversity net gain, which would outweigh the habitat loss and deliver long-term environmental benefits to biodiversity in accordance Policies TP7 and TP8 of the BDP and paragraph 175 of the NPPF.

Amenity of Existing and Future Occupiers Resulting from Changes to Daylight, Sunlight and Overshadowing

- 6.250 The changes in terms of daylight, sunlight and overshadowing from the proposed development are assessed within the ES and a stand-alone Daylight, Sunlight and Overshadowing Report.
- 6.251 Policy GA1.1 encourages well designed high quality living environments whilst Policy PG3 states that new development will be expected to create a positive sense of place and local distinctiveness. The impact upon sunlight and daylight will have an effect on the quality of the indoor and outdoor spaces within the proposed development.

Impacts upon the Proposed Residential Units and Areas of Public Realm within the Site

- 6.252 The purpose of the Report is to ascertain the potential daylight/sunlight amenity available to the proposed dwellings and overshadowing to the identified amenity areas within the Proposed Scheme. This study covers the residential uses proposed within the detailed application, (development plot CF2, Custard Factory Living) and the development plots containing proposed residential units identified within the outline application. It should be noted that the outline element has been considered using an illustrative scheme. The applicants advise that the illustrative scheme provides a more realistic basis for analysis than the maximum Parameter Plans as the latter are comprised of unbroken/linear blocks to provide maximum spatial

flexibility. They do not generally indicate the individual proposed buildings, typologies or courtyards that are necessary to provide a meaningful assessment of daylight potential.

- 6.253 For the overshadowing assessment of proposed amenity space, the maximum parameter scheme has been used thus presenting a worst-case.
- 6.254 BRE Guidelines have been used for assessment purposes and individual assessments have been tested to consider the amount of the daylight and sunlight that would be received by the proposed residential units and areas of public realm within the hybrid application. These tests are called Vertical Sky Component (VSC), No Sky Line (NSL), Annual Probable Sunlight Hours (APSH) and Sun Hours on Ground (SHOG).

Outline Application

- 6.255 At this stage, window and room positions and sizes are unknown therefore the Vertical Sky Component test refers to the potential daylight received on the facades to the buildings.
- 6.256 The assessment indicates that there are only a few pinch points where it may be difficult to provide adequate daylight. Inevitably, these are generally located in the corners and lower levels of the inner faces of the courtyards e.g. development plots V8, V6 and C4; at the lower levels of blocks in close proximity to the viaducts e.g. development plots V6 to V9. However mitigation could be applied either to maximise daylight potential (e.g. increasing window sizing, adopting dual-aspect configurations, chamfering of blocks opposite, increased separation gaps) or by arranging the floor plans to place less sensitive bedroom windows or non-habitable space windows in these isolated areas.
- 6.257 The vast majority of the facades would have good daylight potential with a significant proportion indicating high levels of sky visibility. These can be further maximised through the detailed design for the respective plots and through the commitments made as part of the Design Code.
- 6.258 An overshadowing assessment has been undertaken for 11 key amenity areas, principally public realm space that includes the disused Duddleston Viaduct to be reactivated as Viaduct Park. This has been undertaken using the BRE Sun Hours on Ground (SHOG) quantitative test. The guidance suggests that at least 50% of an area of open space should receive at least 2hrs of SHOG on 21st March to appear well sunlit throughout the year. The maximum parameter scheme has been used as the basis of the SHOG assessment thus providing a worst-case.
- 6.259 Four individual public space areas would meet the BRE suggested criteria including Viaduct Park that would be virtually fully sunlit to the suggested level. The remaining seven areas would fall below the suggested threshold, which is not surprising given the proposed tight-knit layout. Nevertheless, five of the seven areas would receive 2hrs of sun to between 25% and 40% of their areas. There would be two areas sited

either side of Viaduct park, to the rear of St. Basils church that would receive little or no sunlight.

- 6.260 As an aggregate for all amenity spaces considered, around 62% of the total area tested would receive at least 2hrs of sun on 21 March. It is also important to reiterate that the overshadowing analysis in the Report is based upon the maximum parameters, which represent a worst-case. Sunlight levels have the potential to improve once gaps between buildings are introduced and the massing and associated rooflines are fully articulated. Despite a small number of isolated transgressions which are not uncommon for a site of this nature it is considered that the proposed scheme is acceptable in terms of daylight, sunlight, and overshadowing and in line with BRE guidance.

Detailed Application

- 6.261 The Custard Factory Living site includes 40 units residential accommodation. The standalone Report advises that due to the site orientation and neighbouring obstruction posed by the existing Custard Factory building immediately to its south, the key habitable spaces have been designed with the main windows facing the lowest levels of obstruction, to the northwest. Technical analysis demonstrates that overall 95% of all habitable rooms assessed within the plot would meet and exceed the recommended Average Daylight Factor (ADF) criteria, and 87% of habitable rooms would achieve recommended levels of No Sky Line (NSL).
- 6.262 In terms of sunlight the plot is constrained by its narrow footprint and orientation, with the existing Custard Factory building and South Birmingham College buildings closing off the aspect to the south, in such a way that access to sunlight is limited. The Report advises that it would be virtually impossible to ensure the BRE targets are met in this context. Of the 40 south-facing rooms with living areas tested, unsurprisingly, only a minority would contain at least one window satisfying the default annual and winter APSH targets. However, the results show that around half of the living areas tested are only marginally below and the retained levels would be commensurate with more urban locations. The BRE Guidelines are not fixed standards and they should be applied flexibly to take account of the specific circumstances of each case. Bearing in mind the high level of daylight compliance, this is considered acceptable and in accordance with Policy DM10 of the emerging Development Management DPD.
- 6.263 Paragraphs 122 and 123 of the NPPF and Policy TP30 encourage more efficient use of land, with the former promoting higher densities at locations well served by public transport and a flexible approach in adopting and applying daylight and sunlight policy and guidance that could inhibit this objective.

Impacts upon Existing Development Inside and of Outside of the Site

- 6.264 The ES considers the impact upon sunlight and daylight as a result of the proposed scheme on existing residential and educational development both within and outside of the application site. Again BRE Guidelines have been used for assessment purposes to test the potential loss of daylight and sunlight and a qualitative

assessment of transient overshadowing has been undertaken to provide a comparison of amenity space before and after development. The effects of the proposed scheme have been based on the maximum parameters.

6.265 In respect of daylight and sunlight, the ES has studied the impact of the proposals upon 28 existing residential and educational properties that are located inside and outside the site. These are termed sensitive receptors as they may potentially be affected by the proposed development:

- Great Barr Street (no.6)
- Glover Street (nos. 1-12)
- Adderley Street (no.28)
- High Street (nos.160, 177-180 & The Old Crown pH)
- Milk Street (no.80)
- Coventry Street (no.58)
- Floodgate Street (no.92)
- Former Floodgate School, South Birmingham College
- Barn Street (nos.1-2)
- Fazeley Street (Minerva Works, nos.158-160 & 230).

6.266 In addition 22 open spaces have been considered. These include private rear gardens to the properties at Great Barr Street and Glover Street and parts of Grand Union Canal and River Rea. Again the Vertical Sky Component (VSC), No Sky Line (NSL), Annual Probable Sunlight Hours (APSH) and Sun Hours on Ground (SHOG) plus Transient Overshadowing BRE Guideline testing methods have been used to establish the likely effects.

6.267 In terms of daylight major adverse effects are predicted at:

- i. 6 Great Barr Street and 1-12 Glover Street - The external inspection indicates that the key windows facing the site serve a mixture of bedrooms, kitchens and non-habitable space. Currently they face very low levels of existing obstruction as they are positioned directly opposite undeveloped land. Furthermore all windows at first floor are currently blinkered by an overhanging roof above. Reductions in daylight and sunlight would inevitably arise with any meaningful development of the application site in that context. Whilst the proposed maximum parameter massing for the development blocks opposite is an unbroken linear block the Design Code would ensure that the eventual effect on these buildings would be substantially lower and that adequate daylight amenity would remain. Positively the principal living rooms appear to be served by main windows that face away from the site and therefore would be completely unaffected.
- ii. 28 Adderley Street - The existing level of obstruction to the two windows is very low and therefore, any meaningful increase in massing opposite would inevitably result in greater relative changes in light. It is anticipated that they are in bedroom use where light is less important.

- iii. 177-181 High Street - According to online records, there are no residential listings within nos. 179 and 180 however it is unclear from external observation whether residential accommodation can be entirely ruled out. Therefore, these buildings have also been considered as part of the assessment. Certainly not all of the 37 windows facing the site serve habitable rooms. It is predicted that 22 of the windows would experience medium to large changes however these are mostly bedrooms.
- iv. South Birmingham College & Former Floodgate School - A total of 97 windows serving 62 rooms have been assessed for daylight. Of the 26 windows experiencing medium to large changes, 14 relate to rooms with multiple light sources while the remainder appear to serve rooms that would be reliant on electric lighting e.g. catering, IT suites and caretaker offices.
- v. 92 Floodgate Street – The Ruin public house at ground floor, with residential accommodation above. Three of the existing six windows would be notably affected of which 2 relate to less sensitive bedroom use.
- vi. 1-2 Barn Street – The Barn public house. According to online records, there are no residential listings at this address however it is unclear from external observation whether residential accommodation can be entirely ruled out. Therefore, these buildings have also been considered as part of the assessment. Of the 15 windows, 9 windows are predicted as recording noticeable effects. These are generally blinkered by rear projections or tight corners of the building, exaggerating their sensitivity to massing changes and 4 appear to serve secondary or a non-habitable space. The impact upon amenity would be reduced by virtue of the Design Code principles for Plot R1a.
- vii. 230 Fazeley Street – The former Forge Tavern. It appears to have been used as a B&B-style hotel, although it is unclear if it is still in use. Of the 9 windows assessed 5 show that there would be significant alterations however the applicants have advised that no layout information could be obtained. It is anticipated that around half the windows tested serve secondary space with the remainder serving bedrooms, assuming the B&B is still in operation.

6.268 In terms of change in the amount of sunlight received significant effects are predicted at:

- i. 6 Great Barr Street and 1 to 12 Glover Street – There are a total of 117 windows within these properties that both face the site and are oriented within 90 degrees of due south and therefore are relevant for sunlight assessment. For the 38 windows below the winter criteria 10 appear to relate to bathrooms and could be discounted on that basis and 12 would either retain 4% APSH (compared against the 5% target) or meet the winter targets. The results of the Design Code in relation to Plot C5 would also reduce the impact of loss of sunlight.
- ii. 177-181 High Street - There are a total of 5 windows within these properties that are relevant for sunlight assessment. The potentially affected windows

within these buildings are highly likely to either serve ancillary space or bedrooms/kitchens, rather than living rooms, which the BRE recognise as most important in regard to sunlight.

In terms of overshadowing or loss of sunlight to amenity areas a low level or minor adverse effects are predicted at:

- i. River Rea – 6 parts of the River have been tested within and outside the site boundaries five of which would meet the BRE guidelines for SHOG.
- ii. 6 Great Barr Street and 1 to 12 Glover Street - The gardens at nos. 11 and 12 Glover Street would fall below the suggested guidance levels. However the design principles committed to as part of the Design Code would ensure that the eventual effect on these amenity spaces would be lower than predicted in the assessment, such that adequate sunlight amenity on ground is anticipated to remain.

6.269 Acknowledging the area encompassed by the hybrid application and the City Centre context of the site it is considered that the changes to daylight, sunlight and overshadowing of these existing properties would be acceptable and would not cause unsatisfactory living conditions. Therefore the scheme is considered to comply with Policy PG3, GA1.1 and Policy DM2 of the emerging Development Management DPD and the NPPF.

Energy and Sustainability

6.270 The City Council is committed to a 60% reduction in total carbon dioxide emissions produced in the City from the level produced in 1990 to the future emission levels in 2027. As stated in BDP Policy TP1 this is to be achieved in a number of ways. An Energy and Sustainability Strategy has been submitted as part of the hybrid application explaining the approach within the outline and detailed applications.

Outline Application

6.271 As the detailed design and the use of each individual development plot is not known at this time the Strategy proposes a 'Be Lean, Be Clean, Be Green' hierarchy on a plot by plot basis utilising passive design and energy efficiency measures. This is to ensure that the forthcoming buildings are constructed to a standard that exceeds minimum Building Regulation requirements in terms of energy performance in terms of the construction materials. In line with the Council's guidance the applicants have advised that each new-build non-residential development plot with a single use class of more than 1,000sqm (NIA) would commit to undertaking a BREEAM Assessment, with the aim to achieve a BREEAM Excellent rating in accordance with TP3.

6.272 As required by Policy TP4 the feasibility of connecting to any existing district heating networks has been reviewed by the applicants, but no opportunities have been identified in the vicinity of the site. However it is also acknowledged that there is the potential for use of heat pump technology either Ground Source or Air Source Heat Pumps (GSHP or ASHP), photovoltaic panels (PVs) and solar thermal panels. The

feasibility of the preferred low and zero carbon energy system is proposed to be determined at the reserved matters stage and would be influenced by the needs of the occupier, “a development plot with a comparatively large estimated hot water demand may opt for solar thermal panels (pending roof space availability), whereas a plot with a high demand for lighting energy may see greater benefit from implementing [photovoltaics] PVs. Precise location and size of suitable technologies such as PV arrays will be determined on a building by building basis, dependant on available roof space once other plant and amenity space is also accommodated.”

- 6.273 In order to reduce carbon dioxide emissions the Council's guidance note expands on Policy TP5 by encouraging residential developments to aim for a reduction in carbon dioxide emissions of least 19% against the Target Emission Rate (TER) of the 2013 Edition of the 2010 Building Regulations (Part L). The applicants have advised that by adopting an all-electric strategy, i.e. eliminating gas combustion on site, carbon emissions from the residential plots would meet this aim.
- 6.274 It is considered that the Strategy is appropriate at this stage and provides sufficient detail to ensure that development would be able to meet the requirements of Policies TP1 to TP4. First a condition is proposed to require each reserved matters application for each new non-residential building in excess of 1,000sqm or having a site area of 0.5ha or more to be accompanied by sustainable construction statement detailing how the development will meet BREEAM standard excellent. A subsequent condition is attached to require the submission of a low and zero carbon technology report to explain the feasibility of the utilising a range of technologies on site as identified in the submitted Energy and Sustainability Statement in accordance with Policy TP4.

Detailed Application

- 6.275 The detailed application comprises the Wild Site (Plot CF1), Custard Factory Living (Plot CF2) and the Custard Factory (Plot CF3). A BREEAM New Construction pre-assessment has been produced for the office areas of the Wild site; the only parts of the detailed application that, according to BDP Policy TP3, require a BREEAM Assessment. The submission indicates this plot will pursue a BREEAM 'Very Good' rating. Justification regarding the decision to target a 'Very Good' instead of 'Excellent' rating is contained within the Energy and Sustainability Strategy. Where the applicants have been unable to commit to 'Excellent' targets this is largely down site constraints, whilst some extra credits may be achievable at the next stage of the design to raise the rating of the buildings. Colleagues in Planning Policy consider that the justification is acceptable to accord with Policy TP3.
- 6.276 The Strategy outlines the proposed passive design measures that are proposed to reduce demand for energy without consuming energy in the process. These comprise thermal insulation, fabric air permeability and high specification glazing. Energy efficient lighting and ventilation is also proposed plus the following low and zero carbon forms of energy:
- Wild 2 – Photovoltaics (PV) covering an area of 70sqm with an annual output of 10,700kWh per year;

- Wild 3 - Air Source heat pumps are proposed to generate domestic hot water to Wild 3;
 - Custard Factory Living - PVs to be installed on the residential roof space covering an area of 90sqm with an annual output of 13,200kWh per year, and air source heat pumps to provide space heating and cooling and domestic hot water to commercial units on ground floor
 - Custard Factory Extension - Air Source heat pumps to provide space heating and cooling
- 6.277 Colleagues in Planning Policy consider that an appropriate assessment of LZC energy options has been carried out and following advice a condition is proposed to require full details of the technologies proposed on each of the detailed plots in order to ensure that the developments accord with Policy TP4.

Ground Conditions and Contamination

- 6.278 Ground conditions and contamination have been assessed within the ES with the detailed application (development plots CF1, CF2 ad CF3) supported by stand-alone Geo-technical and Geo-environmental Desk Study Reports.
- 6.279 Consideration has been given to the site's conceptual model, including construction and industrial history, geology, hydrology, hydrogeology and site geo-environmental conditions. The earliest maps available of the site at 1889 to 1890 indicate that the industrial areas of note are a metal works near the eastern boundary of the site founded over a historical burial ground, Devonshire Works (Custard Powder) within the south western part of the site, Minerva Works Agricultural Tools to the north of the site and a chemical works in the northeast corner of the site. Other industrial uses included tube works, wire tube rolling mills, ice manufactories, iron foundries and a galvanised tin works. During WWII the site was reportedly heavily bombed and there was a significant amount of development with some ruins present along Floodgate Street and Gibb Street. Following WWII the site became significantly more industrial with various new buildings constructed. There are approximately 120 contemporary trade directories recorded at the site including printing, metal spinners, commercial cleaning services, firework sales, pest and vermin control, garage services, car paint and lacquer manufacturing and supplies, air compressor sales, non-ferrous metal works, used car dealers, fabricated metal works, scaffolding suppliers, car body repairs, MOT test centres, electronic component manufacturing and supplies and a brewery.
- 6.280 The variety of contaminative activities that have taken place over the last two-hundred years at the site are likely to have resulted in a number of spillages and leaks throughout the lifetime of these industrial processes, impacting the soils on the site. There is the potential that below-ground storage tanks, fuel lines and other infrastructure are present beneath parts of the site associated with commercial and industrial operations and that potential infilling of below-ground structures throughout the various phases of redevelopment may have occurred. It is likely that various

voids across the site have been infilled and at present the nature of the filling that has taken place is currently unknown.

- 6.281 A number of sensitive receptors have been identified within the ES; the human health of existing and future residents and workers including construction workers, groundwater and surface water.
- 6.282 For the detailed site plots the stand-alone reports propose a preliminary investigation scope arising from the desk based review undertaken that includes on site field work, laboratory based work, monitoring and reporting. A similar commitment to further site investigations and remediation strategy is proposed within the ES for the outline development plots. The applicants have also committed to the submission of a Material Management Plan as part of the CEMP to control spillages and the careful removal of hardstanding.
- 6.283 Regulatory Services and the EA are content to condition the requirement for further site investigations to inform a remediation strategy followed by a remediation verification plan.
- 6.284 Therefore, subject to safeguarding conditions the location of the proposed residential units would accord with Policy TP28 whilst in respect of the other proposed land uses the development would accord with Policy DM3 of the emerging Development Management DPD.

Environmental Statement

- 6.285 The Environmental Statement (ES) is one of the documents submitted in support of the application and has the status of a material consideration during the determining of the application. The ES is produced following the Environmental Impact Assessment (EIA) process, undertaken in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (SI2017/571) (the 'EIA Regulations').
- 6.286 The aim of Environmental Impact Assessment (EIA) is to protect the environment by ensuring that a local planning authority, when deciding whether to grant planning permission for a project which is likely to have significant effects on the environment, does so in the full knowledge of the likely significant effects, and takes this into account in the decision-making process.
- 6.287 In accordance with Planning Practice Guidance and EIA Regulations the ES also reports the 'reasonable alternatives' in terms of site location, design and technology. An alternative design was the only factor that was considered to be relevant and the ES contains an overview of why the alternative design options were discounted in order to avoid, reduce or offset environmental impact.
- 6.288 The format of each chapter of the ES is as follows:
- i. A description of the scope of the Assessment;
 - ii. Explanation of the extent of the study area for that particular topic;

- iii. The assessment methodology;
- iv. An explanation of the sensitivity of receptors;
- v. An explanation of the proposed magnitude of change: assessed on a scale of large, medium, small and negligible;
- vi. Description of the baseline conditions relevant to that topic;
- vii. The proposed primary mitigation during the construction and operational phases: Modifications to the location or design of the Proposed Scheme
- viii. The proposed Secondary mitigation during the construction and operational phases: Actions that will require further activity; it is anticipated that such measures would be secured by condition; and
- ix. The proposed Tertiary mitigation mitigation during the construction and operational phases: Actions that would occur with or without input from the EIA feeding into the design process. These may include actions that would be undertaken to meet other existing legislative requirements, or actions that are considered to be standard practices used to manage commonly occurring environmental effects.
- x. An explanation of the significance of the remaining or residual effects after the mitigation measures have been implemented. The method for assessing the significance of effects varies between topics but in principle it is based on the environmental sensitivity or value of a receptor and the magnitude of change from the baseline conditions. Sensitivity is assessed on a scale of high, medium, low and negligible. In addition, a distinction is made between direct and indirect, permanent and temporary, short, medium or long term and beneficial or adverse effects.

6.289 The following technical disciplines and their associated likely significant environmental effects have been taken forward and assessed within the EIA:

- i. Traffic and Access;
- ii. Air Quality;
- iii. Noise and Vibration;
- iv. Biodiversity;
- v. Townscape and Visual;
- vi. Built Heritage;
- vii. Archaeology;
- viii. Ground Conditions and Contamination;
- ix. Climate Change;
- x. Socio-Economics and Human Health;
- xi. Daylight, Sunlight and Overshadowing;
- xii. Flood Risk, Hydrology and Water Resources

6.290 As part of the EIA process, there are technical topics for which there are no likely significant environmental effects and therefore these technical topics have been

scoped out of the ES. IN this case these technical topics are artificial lighting, the risk of major accidents and/or disasters, waste and wind.

Traffic and Access

6.291 The ES reports the likely significant environmental effects arising from the proposed scheme in relation to traffic and access. Effects have been considered in relation to all modes of travel including pedestrians, cyclists, public transport users and drivers. The impacts considered have been assessed based on highway links and junctions within the site where traffic flows are predicted to increase as a consequence of the Proposed Scheme. The trip generation of the existing and proposed uses has been calculated using TRICS vehicle rates although the ES indicates that vehicle trip generation rates are likely to be lower than TRICS rates suggest due to the location of the site, the mode share data reflects 2011 travel characteristics, and no account has been taken of the forthcoming CAZ or the recently implemented Controlled Parking Zone. The following adjustments have however been applied:

- 50% reduction in convenience retail, pubs/bars and restaurants as pass-by or liked trips; 100% reduction in community and entertainment uses as they would be complementary to the existing and proposed leisure uses;
- 15% reduction in residential trips to local employment uses;
- An adjustment factor on the basis of there being a level of modal shift away from the private car achieved through delivery of travel planning measures and initiatives; and
- An adjustment factor on the basis of vehicular demand being constrained by the availability of car parking which has been defined in the study area using a market-led approach in line with the emerging Development Management DPD and emerging Parking Standards SPD.

6.292 The same parameters and assumptions have been used to calculate the trips generated by the existing uses and the proposed uses. In terms of the construction phase the following impacts have been considered:

- i. the increase construction traffic upon existing pedestrians, cyclists and drivers;
- ii. the changes to pedestrian and cycling networks/connectivity and changes in journey times and safety risks; and
- iii. the increased public transport journey times as a result of additional traffic upon users of public transport.

6.293 The impacts ranges from a negligible impact to minor adverse, however these impacts are not considered to be significant.

6.294 During the operational phase the following impacts were found:

- i. changes to pedestrian and cycling networks/connectivity and changes in journey times and safety risks for pedestrians and cyclists
- ii. the increased public transport journey times as a result of additional traffic upon bus services and drivers; and
- iii. the increased congestion and delays as a result of additional traffic upon road users.

6.295 The impacts were all found to be negligible beneficial and therefore not to be significant.

Air Quality

6.296 The ES reports the outcome of the assessment of likely significant environmental effects arising from the proposed scheme in relation to air quality, specifically in relation to emissions associated with road traffic. The study area for construction traffic emissions and for the operational phase includes all roads within the site and the impacts upon both the existing sensitive receptors and future residents of the proposed scheme have been considered.

6.297 The residual effects for construction road traffic emissions are predicted to be negligible following the implementation of a limit to the daily HGV and LGV trips on the road links within the study area to ensure sensitive receptors are protected from elevated NO₂ concentration from road traffic emissions.

6.298 The impacts of emissions from the road traffic associated with the operation of the proposed scheme on NO₂, PM₁₀ and PM_{2.5} concentrations at existing sensitive receptors is considered significant. A number of mitigation measures have been recommended in a Travel Plan but the residual effects are considered to remain significant as it is unclear to what extent the Travel Plan would reduce operational traffic trips. In terms of existing sensitive receptors there would be a moderate adverse effect on High Street Deritend and Gibb Street leading to a significant effect.

6.299 The impact of operational road traffic emissions on future residents of the proposed scheme are considered to be moderate adverse for sensitive receptors in Development Plots D1, V1, H2 and H4. This adverse effect is considered to be significant. A moderate beneficial effect is predicted at the redevelopment of Plot C5, which is located between Liverpool Street and the Canal. This effect again is considered to be significant.

Noise and Vibration

6.300 Construction works can potentially lead to adverse noise and vibration generation. The ES reports that the worst case working locations nearest to existing and proposed sensitive receptors have been assessed considering the commitments in place as part of the proposed scheme and concurrent working across all phases.

6.301 For four sensitive receptors The Old Crown, 180 High Street, BIMM Birmingham and The Ruin pH sited in very close proximity or directly attached structures a bespoke

construction working plan protocol or CEMP is proposed based on the actual conditions to be dealt with. This would need to involve all parties of interest and may require a period of non-occupation of existing buildings to achieve a desirable outcome. The ES reports that it is considered that this approach would result in the best practical means of undertaking the construction and demolition works to reduce the effects to direct, temporary and short to long-term, causing a minor adverse effect. However, if agreement cannot be reached regarding non-occupation, the residual effect for these four sensitive receptors would remain un-changed as a direct, temporary, short to long-term, major adverse effect. The result is significant if sensitive receptors remain occupied. There would also be a minor adverse for the sensitive receptor at 80 to 82 Floodgate Street (Arthaus Music School) if it remains occupied.

- 6.302 A full assessment of operational road traffic noise has been conducted for Adderley Street and Lower Trinity Street that were identified during the proposed scheme scoping process and their associated sensitive receptors at Dead Wax together with the proposed development plots for potential residential use. The ES advises that following secondary mitigation in the form of planning conditions to control the design of future development a predicted direct, permanent, long-term, minor adverse effect would remain, rather than a significant effect.
- 6.303 The proposed scheme would introduce leisure and late night uses within mixed use development plots across the site. The ES reports that unabated noise transfer internally and breakout through facades or from external areas, if not controlled by the detailed design process, would have the potential to generate adverse effects considered to be major at 18 existing sensitive receptors both within and outside of the application site. However following implementation of secondary mitigation in the form of planning conditions to control the design of future development it is considered to be a direct, permanent, long-term, adverse effect, assessed as a minor effect would remain, rather than a significant effect.
- 6.304 The proposed scheme would introduce new residential uses within an area where the Council has identified a history of noise complaints from late-night entertainment premises. Secondary mitigation enhancement is proposed to reduce the impact upon these new homes to minor adverse, rather than significant.

Biodiversity

- 6.305 The following sensitive receptors have been identified and assessed within the ES:
- The Rea Valley SLINC;
 - Grand Union Canal SLINC;
 - Duddeston Viaduct PSI habitat of local value;
 - Black redstart - assumed presence within the site;
 - Roosting bats - one confirmed bat roost building and several other buildings/structures within the site have the potential to support roosting bats;
 - Foraging and commuting bats using the site; and
 - Reptiles - assumed presence on the Duddeston Viaduct

- 6.306 Mitigation during the construction phase would be achieved via a CEMP, updated ecological surveys to identify further mitigation, the retention of existing habitats, the incorporation of similar habitats within the soft landscaping strategy and the pre-construction scheduling of mitigation for black redstart and roosting bats. However due to the proximity of some development plots residual effects for the Rea Valley SLINC and potentially Duddeston Viaduct would still remain and these are considered to be significant.
- 6.307 The ES reports the beneficial impact of the introduction of planting and soft landscaping within the design of the public realm, brown and green roofs, securing the management of retained and newly created habitats via a Landscape Ecology Management Plan (LEMP). However with the proposed creation of Viaduct Park that would be lit and accessible by the public there are no secondary mitigation measures that could be implemented during the operation phase for the fragmentation of bat foraging and commuting routes along Viaduct Park. Therefore the residual adverse effect would remain, and this residual effect would be significant.

Townscape and Visual

- 6.308 The assessment of townscape character and views and visual amenity concludes that the proposed scheme would have a beneficial effect on local townscape character. Key buildings and characteristics such as the local street art that make a positive contribution to the character of the area would be retained. Buildings of lower quality would be removed and would be replaced with new development of high quality and of a scale and character that would provide a positive response to local townscape character. Public realm improvements and the creation of new public open space including Viaduct Park would also have a beneficial effect on the local townscape character.
- 6.309 Primary Mitigation would be secured via the Design Code at the Reserved Matters stage. The design quality would not alter the identified magnitude of change but would give greater certainty to the quality of future development.
- 6.310 The TVIA divides the site into 5 Local Townscape Character Areas (LTCA's) relating their unique special qualities. Significant beneficial residual effects have been identified four of the five defined local townscape character areas:
- LTCA2 - River Rea Industrial Area;
 - LTCA3 - Canalside;
 - LTCA4 - Viaduct Triangle; and
 - LTCA5 - Adderley Street.
- 6.311 Moderate beneficial residual effects were identified for the following visual receptors and representative views tested both inside and outside of the site. These impacts are considered to comprise significant effects:
- Milk Street/Barn Street - Pedestrians and Road Users;
 - Floodgate Street - Pedestrians and Road Users;
 - Heath Mill Lane/Great Barr Street - Pedestrians and Road Users;
 - Little Ann Street - Pedestrians and Road Users;

- Grand Union Canal Walk - Users of pedestrian/cycle route
- Lower Trinity Street - Pedestrians and Road Users; and
- Allcock Street - Pedestrians and Road Users.
- Grand Union Canal Walk – Looking South East
- Great Barr Street Bridge – Looking Southwards;
- Floodgate Street – Looking south from junction with Fazeley Street
- Heath Mill Lane – Looking North
- Little Ann Street – Looking South east;
- Milk Street – Looking south
- Lower Trinity Street – Looking West
- Allcock Street – Looking West

Built Heritage

6.312 The effects of the proposed scheme on the significance of the designated and non-designated heritage assets that are located within the site and within 200m of the site have been assessed. Beyond this study area limit the impact upon the grade II listed Rotunda that has been identified as having the potential to be affected due to the specific nature of its significance. Taking account of the Parameters Plans and Retention Plan the majority of the heritage assets would not experience any significant effects. However the locally listed Wild No.3 Works is to be partially demolished and the locally listed Wild No.4 Works is to be totally demolished. Notwithstanding secondary mitigation in the form of historic recording of these assets there would be a direct, permanent long term moderate adverse residual effect. This effect is considered to be significant.

Archaeology

6.313 The ES assesses the likely significant environmental effects arising from the proposed scheme in relation to archaeology, including waterlogged deposits and palaeoenvironmental remains within the site. Features of interest have been identified dating back to the Prehistoric and Roman, medieval, post medieval, Georgian and more recent periods.

6.314 Features of interest are as follows:

Prehistoric and Roman - little prehistoric or Roman activity known in Birmingham and those finds which are known in the vicinity of the Site tend to be stray artefact finds;

Medieval - Deritend was a medieval suburb to the Manor of Birmingham by at least c. 1270, with St John's Chapel (now under the High Street) and The Old Crown Public House in the south of the Site originating in the 14th century. Potential for remains of the medieval period in this area of the Site is high. Potential remains of the medieval and later Heath Mill water mill, later Cooper's Mill (in the late 18th century); and associated features. The manorial corn mill may have been established as early as the 12th century and by the 15th century there were three mills in the manor of Birmingham, although Heath Mill is first recorded in 1542-3.

Post Medieval - Archaeological investigations in advance of development within the southern part of the Site, and adjacent to it, have identified evidence of tanning, metal working and smithing in the 16th to 18th centuries, including evidence for working metals such as brass and silver. There is also evidence of flax processing in the 17th and 18th centuries. High potential in the backplots of High Street Deritend (where this has not been truncated by subsequent development) and unproven potential for the presence and survival of remains such as the post medieval Heath Mill and associated remains including waterlogged deposits and palaeoenvironmental remains.

Georgian and Later - Deritend Heath Windmill, also known as Cooper's Mill is thought to have been to the east of the watermill, on Heath Mill Lane. A large triangular mill pool was constructed in the angle between the two arms of the River Rea by 1819. The eastern arm of the River Rea had been infilled by c. 1849; and the triangular mill pool by the mid-19th century. Fazeley Street Gasworks, built in 1836; and Deritend tannery, present by 1847. Some possibility for burials associated with the early to mid-19th century St John's burial ground south of Liverpool Street.

- 6.315 The ES concludes that there is no reason to believe or expect that land within the site would contain archaeological remains that would represent any constraint to the proposed scheme acknowledging that all archaeological investigation and recording could be undertaken in advance of and during development, secured via appropriately worded conditions. An archaeological field evaluation, comprising trial trenches, would be undertaken following demolition of the buildings to slab level, in order to establish the extent, condition, nature, character, quality and date of any surviving archaeological remains. This would inform a programme of archaeological excavation and recording, followed by full post-excavation assessment and publication of the results, to be undertaken in areas of identified archaeological potential. This would help to realise the evidential value of the remains and would have the potential to complement local and regional research aims. Therefore, it is considered that this would mitigate the adverse effect of their loss to some degree.
- 6.316 Whilst surviving archaeological remains may be of great interest in understanding the history and development of the area, the truncated and partial nature of archaeological remains and sequences of deposits likely to be encountered would be most likely to be of interest at a local level. Taking into account this level of importance, and the proposed programme of archaeological work including the public dissemination of the, the effect is considered to be not significant.

Ground Conditions and Contamination;

- 6.317 The ES assesses the likely significant environmental effects arising from the proposed scheme in relation to the potential historical ground, groundwater and ground gas contamination on human health and controlled waters during construction.
- 6.318 The ES concludes that tried and tested mitigation measures, such as following best practice and implementing appropriate design and planning, would result in residual effects that are considered to be negligible.

6.319 The exception to this relates to the compounding effects of exposing multiple contamination pathways to the human health receptor concurrently via multiple active construction sites across the site. The proposed mitigation measure for this would be to appropriately phase the construction works into discrete zones to minimise the compounding effect. Such phasing is proposed to be conditioned.

Climate Change

6.320 The ES assesses the likely significant environmental effects arising from the proposed scheme in relation to climate change, specifically embodied carbon and carbon emissions from proposed buildings. The Statement considers all relevant carbon emissions arising over the lifecycle of the proposed scheme associated with the site subject to certain limitations. It also captures certain emissions occurring outside the site including emissions associated with the raw material extraction and manufacturing of building materials.

6.321 The current carbon baseline for the site has been assumed to be zero. While there are many buildings on-site currently in use, the ES has elected to assume zero emissions as this represents a worst-case. The overall operational emissions at the site in the absence of the proposed scheme would be expected to decrease over time as a result of external actions to reduce the emissions associated with the energy consumption arising from the uses on the site.

6.322 The present assessment has not identified any carbon emissions expected to be generated throughout the lifecycle of the proposed scheme that are likely to result in effects which are considered adverse and either moderate or major. The effects assessed are not considered significant for the global climate. All likely effects associated with the carbon emissions reviewed as part of the ES have been classified as being minor which is reduced to negligible following the implementation of secondary mitigation. This would take the form of the installation of smart meters, a travel plan, energy efficient equipment, 100% renewable electricity contracts and smart technology.

6.323 On this basis, the ES concludes that no likely significant effects are expected to be produced during the construction or operational phases.

Socio-Economics and Human Health

6.324 The ES reports that the study area has been difficult to define and differs according to the subject matter. A one mile radius from the site has been used for primary healthcare provision, 2 miles for early years' education and 3 miles for secondary education. However with regards to more socio economic topics the study area has been based on a neighbourhood impact area, a local impact area (the administrative area of BCC) and a wider impact area (the West Midlands).

6.325 The following aspects are considered within the ES:

- Population and age profile;
- Economic activity and employment rates;
- Labour Market and Industry;

- Economic output;
 - Office market;
 - Housing market;
 - Education infrastructure;
 - Health infrastructure; and
 - Open space.
- 6.326 It is considered that this increase in employment opportunities and GVA would both generate beneficial effects which are considered to be significant.
- 6.327 Due to the worst case assumption that current commercial occupiers would relocate as a result of the proposed scheme, this would generate an adverse effects on social cohesion among the business community, which are mostly small businesses with many operating in creative industries.
- 6.328 The ES predicts that the delivery of the proposed development would not result in any marked displacement of current residents and therefore the delivery of the proposed residential units would result in beneficial effects in increasing the population in the neighbourhood impact area and generating positive effects for social cohesion among the residential population. The effect of the expenditure by new residents and hotel visitors is considered to have a minor beneficial effect, although is not considered to be significant.
- 6.329 Although there is some pressure on GP and dental facilities, overall there is sufficient spare capacity to accommodate the impact of the additional residential population generated by the proposed scheme. Therefore the assessment considers that these effects are not significant.
- 6.330 There is sufficient provision of open space and sports facilities if BCC's quantity and access standards are applied. The provision of public realm improvements and new open space as a result of the proposed scheme is considered to be a beneficial effect, although is not considered to be significant.

Daylight, Sunlight and Overshadowing:

- 6.331 The ES reports the outcome of the assessment of likely significant environmental effects arising from the propose scheme in relation to daylight, sunlight and overshadowing.
- 6.332 The scope of the daylight and sunlight analysis has focused on the surrounding residential properties where the occupants may have a reasonable expectation of daylight and sunlight as per the relevant BRE guidelines, in addition to neighbouring educational buildings, hotel or hostels and an art gallery. The potential for overshadowing of key neighbouring open space has also been included in the assessment.
- 6.333 The potential daylight, sunlight and overshadowing effects for the identified sensitive receptors would vary throughout the construction phase, depending on the level of obstruction caused. The effects would almost certainly be less than that of the

completed proposed scheme, given that the extent of permanent massing would gradually increase throughout the construction phase. Once the proposed scheme is complete, this would represent the worst case.

6.334 The assessment is based on a maximum parameter massing and therefore, design principles have been committed to as part of the primary and tertiary mitigation to ensure the effect on the most sensitive receptors would be substantially reduced at detailed design stage, and that adequate daylight amenity would remain once the development is complete.

6.335 Moderate and major adverse impacts upon the change in daylight to the following receptors are reported, and the resulting impact is considered would be significant:

- 6 Great Barr Street;
- 1-12 Glover Street;
- 28 Adderley Street;
- 177-181 (incl.) High Street;
- South Birmingham College & Former Floodgate School, Digbeth Campus;
- 92 Floodgate St (The Ruin pH);
- 1-2 Barn Street; and
- 230 Fazeley Street.

6.336 Moderate adverse impacts upon the change in sunlight to the following receptors are reported, and the resulting impact is considered would be significant:

- 6 Great Barr Street;
- 1-12 Glover Street; and
- 177-181 (incl.) High Street.

6.337 Minor adverse an impact upon overshadowing of the following areas of amenity space is reported, and the resulting impact is considered would be significant:

- River Rea;
- 6 Great Barr Street; and
- 1-12 Glover Street.

Flood Risk, Hydrology and Water Resources

6.338 The ES reports the outcome of the assessment of the likely significant environmental effects arising from the proposed scheme in relation to the risk of flooding to the site and the wider area.

6.339 Mitigation during the operational phase is proposed in the form of:

- siting all 'more vulnerable uses'(e.g. Land Use Classes C1 and C3) outside of Flood Zone 3 where possible;
- adopting flood resilience measures;
- using flood compatible materials on new buildings in Flood zones 2 and 3;
- providing safe access routes;
- not causing flood water displacement;
- opening up some sections of the culverted river; and
- providing SuDS to reduce run off rates.

- 6.340 With respect to the latter there is a requirement to compensate approximately 625m³ of flood volume within the site, representing approximately 4% of the existing flood volume. Open spaces, located outside the flood extent, have been identified as locations for flood compensation that would be detailed once the relevant phase is brought forward.
- 6.341 The ES concludes that there is likely to be an indirect, permanent, long-term minor beneficial residual effect in terms of the change to fluvial flood risk off site which is considered to be minor.

Cumulative Effects

- 6.342 To accord with the EIA Regulations, the following cumulative effects have been considered within the EIA:
- i) Effect interactions: the interaction of environmental effects of the Proposed Scheme affecting the same receptor either within the Site or surrounding area; and
 - ii) In-combination interactions: the combination of environmental effects of the Proposed Scheme and Approved Projects affecting the same receptor.

Effect Interactions

- 6.343 The residual effects as concluded with the individual technical chapters of the ES have been collated into a matrix so that the effect interactions in common receptors could be identified for the construction and operational phases. The residual effects have been grouped into the common sensitive receptors of population and human health, biodiversity, water, cultural heritage and landscape.
- 6.344 During the construction phase the ES predicts that there would be no effect interactions upon biodiversity, water, cultural heritage or landscape. There would be residual effects upon population and human health. The beneficial effects are described as the generation of employment and economic productivity. The adverse effects would be disturbance from construction activities, changes in the amenity due to daylight and sunlight and the risk of exposure to contamination. The sensitivity of the population and human health is considered to be high and some of the changes would be beneficial and some adverse. In both cases the combined magnitude of change during operation is considered to be large at some receptors and therefore there are effect interactions during the operation phase considered adverse and beneficial up to major.
- 6.345 Whilst no additional mitigation is required, it would be a priority to provide certainty around reduced rental costs to existing tenants and monitor the effectiveness of the proposed Travel Plan to quantify its benefits. These will both reduce the significant adverse residual effects which are contributing to the overall effect interactions at some receptors.

In-combination interactions - Step One: Identification of Projects for Consideration

6.346 The projects applicable for consideration of in-combination effects were determined using the following criterion:

- Approved applications either under construction or not yet implemented;
- Submitted applications not yet determined but that have the potential to be determined prior to the determination of the application for the Proposed Scheme; or
- All applications refused that are subject to appeal procedures not yet determined.

6.347 In terms of scale the following thresholds has been applied;

- i) 200 residential units or more or 10,000sqm of more floorspace, or an application with a site area of 2 hectares; and
- ii) meeting the Schedule 2 criteria of the EIA Regulations at which there is a potential for 'likely significant effects'.

6.348 Using these thresholds a short list identified 25 projects has been assembled within the ES and supplementary Technical Note for the assessment of on in-combination effects.

In-combination interactions - Step Two: Assessment of In-Combination Effects

6.349 The sensitive receptors identified for the proposed scheme have been cross checked against the receptors of the approved projects that are above the thresholds identified in (i) and (ii) above. Consideration has also been given to whether there is likely to be a concurrent construction or operational phase within the proposed scheme (that has a construction period from 2021 to 2035). In order for there to be a potential in-combination effect, there needs to be a potential effect on the same receptor for a similar duration within the overall programme for the proposed scheme. The ES has defined following common receptors:

Traffic and Access – Common receptors identified but no in-combination effects identified;

Air Quality - Common receptors identified but no in-combination effects identified;

Noise and Vibration – a precautionary in-combination assessment has been conducted for construction noise. The level of the in-combination effect at Connaught Square is considered to be minor adverse.

Biodiversity – roosting bats, black redstarts and the Rea Valley SLINC are common receptors. The in-combination effect is considered to be minor adverse upon these receptors.

Townscape and Visual – again a common receptor between the proposed scheme and a number of approved projects. For pedestrians and road users inside the site

there would be an in- combination effect with Connaught Square and Martineau Galleries. The Approved Projects have also been considered in relation to each of the other townscape and visual receptors within the TVIA for which significant effects had not been identified, as a precautionary measure to assess whether significant in-combination effects would arise where effects were not considered significant for the proposed scheme. There would be an in-combination effect for Local Townscape Character Area 1. (High Street Deritend). For pedestrians and road users views from outside of the application site there would be an in-combination effect with Stoneyard, Lunar Rise and Connaught Square. There would also be an in-combination effect on the view from Kingston Hill identified as a strategic view in the High Places SPD. Where these in-combination effects are considered to be greater than considered by the ES previously in isolation the effects are considered to be beneficial.

Built Heritage –No common receptors and therefore no in-combination effects identified;

Archaeology - No common receptors and therefore no in-combination effects identified;

Ground Conditions and Contamination – Common receptors identified as construction workers and/or the existing and the future residential and business community who are likely to be subject to increased risks, albeit the majority would be managed through good practice construction measures. The in-combination effect is considered to be no greater than considered by the ES in isolation, i.e. minor adverse.;

Climate Change – Common receptors identified but not possible to provide a meaningful assessment for the proposed scheme in-combination with the approved projects as there is insufficient, robust data on the technical specifications of the approved projects;

Socio Economics and Human Health – All of the approved projects would affect some of the following receptors identified for the proposed scheme, i.e. construction workforce, businesses, local residents, workforce in the economy, pupils attending primary or secondary school within a 2 or 3 mile radius and local residents of all demographic profiles within a 1 mile radius. During the construction phase there is likely to be in-combination effects though the creation of employment and the generation of economic productivity. This effect is reported as minor beneficial. When the scheme becomes operational there are predicted to be a number of in-combination effects summarised as population change, employment creation, economic productivity and expenditure by new residents and visitors. The in-combination effects are all considered to be moderate beneficial.

Daylight, Sunlight and Overshadowing – In-combination effects upon South Birmingham College & Former Floodgate School and No.28 Adderley Street as a result of Approved Projects at Connaught Square and Stoneyard. The effect is the same as considered by the ES previously, up to major adverse but no greater than that identified in isolation.

Flood Risk, Hydrology and Water Resources – Common receptors identified but the in-combination is considered to be no greater than that identified in isolation.

6.350 As required by the Regulations the ES has been submitted to the Planning Casework Unit of the Ministry of Housing, Communities and Local Government. It has been subsequently acknowledged but no further comments have been received.

Summary of Significant Impacts Report in the Environmental Statement

6.351 There would be adverse impacts that are considered to be significant with respect to the following:

- Air Quality - The impact of emissions from the road traffic associated with the operation of the proposed scheme on existing and proposed sensitive receptors;
- Noise and Vibration – The impact upon existing sensitive receptors as a result of noise and vibration during the demolition/construction phase;
- Biodiversity – impact upon habitats and species of the Rea Valley SLINC and Duddeston Viaduct;
- Built heritage – Impact upon the locally listed Wild No.3 Works and Wild No.4 Works;
- Daylight, Sunlight and Overshadowing – change in daylight to 8 receptors (including more than one property in Glover Street, High Street and Barn Street);
- Daylight, Sunlight and Overshadowing – change in sunlight to 8 receptors (including more than one property in Glover Street and High Street)
- Daylight, Sunlight and Overshadowing – overshadowing of 3 amenity spaces (including more than one property in Glover Street)
- Effect interactions resulting from changes to daylight or sunlight and noise or vibration interacting with construction related effects.

6.352 There would be beneficial impacts that are considered to be significant with respect to the following:

- Townscape and Visual – Impact upon four Local Townscape Character Areas;
- Townscape and Visual – Impact upon fifteen visual receptors and representative views inside and outside of the site; and
- Socio-Economics and Human Health - increase in employment opportunities and GVA.141

6.353 The significant adverse effects would it be considered be acceptable subject to conditions to secure mitigation.

Planning Obligations

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

6.355 Section 106 contributions have also been requested from the following consultees:

- Leisure Services - £4,117,575 (hybrid site);
- Education – £116,507.00 (detailed application) and £12,352,185.93 (outline application);
- Canal and River Trust – request for contribution towards upgrading the access onto the canal at Great Barr Street and lighting improvements along the towpath; and
- Sport England - £1,980,280 (outline site).

6.356 The applicant has submitted a Financial Viability Assessment (FVA) report with the application. This explains where and how much expenditure the applicants are proposing to spend on the public realm.

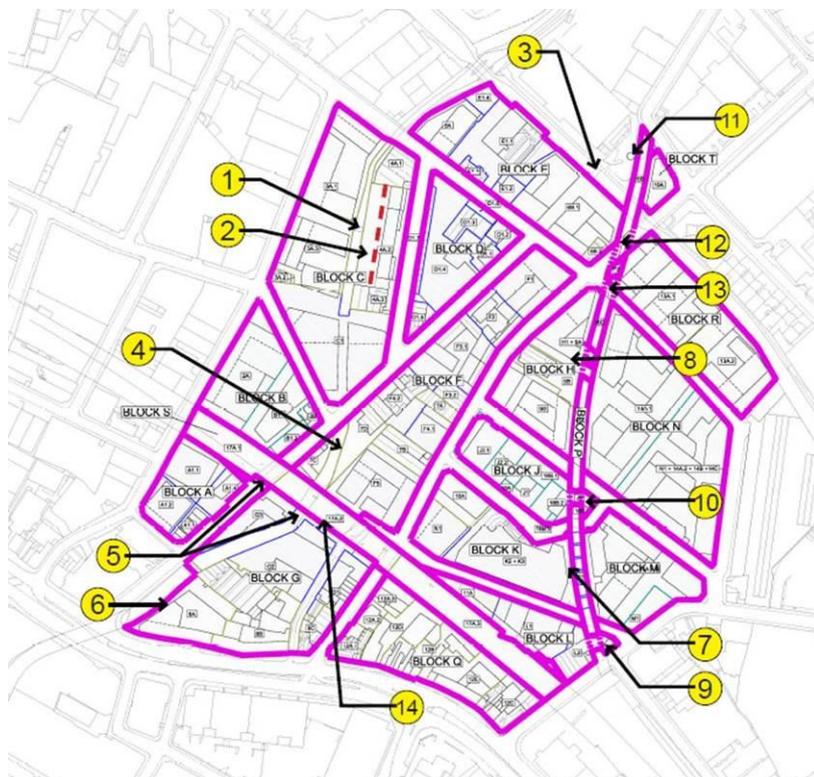


Fig 44: Locations of Proposed Expenditure on Public Realm

- 1) River Street Bridge: Pedestrian bridge connect new piece of public realm to Barn Street over River Rea. Estimated £750,000;
- 2) Activation of River Rea: creation of open square and seating to encourage ground floor building uses to spill out into public space. Repair works and improvements to the River embankments and River bed. Estimated £2,500,000;
- 3) Floodgate Street bridge: spanning the canal to create a key pedestrian/cycle link to the northern side and a canal square on the southern side, seating areas, canal side planting. Estimated £1,500,000;
- 4) Activation of River Rea: creation of public space between Floodgate Street and the River enabling access to the edge of the River wall. Estimated £1,500,000;
- 5) Custard Factory Bridge: new accessible bridge to replace existing within proposed area of public realm comprising new surfacing, stepped and ramped access, tree planting and seating areas. Rain gardens, tree planting, loading areas and traffic calming measures along Floodgate Street. Estimated £750,000;
- 6) Activation of River Rea: improvements to public realm to encourage ground floor uses to animate public spaces. Repair works and improvements to River embankments and River bed. Estimated £2,500,000;
- 7) Upper Level Bridge: New bridge to connect the upper level roof top leisure offer of the proposed Lower Trinity Street car park to Viaduct Park. Ground level improvements to public realm including surfacing, tree planting, street furniture and lighting. Estimated £1,000,000;
- 8) Viaduct access: stair access to Viaduct Park from the proposed adjacent public space at mid point to Viaduct Park. Estimated £100,000;
- 9) Lift: Stair/lift access to Viaduct Park at the beginning of this new area of linear open space. Estimated £100,000;
- 10) Viaduct access: stair access to Viaduct Park. £100,000;
- 11) Lift: Stair/lift access to Viaduct Park from public realm to the north of the Canal at the end of Viaduct Park providing a key connection to the end of Floodgate Street and the new pedestrian bridge. Estimated £100,000;
- 12) Upper Level Bridge: Bridge connection between existing viaduct structures to ensure that the full length of Viaduct Park is delivered. Improvements at ground floor including surfacing, tree planting, street furniture and lighting. Estimated £1,000,000;
- 13) Upper Level Bridge: Bridge connection between existing viaduct structures to ensure that the full length of Viaduct Park is delivered. Improvements at

ground floor including surfacing, tree planting, street furniture and lighting. £750,000; and

- 14) Activation of arches to Viaduct: new hard landscaping with the ability to accommodate active ground floor uses. Estimated £1,000,000
- 6.357 The total estimated cost on the public realm within the hybrid site amounts to £13,650,000.
- 6.358 The FVA has been independently assessed by the Council's consultants who have concluded that, the overall viability of the detailed application would provide sufficient headroom for the allocation of 10% or 4 units on-site as affordable dwellings as well part of the Custard Factory Living plot. This would be in the form of affordable private rented units at a 20% discount to market rent.
- 6.359 Whilst acknowledging the detailed scheme is not able to meet the 35% target outlined in Policy TP31 or the other requests for contributions the provision of 10% affordable units on site would meet paragraph 64 of the NPPF that expects at least 10%. Plus this provision would be in addition to an estimated spend of £750,000 on the public realm within this first phase. Officers consider that the proposed replacement bridge across the River Rea with its associated public realm would be a significant benefit, promoting the accessibility of the area, encouraging cycling and walking into and out of the City Centre and improving the visual amenity of this part of the site. Furthermore national guidance states that the weight to be given to a viability assessment is a matter for the decision maker, and it acknowledges that the cost of all relevant policies should not be of a scale that would make a development unviable.
- 6.360 Consideration of the viability of the outline site is more complex. First it is a large site, covering 17.88ha. Next with a construction period of 15 years costs and output sales values are likely to change. Plus as the applicants own less than half of the site area they will need to acquire a significant proportion of the site and land values and are likely to fluctuate. From the outset the submitted viability assessment states that the outline part cannot afford to provide any affordable housing on or off site. However basing the viability on the assessment submitted would be a snapshot of the market now and would not be a true representation of viability at the point of implementation. Therefore a series of reviews is proposed to ascertain whether there is headroom for on site and off site planning obligations at the point of each first reserved matters application. The reviews would take into account the spend on the public realm within that associated block.
- 6.361 To highlight, the spend on the public realm in the outline application includes the delivery of Viaduct Park including two high level bridges necessary to construct one linear area of open space of 4,144sqm and four points of access from the ground floor. In addition there would be a bridge across the canal with associated open space, a bridge across the River Rea and its associated open space to open up this part of the River and a west east link from Bordesley Street to Allcock Street.

- 6.362 The amount of publically accessible open space at ground level would total 27,105sqm. Whilst there have been requests for contributions towards open space, the figures above would be delivered in addition to Eastside City Park, Garrison Lane Park and Kingston Hill Local Park, which are all located within a 10 minute walk. It is considered that the delivery of the open space and public realm on site would mitigate for an off site contribution towards open space.
- 6.363 Unfortunately the scheme cannot afford to contribute towards education and sports facilities, however it is considered that with respect to the latter the on site improvements to the public realm and open space would provide some capacity of outdoor recreation.
- 6.364 The application site falls within a high value area that attracts a CIL payment in respect of the proposed hotel and student accommodation.

7 The Planning Balance and Conclusions

- 7.1 Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with proposals for planning permission, regard must be had to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that *'If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.'*
- 7.2 The starting point is the development plan, and the proposed hybrid development would accord with a number of BDP Policies by providing mix of uses within the City Centre Growth Area, enhancing existing and delivering additional links for walking and cycling through this part of the City, improving the public realm via the provision of areas of open space, opening up the River and not least by providing Viaduct Park. Furthermore the Digbeth, Deritend and Bordesley High Streets (DD&BHS) Conservation Area Character Appraisal acknowledges that the site contains a number of void buildings, gap sites and buildings that suffer from neglect and, subject to adherence with the Design Code the proposed development would enhance the Conservation Area in these respects.
- 7.3 There are however conflicts with the BDP. Policy TP12 states that great weight will be given to the conservation of the City's heritage assets and that development affecting a designated or non-designated heritage asset or its setting, will be expected to make a positive contribution to its character, appearance and significance. It is considered that there would be harm to the existing heritage assets as set out below:
- Phase 1a (outline) Blocks K, P & T - less than substantial harm would be caused to the character and appearance of the Digbeth Deritend and Bordesley High Street Conservation Area;

- Phase 2 (outline) Blocks E & R - less than substantial harm to the significance of the Warwick Bar Conservation Area and a degree of harm to the significance of the Bond group of locally listed buildings;
- Phase 3 River (outline) Blocks B & C - total loss of significance of the locally listed W.J.Wild No.4 Works (Rea Studios), harm to the setting and thereby significance of Wild Works group of buildings and less than substantial harm to the Digbeth Deritend and Bordesley High Street Conservation Area;
- Phase 3 Bordesley (outline) Blocks L & S - harm to the significance of locally listed Bordesley Viaduct and less than substantial harm to the character and appearance of the Digbeth Deritend and Bordesley High Street Conservation Area;
- Phase 3 High Street (outline) Part of Block G & Block Q - less than substantial harm to the Digbeth Deritend and Bordesley High Street Conservation Area;
- Phase 3 Viaduct (outline) Blocks J, H, M & N - less than substantial harm to the character and appearance of the Digbeth Deritend and Bordesley High Street Conservation Area;
- Phase 4 (outline) Blocks D & E - less than substantial harm to the character and appearance of the Digbeth Deritend and Bordesley High Street Conservation Area and harm to the setting and therefore significance of the locally listed to buildings known as 48 to 52 Jukes (Birmingham) Ltd (The Arch) and W.J. Wild No.6 Personnel Department both within Floodgate Street;
- Phase 1 (detailed) Block A and part of Block G - harm to the significance of the locally listed Wild 2 and Wild 3 buildings and to the Wild Works group of buildings along Floodgate Street, harm to the significance of the locally listed Bordesley Viaduct and less than substantial harm to the Digbeth Deritend and Bordesley High Street Conservation Area; and
- Hybrid Application - cumulative harm to the character and appearance of the Digbeth Deritend and Bordesley High Street and Warwick Bar Conservation Areas resulting from loss or partial loss of locally listed buildings, loss of buildings that contribute positively to the character and appearance of the conservation areas, and through the introduction of increased scale to parts of the conservation areas. This would cause less than substantial harm to both conservation areas. This harm would be greater for the Digbeth Deritend and Bordesley High Street Conservation Area but still falls within less than substantial harm.

7.4 Therefore there is total loss of significance of W.J. Wild Works No.4 (Rea Studios), a non designated heritage asset, plus some harm to a small number of locally listed buildings also defined as non heritage assets within the application site. There is cumulative harm to both Conservation Areas however this harm is at a level of less than substantial. There is also less than substantial harm to the Grade II listed Rotunda that is located outside of the application site. This harm to heritage assets

and subsequent conflict with Policy TP12 triggers the application of the tests found at Paragraphs 196 and 197 of the NPPF and it is necessary to consider whether the public benefits of the scheme outweigh the harm to these heritage assets.

7.5 The proposed development would provide the following public benefits:

Environmental Benefits

- new pedestrian routes providing enhanced links within the area and to the wider city centre core and neighbouring destinations including a new linear open space along Viaduct Park;
- Improving the amount and quality of the public realm and open spaces and opening up the River;
- retaining and increasing opportunities for street art;
- Creating and enhancing the habitat of the River Rea and Grand Union Canal to deliver long term benefits to biodiversity;

Heritage Benefits

- providing additional opportunities to experience the river rea, enhance its surroundings and facilitate and understanding of the area's historic relationship with the river;
- reinstating historic buildings lines and enclosure along streets within the Digbeth conservation area;
- increasing the incidence, juxtaposition, variety and quality within the townscape around the viaducts leading to a greater appreciation of their form and structure via development under the arches, maintaining Bordesley Viaduct, removing negative development adjacent to Duddeston Viaduct within the site and framing the viaducts with new buildings and extensions;
- enhancing the quality of views within the conservation areas through the removal of negative elements of the built environment and gap sites;
- encouraging greater appreciation of the group and townscape value of the canal assets within the Warwick Bar Conservation Area through greater connectivity between the canal and the wider area and in views from Viaduct Park;
- improving the ability to appreciate the architectural form of the former St Basil's Church from Viaduct Park;

Economic Benefits

- bringing vacant or underutilised buildings back into use, supporting their long term viable use and retention;

- creating a range of new and improved commercial floorspace providing opportunities for a range of businesses from small scale start-ups to larger companies;
- generating direct net additional employment of approximately 7,250 FTE jobs in the wider impact area of the West Midlands regional economy, inclusive of 3,300 FTE jobs that are likely to be taken up by those living in the local impact area of the administrative area of BCC;
- generating up to 245 net full time jobs during the construction period;
- Creation of up to 16,400 gross full time equivalent jobs supported by the proposed on site uses within the application site;
- £462.4million in GVA generated during the construction phase to the West Midlands economy of which £423.6 million could contribute to the growth of the Birmingham economy;
- £753.6 million on site GVA generation generated by proposed uses and gross employment;
- potentially delivering a 350 bed hotel;
- £29.9 million per annum expenditure on retail and leisure by residents which will support 170 jobs in these sectors;
- £9.6 million expenditure in retail and leisure per annum generated by hotel visitors supporting jobs in these sectors in the local and wider economy.

Social Benefits

- supporting the Custard Factory and environs as a cultural destination;
- increasing the level of activity and vibrancy to the area creating a truly mixed-use area with new homes, retail and leisure uses
- generating a population of approximately 3,400 residents with the majority of residents (78%) of working age (15-64 years) equivalent to 2,406 residents;
- delivering up to 1,850 houses to help meet the City's housing need;
- creating additional areas of public realm offering places for workers, residents and visitors to socialise, relax and enjoy the enhanced environment, leading to improved health and wellbeing; and
- building community cohesion through the provision of opportunities for on-site education and community facilities.

7.6 In my view, applying the relevant statutory tests as set out in Sections 66 and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the policy tests of paragraphs 196 and 197 of NPPF, and the conflict with Policy TP12, whilst

attaching great weight and importance to the less than substantial harm that the development would cause to the significance of the heritage assets, it is concluded that the public benefits of the development identified above outweigh such harm.

- 7.7 Separate to the above is the conflict with strategic Policies TP38 and TP41 resulting from the potential prejudice to the Midlands Rail Hub (MRH), in particular the option of widening the Bordesley Viaduct. In the case of the recent appeal decision at 193 Camp Hill the Inspector concluded that this potential conflict would bring the scheme into conflict with the development plan as a whole. However like 193 Camp Hill the conflict is afforded limited weight as there is no safeguarding policy within the BDP to preclude development to the north of Bordesley Viaduct, the Midlands Rail Hub is not a committed scheme and the widening of the Viaduct is only one of the options explained in the SOBC of 2019. In my opinion the material considerations in terms of the environmental, heritage, economic and social benefits as listed above outweigh the conflict with Policies TP38 and TP41.
- 7.8 In order to secure the weighting afforded to the benefits outlined above the conditions and legal agreements will ensure that the physical benefits to the public realm are delivered on a block by block basis. This will be achieved through the completion of a Section 106 Legal Agreement in relation to those parts of the application site in the control of the developer (with subsequent Supplemental Section 106 Legal Agreements in respect of the balance of the application site secured pursuant to the planning conditions).

Conclusions

- 7.9 The proposed hybrid application would deliver a significant contribution to the wider regeneration of Digbeth delivering new homes and jobs alongside new retail, hotel, leisure and community opportunities. As such it would provide an effective use of previously developed land at a sustainable location and meet important local growth objectives as set out in the BDP and the Curzon Masterplan for the area. It also seeks to create new and improved public realm, a unique destination in the form of Viaduct Park, greater opportunities from walking and cycling, encourage the cultural and artistic offer, improve safety through natural surveillance and increased footfall and deliver new and exciting townscape. As such it is considered to accord with BDP Policies PG2, PG3, TP28, TP30, TP39, TP40 and the NPPF.
- 7.10 The aim of the hybrid planning application is to ensure flexibility while establishing a coherent approach across the site that allows individual development plots to come forward within an agreed set of site wide principles. However these improvements necessitate the loss of commercial floorspace and the redevelopment of sites within the existing Conservation Areas to increase the viability of the scheme to enable the benefits to be delivered. Some of this redevelopment is contrary to Policy. However it is considered that the Council would have sufficient control through the development specification, parameter plans and design code to ensure that the redevelopment is of high quality and creates a place that is attractive to residents, businesses and visitors alike. Having undertaken a planning balance it is concluded

that there are sufficient material considerations to outweigh the harm to heritage assets and the conflict with the development plan.

- 7.11 The impacts of the hybrid application upon biodiversity, flooding, drainage, energy, sustainability, contamination, noise, amenity and transportation have been assessed and it is considered that, subject to safeguarding conditions, the proposals comply with Policies PG3, TP6, TP7, GA1.1, TP44, TP7, TP8, TP4 of the BDP and emerging Policy DM2 and DM3 of the Development Management DPD and the NPPF. The significant impacts as described in the ES, including the cumulative impacts have been considered and again the subject to safeguarding conditions the impacts are considered to be acceptable.

8. Recommendation

- 8.1 That application 2020/03634/PA be APPROVED subject to conditions and the prior suitable Legal Agreement to secure the following:

- a) in respect of the detailed part of the application, 4 residential units (10%) on-site affordable private rent dwellings at a 20% discount to Market Rent;
- b) All of the following additions and improvements to the public realm:
 - 1) River Street Bridge: Pedestrian bridge connect new piece of public realm to Barn Street over River Rea;
 - 2) Activation of River Rea: creation of open square and seating. Repair works and improvements to the River embankments and River bed;
 - 3) Floodgate Street bridge: spanning the canal to create a key pedestrian/cycle link to the northern side and a canal square on the southern side, seating areas, canal side planting;
 - 4) Activation of River Rea: creation of public space between Floodgate Street and the River enabling access to the edge of the River wall;
 - 5) Custard Factory Bridge: new accessible bridge to replace existing within proposed area of public realm comprising new surfacing, stepped and ramped access, tree planting and seating areas. Rain gardens, tree planting, loading areas and traffic calming measures along Floodgate Street;
 - 6) Activation of River Rea: improvements to public realm to encourage ground floor uses to animate public spaces. Repair works and improvements to River embankments and River bed;
 - 7) Upper Level Bridge: New bridge to connect the upper level roof top leisure offer of the proposed Lower Trinity Street car park to Viaduct Park. Ground level improvements to public realm including surfacing, tree planting, street furniture and lighting;

- 8) Viaduct access: stair access to Viaduct Park from the proposed adjacent public space at mid point to Viaduct Park;
 - 9) Lift: Stair/lift access to Viaduct Park at the beginning of this new area of linear open space;
 - 10) Viaduct access: stair access to Viaduct Park;
 - 11) Lift: Stair/lift access to Viaduct Park from public realm to the north of the Canal at the end of Viaduct Park providing a key connection to the end of Floodgate Street and the new pedestrian bridge;
 - 12) Upper Level Bridge: Bridge connection between existing viaduct structures to ensure that the full length of Viaduct Park is delivered. Improvements at ground floor including surfacing, tree planting, street furniture and lighting;
 - 13) Upper Level Bridge: Bridge connection between existing viaduct structures to ensure that the full length of Viaduct Park is delivered. Improvements at ground floor including surfacing, tree planting, street furniture; and
 - 14) Activation of arches to Viaduct: new hard landscaping with the ability to accommodate active ground floor uses. Estimated £1,000,000;
- c) Submission of a review of the Financial Viability Assessment (FVA) with each reserved matters submission and appropriate payment for independent assessment of the FVA. If that FVA identifies that the development set out in the reserved matters submission could sustain a planning obligation it shall take the form of affordable housing (on-site or an off-site financial contribution) totalling no more than 35% affordable housing;
- d) Payment of a monitoring and administration fee associated £10,000 (minimum).

8.2 In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority on or before 1st July 2021 or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reasons:

- 1) In the absence of a legal agreement to secure any affordable private rent dwellings at a 20% discount to Market Rent the proposal conflicts with Policy TP31 of the Birmingham Development Plan and the National Planning Policy Framework.
- 2) In the absence of any legal agreement to secure the additions and improvements to the public realm as described in points 1 to 14 above the development is contrary to Policies PG3, GA1.1, GA1.3, TP12, TP27 and TP47 of the Birmingham Development Plan and the National Planning Policy Framework.

- 8.3 That the City Solicitor be authorised to prepare, complete and seal an appropriate legal agreement and any necessary supplemental agreements under Section 106 of the Town and Country Planning Act.
- 8.4 That in the event of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority on or before 1st July 2021, or such later date as may be authorised by officers under delegated powers, planning permission for application 2020/03634/PA be APPROVED, subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

-
- 1 Detailed: Pre - Demolition: Method Statement
 - 2 Detailed: Pre - Demolition: Submission of Demolition Ecological Management Plan (DEcMP)
 - 3 Detailed: Pre - Demolition Submission of Demolition Environmental Management Plan (DEMP)
 - 4 Detailed: Pre - Demolition Submission of Demolition Traffic Management Plan (DTMP)
 - 5 Detailed: Prior to Commencement of Development Submission of Construction Ecology Management Plan (CEcMP)
 - 6 Detailed: Prior to Commencement of Development Submission of Construction Environmental and Management Plan (CEMP)
 - 7 Detailed: Prior to Commencement of Construction Traffic Management Plan (CTMP)
 - 8 Detailed: Pre - Demolition Submission of a Written Scheme of Investigation (WSI)
 - 9 Detailed: Prior to Commencement of Development Submission of a Contamination Remediation Scheme
 - 10 Detailed: Prior to Commencement of Development Submission of Sustainable Drainage Scheme
 - 11 Detailed: Prior to Commencement of Development Submission of Details of Surface Water Flood Resilience
 - 12 Detailed: Prior to Commencement of Development Submission of a Construction Employment Plan
 - 13 Detailed: Prior to Commencement of Development Details of public realm works (excluding replacement Bridge) and Hard and Soft Landscaping
 - 14 Detailed: Prior to Commencement of Development Details of Approved Replacement Bridge Across River
 - 15 Detailed: Prior to Commencement Details of Details of LZC energy installation(s)
-

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- 16 Detailed: Prior to Above Ground Works Submission of Sample Materials on Approved Buildings and Extensions
 - 17 Detailed: Prior to Above Ground Works Submission of Shopfront Design for commercial units at Wild Works and Custard Factory Living
 - 18 Detailed: Prior to Above Ground Works Submission of Biodiversity Enhancement Plan
 - 19 Detailed: Prior to Above Ground Works Submission of Extraction and Odour Control Details for A3 and A4 uses
 - 20 Detailed: Prior to Above Ground Works Submission of Details of Cycle Parking
 - 21 Detailed: Prior to Above Ground Works Submission of Details of CCTV scheme
 - 22 Detailed: Prior to Occupation Submission of a Contaminated Land Verification Report
 - 23 Detailed: Prior to Occupation of Plot CF2 Submission of a scheme of Noise Insulation (Between commercial use at ground floor residential)
 - 24 Detailed: Prior to Occupation of Plot CF2 Submission of a scheme of Noise Insulation to residential units to Achieve Sound Reduction (glazing/building envelope)
 - 25 Detailed: Prior to Occupation of Plot CF2 Submission of means of enclosure and landscaping to podium garden
 - 26 Detailed: Prior to Occupation of Plot CF2 Vehicle access to River Rea
 - 27 Detailed: Prior to Occupation Submission of a Sustainable Drainage Operation and Maintenance Plan
 - 28 Detailed: Prior to Occupation Implementation of Public Realm (including replacement bridge)
 - 29 Detailed: Prior to Occupation Submission of landscape management plan
 - 30 Detailed: Prior to Occupation Installation and Retention of Flood Resilience measures for the Wild Works and Custard Factory Living
 - 31 Detailed: Post Occupation Submission of BREEAM standard very good certificate/statement
 - 32 Detailed: Rating Levels for cumulative noise from all plant and machinery
 - 33 Detailed: Maximum Noise Levels Emanating from Commercial Noise
 - 34 Detailed: Implement within 3 years (Full)
 - 35 Detailed: Implemented in accordance with Approved Plans
 - 36 Detailed: Pedestrian Bridge Soffit Level
 - 37 Detailed: Finished floor levels for the Wild Works and Custard Factory Living
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- 38 Detailed: Limits the maximum gross floorspace of each single unit within Retail Use Classes A1 to A5 (inclusive) to maximum of 1,050sqm
 - 39 Detailed and Outline: Limits the maximum gross floorspace within Retail Use Class A1 to maximum of 2,500sqm
 - 40 Outline: Reserved Matters Submission of Development Plot and Public Realm Delivery Phasing Plan
 - 41 Outline: Reserved Matters Submission of Build Out Plan showing Amount of Development and Parking Spaces Consented and Completed and a Comparison with Floorspace Schedule
 - 42 Outline: Reserved Matters submission to be accompanied by a completed Design Code Checklist
 - 43 Outline: Reserved Matters Submission of a Further Bat Survey
 - 44 Outline: Reserved Matters Submission of Student Needs Assessment
 - 45 Outline: Reserved Matters submission to be accompanied by Noise Assessment including noise mitigation measures
 - 46 Outline: Reserved Matters submission to be accompanied by Vibration Assessment from Railway including measures
 - 47 Outline: Reserved Matters Submission of Air Quality Assessment Including Necessary Mitigation Measures
 - 48 Outline: Reserved Matters Submission of Updated Energy Statement Including Details of Proposed LZC Energy Generation Installation(s)
 - 49 Outline: Reserved Matters Submission of Daylight, Sunlight and Overshadowing Assessment
 - 50 Outline: Reserved Matters Submission of Updated Ecological Appraisal, Mitigation Strategy and Biodiversity Enhancement Plan
 - 51 Outline: Reserved Matters Submission of Proposed Art Strategy
 - 52 Outline: Reserved Matters Submission of Largescale Details of Public Realm for relevant Block
 - 53 Outline: Reserved Matters Submission of Details of Upper Level Bridges
 - 54 Outline: Reserved Matters Submission of Details of Canal Bridge
 - 55 Outline: Reserved Matters Submission of Details of Bridge Across River Rea and Viewing Platform (between Barn Street and River Street)
 - 56 Outline: Reserved Matters Submission of a structural survey for Development Plots near the River Rea
 - 57 Outline: Reserved Matters Submission of details of foundation design of development
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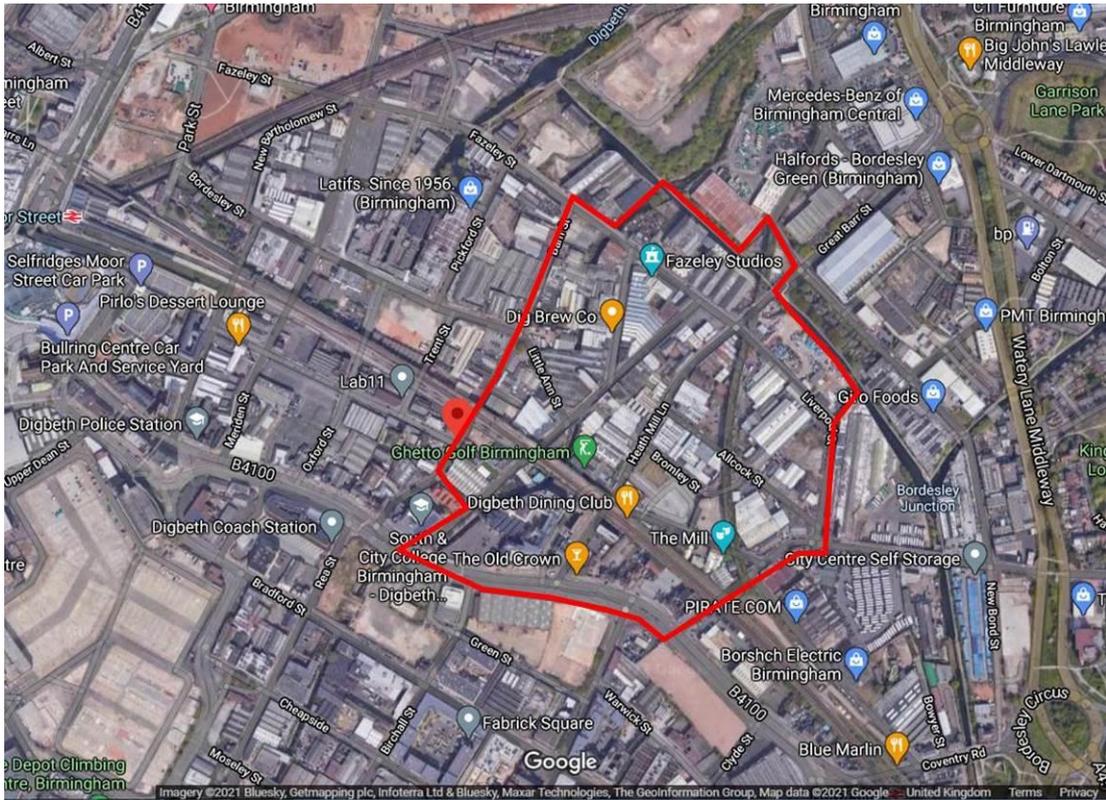
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- adjacent to canal
- 58 Outline: Reserved Matters Submission of details of full 3D modelled shading study of canal and towpath
- 59 Outline: Reserved Matters Submission of Flood Risk Assessment and/or Flood/Surface Water Resilience strategy for Development Plots
- 60 Outline: Reserved Matters Submission of hydraulic modelling
- 61 Outline: Reserved Matters Submission of a scheme of maintenance access to the River Rea (Development Plots within 8m of River)
- 62 Outline: Reserved Matters Submission of Signage and Wayfinding Plan
- 63 Outline: Reserved Matters Submission of Sustainable Drainage Scheme
- 64 Outline: Reserved Matters Submission of Details of Viaduct Park
- 65 Outline: Reserved Matters Submission of Details of the Management of Public Access to Viaduct Park
- 66 Outline: Reserved Matters Submission (Development Plot V2A Multi Storey Car Park) of Parking Management Strategy and Details of Transport Hub
- 67 Outline: Reserved Matters Submission of details of how MSCP (Development Plot V2A Multi Storey Car Park) can be re-purposed and closure of MSCP
- 68 Outline: Reserved Matters Submission of Cycle Storage details
- 69 Outline: Reserved Matters Submission of Effect of Buildings Upon Wind speed on Bordesley Viaduct
- 70 Outline: Reserved Matters Submission of Effect of Reflections and glare from buildings on rail signal sighting
- 71 Outline: Reserved Matters Submission of Details of impact upon electronic communications infrastructure associated with the existing railway.
- 72 Outline: Prior to Demolition of a Development Plot Completion of a Supplemental Section 106 Agreement in respect of the associated block
- 73 Outline: Prior to Demolition of a Development Plot Submission of Demolition Method Statement
- 74 Outline: Prior to Demolition of a Development Plot Submission of Demolition Ecological Management Plan (DEcMP)
- 75 Outline: Prior to Demolition of a Development Plot Submission of Demolition Environmental Management Plan (DEMP)
- 76 Outline: Prior to Demolition with a Development Plot Submission of Demolition Traffic Management Plan (DTMP)
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- 77 Outline: Prior to Commencement of a Development Plot Submission of Construction Ecology Management Plan (CEcMP)
 - 78 Outline: Prior to Commencement of a Development Plot Submission of Construction Environmental Management Plan (CEMP)
 - 79 Outline: Prior to Commencement of a Development Plot Submission of Construction Traffic Management Plan (CTMP)
 - 80 Outline: Prior to Commencement of a Development Plot Submission of Ventilation and Flue Strategy for commercial uses
 - 81 Outline: Prior to Commencement of a Development Plot Submission of a Contamination Remediation Scheme
 - 82 Outline: Prior to the Commencement of Development Plot Submission of a Written Scheme of Investigation (WSI)
 - 83 Outline: Prior to the Commencement of Development Plot Submission of Construction Employment Plan
 - 84 Outline: Prior to the Commencement of Development Plot Submission of materials
 - 85 Outline: Prior to Occupation Submission of a Contaminated Land Verification Report
 - 86 Outline: Prior to Occupation Submission of CCTV Strategy to Public Realm Areas within that Block
 - 87 Outline: Prior to Occupation Submission of Sustainable Drainage Operation and Maintenance Plan
 - 88 Outline: Post Occupation Submission of BREEAM Certification
 - 89 Outline: Prior to Occupation Submission of Landscape and Ecology Management Plan (LEMP)
 - 90 Outline: Requires the submission of reserved matter details (access, appearance, landscaping, layout and scale)
 - 91 Outline: Timing of Submission of Reserved Matters Applications and Implementation (12 years for submission of RM's & implementation before the expiration of two years from the final approval of the RMs)
 - 92 Outline: In accordance with Approved Parameter Plans/Retention Plans/Design Code
 - 93 Outline: In accordance with Floorspace Schedule indicating maximum floorspaces within each Use Class
 - 94 Outline: Submission of Environmental Statement Phasing should there be Unassessed Environmental Effects
 - 95 Detailed and Outline: Limits the maximum gross floorspace within Retail Use Class A1 to maximum of 2,500sqm
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- 96 Outline: Limits the maximum gross floorspace of each single unit within Retail Use Classes A1 to A5 (inclusive) to maximum of 1,050sqm
- 97 Outline: No demolition approved and no demolition undertaken prior to a redevelopment contract being entered into
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Case Officer: Julia Summerfield

Photo(s)



Proposed Hybrid Application Site



Detailed Site – Wild Works Plot CF1 Floodgate Street
with Grade II* Former Floodgate School in Background



Detailed Site Plot CF3 - Custard Factory View from Gibb Street



Detailed Site – Floodgate Street with Proposed Custard Factory Living (Plot CF2) to right hand side and Bordesley Viaduct in Background



Outline Site – Rea Studios (locally Listed), Floodgate Street/Little Ann Street



Outline Site - The Bond (Locally Listed) / Grand Union Canal



Outline Site – The Arch (Locally Listed), Floodgate Street



Outline Site – St. Basil's Church (Grade II Listed), Heath Mill Lane



Outline Site – Heath Mill Lane
with Custard Factory in Background



Outline Site – No. 175 High Street Deritend
With Former Grade II listed Church to right hand side



Outline Site – Liverpool Street
looking towards junction with Heath Mill Lane

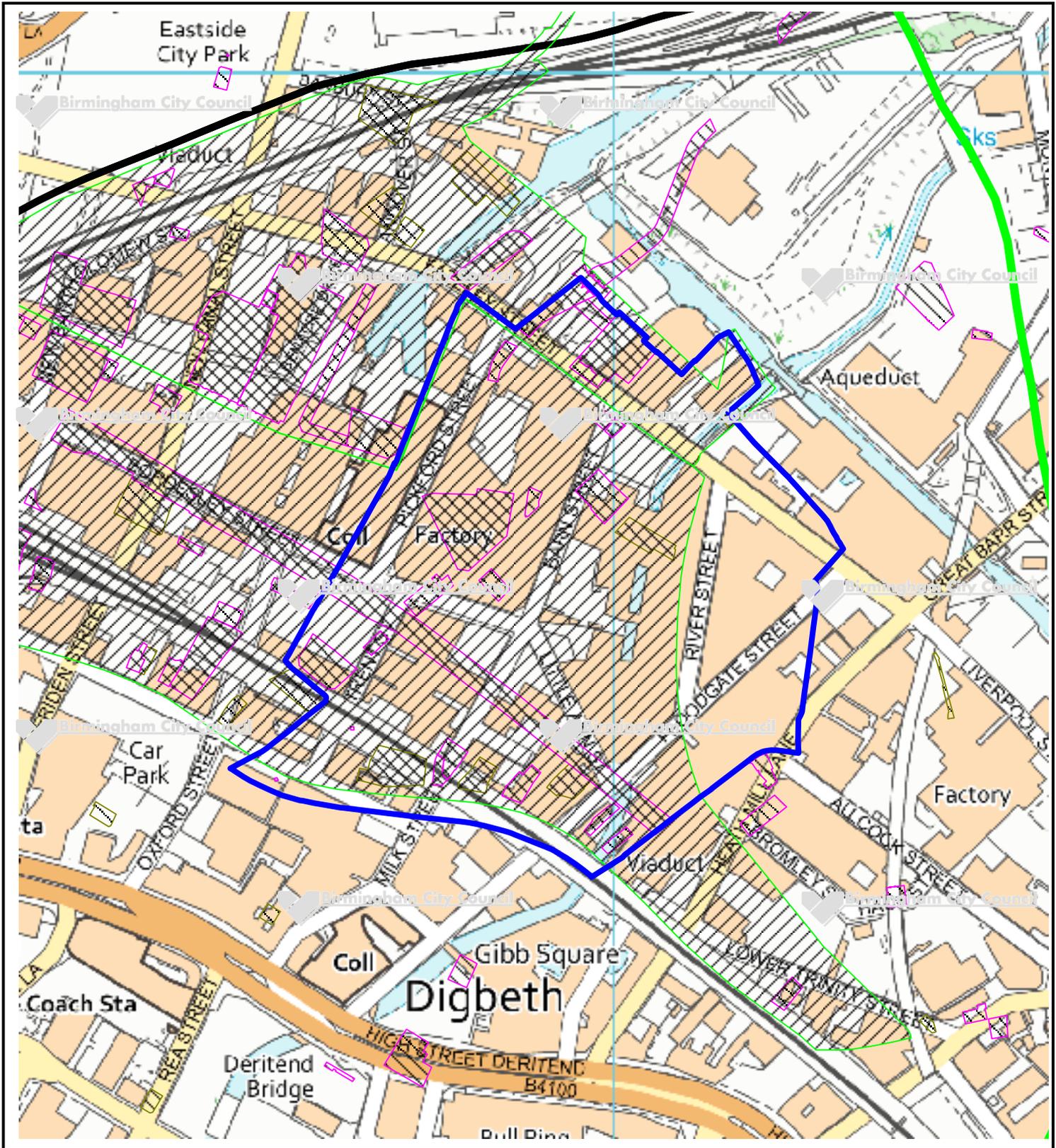


Outline Site – Looking Eastwards Along Lower Trinity Street towards Duddeston Viaduct



Outline Site – Former WJ Wild No.6 Works (Locally Listed),
River Street/Floodgate Street

Location Plan



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|-----------------|------------|---------------------|---------------|
| Committee Date: | 29/04/2021 | Application Number: | 2020/08215/PA |
| Accepted: | 19/10/2020 | Application Type: | Full Planning |
| Target Date: | 30/04/2021 | | |
| Ward: | Ladywood | | |

Land bounded by Paradise Circus, Great Charles Street Queensway and Paradise Place, Plot A of Phase 3 of Paradise Development Site, Paradise, City Centre, Birmingham

Demolition of existing buildings, site clearance and the erection of 49 storey building comprising 370 residential apartments (Use Class C3), lower ground/upper ground floor commercial/leisure space (Use Class E (a), (b) and (d) and residents' reception, amenity space, storage and cycle parking, accessible parking spaces, pedestrian and service vehicular access, highway works, plant, landscaping and associated works.

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

Use and Amount of Development

- 1.1. The development comprises 370 residential units (Use Class C3) in a 49 storey tower. The proposed mix of apartments is as follows:
 - 218 x 1 bed 2 persons
 - 144 x 2 bed 4 persons
 - 8 x 3 bed 6 personsThis equates to 59% 1 bed, 39% 2 bed and 2% 3 bed apartments.
- 1.2. The proposed size of apartments are as follows:-
 - 1 bedroom (2 persons) – 51.3-52.5 sqm
 - 2 bedroom (4 persons) – 77.6 sqm
 - 3 bedroom (6 persons) – 115 sqm
- 1.3. The applicant has confirmed the proposed delivery of 30 apartments for affordable private rent equating to 8.1% of the total number of apartments.
- 1.4. In addition, the scheme proposes non-residential elements in the form of a commercial unit on the lower ground floor, which would be accessed via its own entrance off Great Charles Street Queensway. Planning permission is sought for commercial uses for the unit within Use Classes E (a), (b) and (d).
- 1.5. There are no car parking spaces proposed for residents or the commercial tenants. However, four accessible parking spaces would be provided at ground level immediately adjacent to the building and there is up to 550 car parking spaces that

would be provided as part of the wider Paradise development. An on-site cycle store would be provided for residents, accessed off Paradise Circus via a dedicated door providing 225 cycle storage spaces.

- 1.6. Service access into the site would be taken from Paradise Circus Queensway/ Great Charles Street. A new lay-by would be provided to accommodate vehicles that may be required for servicing and deliveries.

Design and Access

- 1.7. The scheme proposes the World's first pure residential octagonal high rise building at a height of 155 metres (or 292 metres above sea level). The façade would incorporate a satin finish frame and infill glazing cassettes. Articulation of the frame accentuates each quadrant of Octagon with each relating to an individual apartment.



- 1.8. Each apartment would benefit from an expansive 13m frontage which would provide panoramic views over Birmingham. The specific angle of the window cill as well as allowing for expansive views from each unit will also promote water run-off to reduce pollution staining. Having a less open angle to the window head reduces solar gain into the building while also allowing space within the facade build up to integrate mechanical ventilation.

- 1.9. The external façade of the building would comprise satin finish anodic polyester powder coated aluminium which would be 'light champagne' in base colour, but highly variable in actual appearance according to the light conditions and angle of view.
- 1.10. The building elevational arrangement incorporates a clear expression of an architectural base, middle, and crown.
- 1.11. To the base - triple height glazing to retail and residential entrance spaces would be provided, within a frame expressing the plan form.



- 1.12. To the middle - a clear language highlighting each individual apartment with a 10m wide single panoramic window within expressed frame.



- 1.13. To the top - plant space would be provided behind an articulated vane which would also house the building maintenance units.



- 1.14. The Lighting Strategy seeks to integrate lighting within the architecture and comprises of subtle backlighting at the Octagon's crown providing a recognisable marker in the evening city skyline.
- 1.15. Other lighting elements proposed within the surrounding public realm would include: ambient lighting at entrance level; task lighting integrated in handrails; accent lighting for seating areas; ambient lighting from existing columns; decorative lighting to planters; and accent lighting for trees.
- 1.16. Design changes were introduced in March 2021 and further consultation was undertaken by the Council. The proposed alterations comprise of the following:-
- removal of the basement, revised building entrances/access strategy and rationalisation of the ground floors;
 - changes to residential floors, and the removal of plant space to be replaced with additional residential apartments;
 - minor alterations to the façade including consequential amendments resulting from the changes to the internal layout.
- 1.17. The application has been accompanied by the following supporting documents:
- Planning Statement including tall building assessment and Affordable Housing assessment (and Addendum);
 - Design and Access Statement;
 - Public Realm Lighting Strategy;
 - Statement of Community Involvement;
 - Heritage Assessment;
 - Transport Statement;

- Travel Plan;
- Air Quality Assessment (and additional technical note);
- Sustainable Construction Statement;
- Energy Statement;
- Sustainable Drainage Statement;
- Land Contamination Preliminary and Quantitative Risk Assessment;
- Overarching Written Scheme of Investigation;
- Ecological Appraisal;
- Instrument Flight Procedure Safeguarding Assessment;
- Birmingham Radar Safeguarding Assessment;
- TV Reception Study;
- Telecommunication Services Study; and
- Ventilation Statement.

1.18. In addition a Viability Statement has been submitted, which seeks to demonstrate that the scheme cannot support the contribution toward affordable housing or any sums towards planning obligations. However, the applicant has committed to honouring the level of on-site affordable private rent originally proposed when the application was submitted. It is therefore proposed to deliver 30 no. apartments for affordable private rent (8.1% of the total number of apartments).

1.19. An Environmental Statement (ES) has been submitted pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 to assess the likely significant environmental impacts arising from the development including any cumulative effects with other developments during the construction and operational phases of the scheme. It also identifies any mitigation measures that are required to address these environmental effects.

1.20. Following a scoping exercise the topics covered in the ES are Sunlight, Daylight, Overshadowing and Solar Glare, Wind, Noise and Vibration, Townscape and Visual, Built Heritage, Socio-Economics and Human Health and the Assessment of Cumulative Effects.

1.21. [Link to Documents](#)

2. Site & Surroundings

2.1. The application site lies at the northernmost corner of the Paradise masterplan, adjacent to the junction of Great Charles Street and Paradise Circus. It forms a gateway to the masterplan from the north and a marker for those arriving from the Jewellery Quarter.

2.2. The application site is irregular in shape, comprising 77 Paradise Circus Queensway an 8 storey office building which will be demolished to facilitate the proposals. The remainder of the site is hardstanding, including an existing access road, parts of the surrounding A4400 and pavement, and areas currently being used as a compound associated with the construction of the wider Paradise development.



- 2.3. The application site is relatively flat in nature, with a fall in levels of approximately 2m from north to south. There are no trees located within the application site, and only very limited incidental areas of vegetation.
- 2.4. The site forms part of a transitional area between the traditional 'City Core' - including the Central Business District, Retail Core, and civic heart - to the east and the south, the Jewellery Quarter (predominantly residential) to the north, and the wider 'Westside' convention and entertainment quarter to the west.
- 2.5. Summer Row and University College Birmingham are located to the north and north east, and beyond that the Jewellery Quarter; the Council House and Museum & Art Gallery (Grade II* Listed) are located to the east, and beyond that the Colmore Business District; to the south east lies the Town Hall (Grade I listed), Victoria Square, Baskerville House (Grade II listed), Hall of Memory (Grade 1 listed), and beyond that the traditional Retail Core; to the south west lies Arena Central and Alpha Tower (Grade II listed); and to the west lies Centenary Square, Brindley Place and Broad Street.
- 2.6. The application site does not reside within a conservation area, however, the Colmore Row and Environs Conservation Area is located to the east of the application site: the boundary runs along Congreve Passage through Chamberlain Square and onto Paradise Queensway. The Jewellery Quarter Conservation Area's southern boundary runs along Summer Row which is located to the north and north east.



3. Planning History

- 3.1. 08.02.2013 – 2012/05116/PA – Approval - Outline planning application (all matters reserved save for access) for demolition of all buildings on the site (save for the Joseph Chamberlain Memorial) and commercial led mixed use redevelopment of up to 170,012 square metres gross internal floorspace, comprising offices (Use Class B1a), retail and leisure units (Use Classes A1/A2/A3/A4/A5/D1/D2), concert hall (D2), energy centre (Sui Generis), together with a hotel of up to 250 bedrooms (Use Class C1), car parking, highways works (to include the closure of eastern arm of Paradise Circus gyratory), public realm improvements and associated works including alterations to public rights of way. Approved.
- 3.2. 10.10.2014 – 2014/05319/PA – Variation of Conditions 2, 5, 6, 7, 10, 11, 12, 13, 15, 16, 18, 22, 24, 25, 26, 27, 29, 30, 32, 36 and 55 attached to planning permission 2012/05116/PA. Approved.
- 3.3. 17.09.2015 – 2015/05010/PA – Reserved matters application (scale, appearance, layout and landscaping) pursuant to outline approval 2014/05319/PA for phase 1 public realm (including Chamberlain Square) and basement car park/servicing areas. Approved.
- 3.4. 17.09.2015 – 2015/05012/PA – Reserved matters application (scale, appearance, layout and landscaping) pursuant to outline approval 2014/05319/PA for the erection of an eight storey office and retail building (Building D) and associated development. Approved.
- 3.5. 17.09.2017 – 2017/03356/PA – Variation of conditions 40, 43 and 44 to allow for changes to the approved plans and design protocol, variation of condition 56 to allow for a reduction in the minimum distance between the hotel and building F, variation of condition 41 to allow for an increase in the number of hotel bedrooms and the removal of condition 53 to remove the requirement for the replacement of the Adrian Boulton Hall of application 2014/05319/PA. Approved.

- 3.6. 01/03/2018 – 2017/10835/PA – Reserved Matters Application (scale, appearance, layout and landscaping) pursuant to outline planning permission 2017/03356/PA for the erection of a fourteen storey office and retail building (Building G) and associated development. Approved.
- 3.7. 27/12/2018 – 2018/09441/PA – Reserved Matters application (scale, appearance, layout and landscaping) pursuant to outline planning permission 2017/03356/PA for public realm proposals relating to Phase 2a of the development. Approved.
- 3.8. 26/07/2019 – 2019/05220/PA – Variation of Condition No 41 attached to approval 2017/03356/PA to vary the wording to enable the proposed restaurant operator to occupy Retail Unit. Approved.
- 3.9. Various Non-material Amendments approved.
- 4. Consultation/PP Responses
- 4.1. BCC Education (School Organisation Team) – Request a contribution of £684, 896.97 for provision of places at local schools.
- 4.2. BCC Employment Access Team – request local employment obligations either via a legal agreement or condition.
- 4.3. BCC Leisure Services – no objections. In accordance with BDP policy, this residential development is liable for an off-site POS and play area contribution of £721, 975.
- 4.4. BCC Regulatory Services – No objection subject to conditions to limit noise levels from plant and machinery, secure noise insulation between the communal and residential premises; a Contamination Remediation Scheme and Contaminated Land Verification Report.
- 4.5. BCC Transportation Development – No objection subject to conditions.
- 4.6. Birmingham Airport – No objection subject planning conditions imposed relating to lighting and cranes.
- 4.7. Birmingham Civic Society – Consider the height of the proposal to be excessive, but the scheme has many merits and could be supported if this were addressed.
- 4.8. Canal and Rivers Trust – No objection. Request that any travel plans, welcome packs, communal and on-site signage should all include references to the towpath routes and the canal access point at Summer Row.
- 4.9. Engie – Raised the following comments: District Heating has not been considered at all in the analysis of low carbon technology options; much more cost effective and energy effective option can be considered i.e., connection to BDEC with sleeving of heat from much more efficient Surface Water Source Heat Pump; cost of generating and billing the consumer with proposed air source heat pump will be much higher than the cost of heat from BDEC, given this phase is residential, these type of solutions will add to the fuel poverty debate; lot of small scale not so efficient air source heat pumps (COP of ~2 during winter months) in new developments is likely to put strain on electrical infrastructure within the city.

- 4.10. Environment Agency – No objection subject to prior submission of a remediation strategy and piling details.
- 4.11. Ancient Monument Society – Object. The AMS objects to the application due to the significant impacts the proposed development would have on the setting of a number of important historic buildings, structures and public spaces, particularly those immediately adjoining the Paradise Circus development site, including the grade I listed Birmingham Town Hall; grade I Hall of Memory, Grade II* Council House, City Museum and Council House Extension; grade II Edward VII Statue; and grade II Baskerville House. It directly affects the adjoining Jewellery Quarter Conservation Area and Colmore Row and Environs Conservation Area, as well as views from the important public civic spaces in Centenary Square, Victoria Square and Chamberlain Square. A 49 storey building is entirely inappropriate for a site that borders two conservation areas and directly adjoins such a prominent group of important civic buildings. In order to preserve the special architectural and historic interest of the listed buildings and conservation areas, significant amendments are required to this application regarding the general scale and height of the proposed tower. The application as it stands fails to meet the requirements of the heritage and conservation requirements of the NPPF and the Planning (Listed Buildings and Conservation Areas) Act.
- 4.12. Historic England – Note that the proposed tower would have an impact, resulting in harm to the significance of multiple heritage assets through development in their settings, as acknowledged in the Heritage Statement. Comments relate specifically to the impact of the development on the following sites:-
- Council House, Museum and Art Gallery (Grade II*): The proposed tower would sit behind the principal elevation of the Grade II* Council House in some views from Victoria Square. Concur with the applicant's assessment that, from some locations, this would stand over the Council House, disrupting and distracting from its architectural interest and overall composition. This is most apparent when viewed from the western edge of Waterloo Street, as the proposed tower would appear directly behind the central dome of the Council House.
 - Cornwall Street (Multiple Grade II*): The proposals would also interrupt views of a row of very fine Arts & Crafts style buildings along the north western side of Cornwall Street. Each building along this side of the road is Grade II* listed in its own right. As shown in the visuals provided and discussed in the application, the proposed tower would be visible above the decorative and complex elevations along Cornwall Street, diluting the presence the buildings have in the street.
 - St Paul's Church (Grade I) and Jewellery Quarter Conservation Area: As the applicant's Heritage Assessment puts it, the proposed development will cause some harm by "interrupting the open silhouette and profile around the church tower" from within St Paul's Square, resulting in harm to its significance. As the principal component and monument of the Jewellery Quarter this would also lead to harm to the significance of its conservation area. Additional impacts on the conservation area are noted in the Heritage Assessment, the proposed tower prominent in views of the Quarter's characteristic low scale townscape looking towards the city centre.
 - St Philip's Cathedral (Grade I): The assessment shows that the proposal will have a limited impact on St Philip's Cathedral, largely due to the overriding dominance of the emerging tower at 103 Colmore Row in views from St Philip's Square.

Furthermore, the wider impacts The application's Heritage Assessment considers the potential visibility and resulting impact on a number of historic open spaces

designated as Registered Parks and Gardens (Grade II* Key Hill Cemetery, and Grade II Warstone Lane Cemetery, Grade II Edgbaston Hall, Grade II Aston Hall, Grade II Handsworth Park), concluding there would be no impact on their significance.

At 49 storeys the proposed tower would be among the tallest buildings in Birmingham, and in an area of the city's 'Central Ridge Zone' for tall buildings which does not currently have a high density of buildings of this scale. As is evident in the submitted map of the Zones of Theoretical Visibility (ZTV), this proposed addition to the city will have a far reaching presence.

It is vital then, that as the height and density of tall buildings in the city centre increases, the City Council are fully satisfied that this will not also result in harm to heritage assets further afield. In particular, to those heritage assets outside the city centre whose significance is derived from their very separation and isolation from the city.

The design concept is founded on an octagonal shaped plan which does have the potential to bring some additional interest to the designs. With all tall buildings, they present a bold and sometimes daring addition to the townscape. For these to be successful however, it is vital that they appear a relevant and contextual addition to the streetscene and the city more widely. The use of high quality materials, design and detailing are essential in this.

Perhaps the best such example in close proximity to the site is found in nearby Alpha Tower. Although a bold addition to the city in the early 1970s, Richard Seifert & Partners' designs took account of the identity and character of the area's Portland stone buildings, and designed with views of the Grade I listed Hall of Memory in mind. Now Grade II listed, Alpha Tower is hailed as one of the most aesthetically successful office buildings in Birmingham.

Both Centenary Square and Victoria Square have an established historic use of quality stone buildings with skilful detailing and craftsmanship on display in their elevations.

If, upon weighing the application in the balance, the Council are minded to approve this application we would strongly advocate that close attention be given to the quality, detail and execution of all materials and finishes.

In conclusion, Historic England has concerns regarding the impact the development would have on some of Birmingham's most significant and celebrated historic sites. In all cases of harm, Historic England concur with the applicant's assessment that the scheme will result in 'less than substantial harm' as referred to in the NPPF, requiring great weight to be given to the assets' conservation, irrespective of the level of harm. Paragraph 196 of the NPPF therefore calls for this harm to be weighed against the public benefits of the proposal. This harm should only be permitted if it would be outweighed by public benefit.

- 4.13. Victorian Society – Object. Concerned about the negative impact that the proposed new building at 49 storeys will have on the setting and views of the numerous listed buildings, most notably the nearby Council House, City Museum and Art Gallery and Council House Extension (grade II*), the Chamberlain Memorial Fountain (grade II), the Town Hall (grade I), 85-95 Cornwall Street (grade II*) together with the Birmingham and Midland Institute (grade II*).

Do not have any objection to the demolition and replacement of buildings on the application site. However, raise significant concerns regarding the impact on views across and out of the conservation areas, not least the view of the city centre from Warstone Lane Cemetery (grade II), as well as the impact on views across the wider city. The cumulative effect of these proposals together is likely to cause considerable harm to the setting of listed buildings and to the character of the city's conservation areas. A well designed building of no more than half that height might be appropriate, and represent less of a departure from the original coherent Paradise Masterplan for medium height buildings in the redevelopment of this part of the city centre.

- 4.14. Local Lead Flood Authority – no objections subject to conditions to secure a sustainable drainage scheme and a Sustainable Drainage Operation and Maintenance Plan.
- 4.15. Natural England – No objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.
- 4.16. Severn Trent Water – No objection subject to secure drainage plans for the disposal of foul and surface water flows.
- 4.17. Sport England – No objection subject to securing a s106 contribution of £136,969 towards playing pitch investment.
- 4.18. West Midlands Police – Recommend the following:-
 - Conditions to secure access control, lighting, alarm system and CCTV.
 - A management and maintenance plan for trees and shrubbery for this development is subject of a planning condition.
 - Anti-graffiti coating to all accessible surfaces of the proposed works.
 - Anti-suicide measures should be in place.
 - Residential aspects of the site should be undertaken to the standards laid out in the Secured by Design 'Homes 2019' guide.
 - Commercial aspects (retail and gym) of the project should be undertaken to the standards laid out in the Secured by Design 'Commercial 2015' guide.
 - Glazing specification and hostile vehicle mitigation.
- 4.19. West Midlands Fire Service – approval of Building Control will be required.
- 4.20. Ward Councillors, MP, Residents Associations, Amenity Groups, Colmore Business Improvement District, Jewellery Quarter Business Improvement District, Jewellery Quarter Development Trust, local residents and businesses notified of the application and site/press notices displayed. The applicant also carried out their own pre application consultation with local stakeholders and residents. One representation has been made the letter contains the following reasons for objection:-
 - Detrimental impact on surrounding heritage assets;
 - Demolishing a 22 year old building is not sustainable development and could be used to meet housing targets;
 - Hopes that the development will provide affordable housing;
 - No public benefits;
 - Developer should consider reducing the height by 20-30% and include recommended amounts of affordable accommodation in line with the NPPF; and
 - Allow for active uses within the building to better engage with the wider public.

- 4.21. The pre application proposals for the site were reported to Committee Members on 13 August 2020. During the discussion the following comments were raised:-
- Airport to be consulted on any future application.
 - Query regarding how heritage implications would be considered and the applicant explained that a heritage statement would be submitted and engagement with Historic England has been undertaken at the pre-app stage.
 - Applicant confirmed they have undertaken their own consultation exercise prior to the submission of the formal planning application which included a three week virtual public consultation and press release.
 - Comments regarding parking provision, telecom equipment, fire safety and waste management.
 - Ecological impact of the scheme particularly in relation to birds of prey.
 - Discussion regarding residential amenity space and provision of convenience store for future occupiers.

5. Policy Context

- 5.1. Birmingham Unitary Development Plan (Saved Policies) 2005; Birmingham Development Plan 2017; Draft Birmingham Development Management DPD; Birmingham Emerging Design Guide (November 2020) ; Places for All SPG; Places for Living SPG; High Places SPG; Car Parking Guidelines SPD; Car Parking Guidelines – Supplementary Planning Document’ (Consultant Draft, November 2019), Public Open Space in New Residential Development SPD; Lighting Places SPD; Affordable Housing SPG; Colmore Row and Environs Conservation Area Character Appraisal and Supplementary Planning Policies; Jewellery Quarter Conservation Area Character Appraisal and Supplementary Planning Policies; and the revised National Planning Policy Framework.

6. Planning Considerations

Land Use Policy

- 6.1. Policy GA1 promotes the City Centre as the focus for a growing population and states that residential development will be continued to be supported where it provides well designed high quality environments. The majority of new housing is expected to be delivered on brown field sites within the existing urban area.
- 6.2. The submission demonstrates that the proposal meets the requirements of BDP policy TP28 (the location of new housing) and with policy GA1 supporting residential development in this location, there is no policy objection to the principle of residential development on this site.
- 6.3. BDP Policy TP30 sets the requirements for the type, size and density of new housing which is based on the SHMA 2013. The applicant asserts that the SHMA evidence is now out of date and have provided a report prepared by Knight Frank on behalf of Argent to support the proposed mix (one, two and three beds split as 59% one bed, 39% two bed and 2% three beds). Although the proposed development consists of majority 1 and 2 bedroom apartments, given the site’s City Centre location, it is considered that a higher proportion of smaller house types are appropriate.
- 6.4. The proposed mix does not include any 1 bedroom 1-person apartments, and similarly all of the two bedroom apartments are 2 bedroom 4-people. Additionally, the overall sizes of the apartment are greater than most permitted City Centre

schemes with an average apartment size of 62.8 sqm. Overall, the proposed mix at this location is considered acceptable.

Paradise Masterplan

- 6.5. The proposed development deviates from the original Paradise masterplan as approved through the outline planning permission for Paradise (and subsequent variations to the outline permission). The application therefore needs to be considered in light of the recent Hillside Parks Limited v Snowdonia National Park Authority case, which considered the extent to which one planning permission can be carried out on part of a site without jeopardising the ability of a developer to carry out work pursuant to permission over the whole site.
- 6.6. The proposed development has been designed so that it can function both as a standalone development – with temporary arrangements for disabled parking, servicing and access – and to be fully aligned and integrated as part of the wider Paradise development, as the remainder of the scheme progresses.
- 6.7. Condition 42 of the outline planning permissions (2012/05116/PA, 2014/05319/PA and 2017/03356/PA) requires a masterplan to be maintained throughout the redevelopment of the Paradise site. The condition envisages that the masterplan for the site will be updated through Reserved Matters approvals or other schemes, allowing discrete parts of the overall development to be changed.
- 6.8. On the basis of the information available at this time it is considered that the outline planning permissions for Paradise allow for the Octagon development to be implemented while the remainder of the development pursuant to the outline planning permissions can continue.

Tall Building Policy and Design

- 6.9. Tall Building Guidance as set out in the High Places SPD and the subsequent Big City Plan makes it clear that the site falls within the 'central ridge zone' where tall buildings are generally supported, but also within an existing and developing cluster of tall buildings around Centenary Square, the eastern end of Broad Street, Arena Central, Alpha Tower and Navigation Street.
- 6.10. The Octagon would be located within the central ridge zone as shown on Map 2 within the SPD. Map 3 confirms specific locations where tall buildings are considered appropriate on key arrival points and to act as key view terminators around the city centre. The Application Site is highlighted as a specific location where a tall building is considered appropriate for this reason.
- 6.11. The Design and Access Statement tests the relationship of the tower from within and around the Paradise Masterplan Area to understand its relationship not only with the existing townscape but that which is emerging to the south of the site. The Council's City Design Manager notes that this testing clearly demonstrates that the tower brings together a group of emerging larger buildings with a confident and definitive crescendo, which is missing in the current Masterplan. Without this the redevelopment lacks aspiration and Plot A (as approved in Outline) can be argued to appear squat and bulky, failing to take the opportunity to connect with the wider emerging landscape around Centenary Square.
- 6.12. The application site is arguably one of the most important junctions in the city centre. It sits at the confluence of three definitive and identifiable areas of the city centre,

that being (1) the western city centre, comprising Centenary Square its Cultural venue, (2) the Civic Quarter and (3) the Jewellery Quarter. It also terminates view at the close of two primary arteries running into the City (1) Great Charles Street coming in from the north east, and (2) Summer Hill Road coming in from the North West. All these areas and routes converge on this site and yet the Paradise Masterplan Area does not quite create the destination it needs to at this point, which is arguably one of the key nodal points or connections in the city centre. For this reason a tall building at this point would be a welcomed addition.

- 6.13. The Design and Access Statement reviews a number of options for a tower in this location at different heights which satisfies the EIA requirement to consider alternatives as set out in the Environmental Statement (Chapter 5 – Alternatives). It is overall considered that placing a tower (with a 360-degree) perspective across the city in this location is a clear justification for not just a tall building, but a building of substantial height.
- 6.14. Given that tall buildings are generally visible and experienced within the wider context, the SPD confirms the importance of ensuring there is no ‘back’ to a tall building, and ensuring that the ‘top’ is well designed with any plant, machinery and other roof-top equipment, being incorporated as far as possible into the scheme.
- 6.15. The proposed development has been designed around a central core to ensure that there is no ‘back’ to the scheme. Levels accommodating plant are incorporated within the building structure, and roof-top plant and the BMU are enclosed behind an articulated vale at the top of the building. No antennae and aerial arrays are proposed on the roof.
- 6.16. Whilst the scale and form of the building has been considered in terms of its response to this locality, the Design and Access Statement goes on to set out the form of the architecture applied to this octagonal tower. The Council’s City Design Manager notes that the composition of the buildings top, middle and bottom is quite different from other tall buildings seen in the city.
- 6.17. The shape of the windows informs the overall horizontal aesthetic within this overall slender vertical form. The bold decision to create full width slots to take the windows across the entire width of the bays (which comprise the full width of each face of the building) has been rooted in the design for this building from its concept and is as important to the design as the octagon form. The proportion of the windows was without mullions, however these have been reintroduced in the March 2021 amendments.
- 6.18. The developer has opted for a bespoke form of cladding. A number of solutions were considered including standard concrete, glass reinforced concrete and metal cladding. The former two options were ruled out based on poor environmental credentials. Concerns were raised over the quality of formed metal cladding due to the past poor execution of metal cladding in other developments in particular regards to poor quality finish, fixing and joints. Detailed information has been presented illustrating how the cladding will be fixed and jointed and that a crisp and sharp angle can be achieved across the form. The material will not meet the ground in such a way that it will be vulnerable to damage and therefore subject to a sample being agreed, metal cladding is agreed to be an appropriate solution.
- 6.19. The High Places SPD states that it is important for proposals for tall buildings to contribute to at least one of the following criteria:
 - They can act as landmarks that help to make the form of the City legible;

- In a closely linked cluster they can signal the centre of the city or act as a gateway;
- A distinctively designed tall building or group of buildings could endow the city with a unique skyline that is easily recognisable in an international context;
- Tall structures often mark important facilities such as churches, civic buildings, and universities;
- These usually high quality landmarks will continue to be appropriate in special circumstances; or
- Such high-quality buildings could help attract more international companies to Birmingham.

6.20. In this instance the tower is distinctive, will be easily recognisable and will be a landmark and therefore does meet these design characteristics. Overall, the design is innovative and confident by means of its wholly octagonal form, through to its slot windows, angled horizontal and vertical members and the design of the screens.

Townscape and Visual

6.21. Chapter 9 of the Environmental Statement accompanying the application assesses the likely townscape character and visual effects associated with the proposed development. It is supported by a full townscape and visual impact assessment (TVIA) provided as a technical appendix to the ES chapter.

6.22. The assessment confirms that the townscape of the site and its immediate context is dominated by the ongoing construction works and evolving commercial and leisure hub associated with the wider Paradise development. The assessment of townscape effects identifies that the proposed development will have a beneficial effect on local townscape character, on the basis that it involves the removal of a building and temporary structures of generally low or mediocre quality and condition and their replacement with a new landmark development of high design quality and of a character appropriate to the local context.

6.23. The assessment also considers the visual impact of the proposed development. The assessment of visual effects concludes that the quality of views close to the site is likely to generally improve as views of negative townscape features and built form would be replaced with views of the new landmark building and public realm of high quality design and construction. It goes on to conclude that the proposed building would provide added visual interest, variety to the skyline and enhanced public realm. The assessment identifies a range of significant effects all of which are beneficial or neutral.

6.24. It is considered that the study area undertaken is appropriate and is embedded within an accompanying TVIA which includes a Zone of Theoretical Visibility (ZTV) to evidence the selections of views undertaken and the conclusions drawn. Overall, Officers are satisfied by the methodology set out in the Chapter and Chapter 2 (Approach to EIA).

6.25. In regards to the five key views identified in the High Places SPD, the TVIA concludes that the proposed building would appear as a small element in the background of the key views and would be read in context with other tall buildings and recognisable landmarks on the city skyline. The assessment confirms that this would not significantly alter the character or quality of these views and the effect would therefore not be significant.

6.26. Local Townscape Character Areas (LTCA) are identified and of these LTCA8 – Northern Gateway has been considered to be subjected to significant effects. The TVIA also identifies key visual receptors (changes to the character and amenity of a number of views) including:

- Victoria Square & Chamberlain Square – public square users;
- Centenary Square – public open space users;
- City Centre Gardens - public open space users;
- Streets to the north of the site within the Jewellery Quarter Conservation Area – pedestrian and road users;
- B4135 – pedestrian and road users; and
- Great Charles Street Queensway (A4400) – pedestrian and road users.

With regards both the Local Townscape Character Areas and key visual receptors, these are all for the operation phase only and would overall have a positive visual impact.

6.27. Mitigation is proposed through the quality of the architectural design, the octagonal form and the materiality employed as well as landscaping and lighting.

Building Safety

6.28. The SPD confirms that tall building proposals should seek to meet all regulatory requirements with regard to safety and the needs of disabled users. The building has been designed to meet Building Regulations, providing suitable and safe access for all members of the community. Levels access points are proposed, with lifts providing access to all internal floors. Four accessible parking spaces will be provided at ground level adjacent to the building, and these will be relocated to the basement of the wider Paradise development once constructed. Sprinkler systems are proposed throughout the building, with a fire proof stair core to aid safe evacuation if required.

Impact on Heritage Assets

6.29. In determining this application the LPA must comply with the statutory duties relating to listed buildings and conservation areas. Case Law has now firmly established that the “special regard” and “special attention” duties of the LB Act requires that the decision maker should afford “considerable importance and weight” to the desirability of preserving a listed building along with its setting and preserving or enhancing the character or appearance of a conservation area. It has also been established that “preserving” means “doing no harm” for the purpose of interpreting the LB Act duty.

6.30. The NPPF states that in determining applications, LPA’s should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal. Great weight should be given to the conservation of heritage assets and any harm to, or loss of the significance of a designated heritage asset should require clear and convincing justification. LPA’s should look for opportunities for new development within Conservation Areas and within the setting of heritage assets, to enhance or better reveal their significance. Where potential harm to a designated heritage asset is identified, it needs to be categorised as either less than substantial harm or substantial harm (which includes total loss) to identify which policies in the National

Planning Policy Framework (paragraphs 194-196) apply. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset paragraph 196 of the NPPF requires that this harm should be weighed against the public benefits of the proposal. Policy TP12 of the BDP states that great weight will be given to the conservation of the City's heritage assets and that development affecting a designated or non-designated heritage asset or its setting, will be expected to make a positive contribution to its character, appearance and significance.

- 6.31. Chapter 10 of the Environmental Statement addresses designated and non-designated heritage assets. A 500m Study Area is defined along with a suggested methodology for assessment of the effects on identified heritage assets within this area. The Council's Conservation Officer has noted the approach to be sound and accords with standard practice. The scope of the ES is consistent with the EIA scoping report and the assessment of built heritage in the ES is considered to be a good appraisal of the base line historic character of the area and the extent of heritage assets scoped in for assessment within the study area are reasonable and consistent with the EIA.
- 6.32. Historic England note that the Heritage Statement helpfully includes visualisations from a series of locations showing the proposed tower in the context of a number of heritage assets of the highest significance. Historic England have stated that it is clear from the information provided that the proposed tower would have an impact, resulting in harm to the significance of multiple heritage assets through development in their settings, as acknowledged in the Heritage Statement.
- 6.33. The Concerns raised by Historic England and Birmingham Civic Society and the objections raised by the Victorian Society and Ancient Monument Society are noted regarding the impact of a 49 storey tower in this heritage sensitive setting and the resulting harm caused to the significance of two conservation areas, multiple listed buildings through development in their setting.
- 6.34. The concerns raised by the Victorian Society in regards to the impact on views from Warstone Lane Cemetery have been noted and the Council's Conservation Officer has reviewed the potential impacts and concludes that there is no harmful impact which was also agreed as part of the EIA scoping stage. Informed by the Zone of Theoretical Visibility (ZTV) the uppermost levels of the proposed development may be visible from Warstone Lane Cemetery, however, the Council's Conservation Officer is in agreement with the assessment that the development would be experienced as part of the wider city context. Officers are overall satisfied that there would be no impact on upon the significance of heritage assets further afield (over 500m of the site).
- 6.35. The Heritage Statement considers that the slender and elegant form of the tower and proposed materiality resonates with that of the listed buildings and identifies that other modern developments have successfully been introduced into the setting of these buildings without adversely affecting significance. Whilst it is considered that this is a reasonable assessment to make, the quality of design and materials will need to be exceptional in order for this to be an acceptable stance. Officers note Historic England's comments on this matter and raise the same concerns with regards to securing a quality development. It has already been identified that Alpha Tower holds significance principally for its aesthetic landmark qualities and its design and materiality in relation to the more historic Centenary Square listed buildings. As an example of a large, modern development which has been successfully introduced into this setting, and being recognised as being of quality

through its own listed status, Alpha Tower sets a clear precedent for the quality expected of new development in this heritage sensitive setting.

- 6.36. Having taken account of the assessment made in the Heritage Statement, Chapter 10 of the ES and the viewpoints within the TVIA the City Council's Conservation officer concludes, in line with these documents, that the proposed development would cause less than substantial harm to the significance of the Council House, the Church of St Paul, 50-52 Newhall Street, 85 and 87 Cornwall Street, 89 and 91 Cornwall Street, 93 Cornwall Street, 95 Cornwall Street, the Birmingham Midland Institute and the Jewellery Quarter Conservation Area. However, the Council's Conservation Officer is also of the view that a degree of 'less than substantial harm' would be caused to the civic and commercial setting of Victoria Square which is identified as a principal and significant space within the context of the Colmore Row and Environs Conservation Area.
- 6.37. In conclusion, the principle of the development of this site is acceptable however the proposed development would cause less than substantial harm to the setting of both Conservation Areas and a number of designated heritage assets. This triggers the tests of paragraph 196 of the NPPF and it is necessary to consider whether the public benefits of the scheme outweigh the harm to the designated heritage assets. In this instance the public benefits of the scheme include the following:

Economic (application is supported by an Economic Benefit Statement)

- During the 3 year construction phase the development would support 580 person years of direct employment in the construction sector;
- An average of 140 direct net additional FTE construction jobs will be taken by residents of the West Midlands, including 90 FTE jobs taken by Birmingham residents;
- Based on the scale of employment supported during the construction phase, it is estimated that the Proposed Development will generate £17.6 million in direct, indirect and induced net additional GVA within the West Midlands annually, of which £14.9 million will be concentrated in Birmingham;
- During the operation phase it is estimated that based on local economic activity and employment rates, it is estimated that there will be 480 people in employment residing on the completed scheme, who will receive a combined gross annual household income of £12.6 million. These residents will bolster Birmingham's local labour supply and will bring considerable spending power to the local economy;
- The resident population is estimated to generate £2.6 million in retail expenditure and £1.4 million in leisure expenditure annually, a significant proportion of which will occur locally within Birmingham and across the wider regional economy;
- This expenditure will help sustain local businesses, and has the capacity to support 40 employee jobs in the retail and leisure sectors within Birmingham and across the wider economy;
- It is estimated that the new homes will generate £630,000 in Council Tax payable to Birmingham City Council each year upon full occupation. This will contribute towards maintaining and enhancing public services in the city and will serve to generate associated socioeconomic benefits, potentially attracting further inward investment;
- Once fully occupied and operational, the management and maintenance of the Proposed Development has the potential to support a gross total of 25 FTE jobs on site;

- The proposed development would also support the delivery of 30 apartments for affordable private rent (8.1% of the total number of apartments); and
- The provision of a distinctive and iconic 'landmark' building, contributing to raising the profile of Birmingham as an international city.

Social

- The provision of 370 new residential units will support the creation of a vibrant mixed use area in the heart of the City Centre;
- The development of the site for residential use will contribute towards delivering new homes to meet Birmingham's ambitious housing requirement, in a highly sustainable location;
- The provision of high quality, spacious apartments with high levels of natural light, and access to amenities for residents including dining / café, lounge areas, live/work meeting space, and wellness hub/gym promoting opportunities for healthy and active lifestyles; and
- The delivery of new homes in a highly accessible location with excellent pedestrian, cycling and public transport connections, which link to key services /facilities and employment opportunities.

Environmental

- The site is within the existing built-up city centre area, and as such a large number of shops, services and employment opportunities are located within walking and cycling distance or via existing public transport routes, thus reducing the need for private car use;
- Significant beneficial townscape and visual effects associated providing a unique high quality landmark at a key arrival point and view terminator approaching the City Centre (as identified in the High Places SPD), and contributing positively to the City skyline providing variety and visual interest;
- The reuse of brownfield land within a highly sustainable urban area;
- Provision of sustainable drainage principles, including a blue roof system; and
- A commitment to sustainable construction principles, and measures to target a reduction in carbon dioxide emissions by at least 19% against the Target Emission Rate of the Building Regulations (Part L) (2013).

It is considered that in this case the benefits demonstrably outweigh the identified harm.

- 6.38. It is also important to note the significant level of change being experienced already as a result of development. The Site and Centenary Square area have been subject to considerable change since the early to mid-20th century, and the townscape has continued to evolve, with landmark buildings, including Alpha Tower at the south-eastern corner of Broad Street. The Site is currently subject to a further period of change, including the construction of the wider Paradise development.
- 6.39. The proposed development would assist in providing an iconic landmark for the City of Birmingham, with its innovative design, almost providing a bookend to the Rotunda on the opposite side and enhancing this current vacant site. This would be a positive change to the immediate area and beyond. In conclusion, therefore, applying the relevant statutory test in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the policy tests set out in the NPPF, whilst attaching great weight and importance to the less than substantial harm that the

development would cause to the significance of heritage assets, it is concluded that the public benefits of the development identified above would outweigh such harm.

Archaeology

- 6.40. The application is supported by an Overarching Written Scheme of Investigation which covers both the evaluation phase and the excavation phase. The Council's Conservation Officer finds the Witten Scheme of Investigation (WSI) to be acceptable and furthermore accepts that the exact details on trial trench locations and the size of the excavation area cannot currently be specified and will be included in method statements supplied by the archaeological contractor. A condition has been attached to ensure that works will be carried out in accordance with the WSI and that additional method statements will also need to be submitted for approval prior to works on site (other than demolition).

Access and Parking

- 6.41. The proposed development would provide 370 residential, 1, 2 and 3 bedroom apartments, as well as amenities for residents and lower ground floor commercial unit. The development would be car free but include 225 cycle storage spaces.
- 6.42. A Transport Statement has been prepared in support of the planning application. The statement confirms that there are a wide range of local facilities, services and employment opportunities within easy walking distance of the site. The site is well served by high frequency bus services and major railway interchanges, and there are a number of viable cycling options for residents, visitors, occupants and staff. The site is therefore in a highly accessible and sustainable location. It is therefore considered that the site can be seen to accord with TP27 of the Birmingham Development Plan.
- 6.43. The Transport Development team concur with these conclusions and have recommended conditions be imposed requiring a construction management plan, a parking management strategy, cycle storage provision and parking area to be laid out prior to occupation of the building. On the basis of the above no highways based concerns are raised.

Living and Amenity Space

- 6.44. When assessed against the nationally prescribed housing standards, it can be seen from the table provided below that all apartment sizes well exceed minimal standards.

| Size | Floorspace (sq m) | NDSS (sq m) |
|-----------------------|-------------------|-------------|
| 1 bedroom (2 persons) | 51.3 – 52.6 | 50 |
| 2 bedroom (4 persons) | 77.6 | 70 |
| 3 bedroom (6 persons) | 115 | 95 |

- 6.45. The site benefits from access to a number of public squares and open spaces within close proximity. This includes the squares and terraces within the wider Paradise development, and nearby parks such as City Centre Gardens and the canal network. Overall, it is considered the proposed development is well located in relation to existing and proposed areas of open space.

Wind

- 6.46. The effects arising from the proposed development on the wind environment are assessed within Chapter 7 of the Environmental Statement accompanying the planning application. The assessment considers windiness affecting pedestrians, cyclists and vehicles using the Lawson LDDC requirements in conjunction with wind tunnel testing.
- 6.47. The assessment concludes that with the proposed development in the existing surroundings and with primary mitigation in the form of the proposed tree planting and temporary hoarding, wind conditions are expected to remain acceptable for the intended pedestrian, cyclist and vehicular use in all areas.
- 6.48. There will be a minor adverse effect at terrace level to retail entrances and to the top of the staircase, where a screen or hedging will need to be introduced to mitigate this impact. Chapter 12 of the Environmental Statement addresses Cumulative Effects. In terms of Wind, all relevant projects were modelled and it was 'Project 6' which is the outline masterplan for the Paradise Masterplan Area where exceedance occurred and again mitigation can be found through screening, landscaping and public realm. Conditions are attached to secure the wind mitigations measure, which includes soft landscaping adjacent to the pedestrian access routes at ground level and within the terrace area and hard landscaping to the south and to the west.

Daylight, Sunlight, Overshadowing and Glare

- 6.49. Considering the scale of the development Chapter 6 addresses Sunlight, daylight, overshadowing and solar glare. A Daylight, Sunlight and Overshadowing Assessment has been undertaken, which assesses the development in terms of its impact on the daylight and sunlight availability based on Building Research Establishment (BRE) guidance. For most of the sensitive receptors identified by the assessment, the assessed impact is negligible, and no further mitigation is required.
- 6.50. Significant effects are identified in three scenarios, namely, the reduction in level of daylight at the Shakespeare Inn, sunlight, and reflective glare at Paradise Circus junction, as well as a major adverse residual effect being caused to the area outside the Shakespeare Inn as a result of overshadowing.
- 6.51. The applicant has explained that in regards to the overshadowing at the Shakespeare Inn it is considered that this outdoor space is more likely to be regularly used by the public in the summer months when the area will receive a greater amount of sunlight hours (when compared with the assessment which is based on the sunlight received on the 21st March). Officers concur with this rationale and on this basis; it is considered that the development will not result in unacceptable impacts in respect of overshadowing.
- 6.52. Furthermore, it is necessary to take into consideration that the numerical guidelines in BRE Guidance should be interpreted flexibly, as natural lighting is only one of many factors in site layout design and consideration of amenity. Paragraph 123 of the NPPF is clear that local planning authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making use of a site; as long as the resulting scheme would provide acceptable living standards. The isolated areas of non-compliance with the BRE Daylight & Sunlight recommendations are not unusual in the context of a high-density urban development. Given the marginal and isolated nature of the daylight

sunlight related shortfalls it is considered that on balance the development has an acceptable impact on the sunlight received by the neighbouring properties.

Air Quality

- 6.53. An Air Quality Assessment (AQA) has been prepared in support of the application and is provided as a technical appendix to the Environmental Statement. As a result of the design changes introduced in March 2021 which has resulted in the introduction of future receptors at the level of above Upper Ground Floor where receptors were previously not present, a further Air Quality Technical Note has been provided.
- 6.54. The Air Quality Technical Note (prepared by Arup March 2021) confirms that the conclusions set out in the AQA are still applicable and no further mitigation is required for the protection of the additional future occupants.
- 6.55. The Air Quality Assessment concludes that the proposed development will not lead to any adverse impacts in relation to air quality, and it is considered that the development accords with draft Policy DM6 of the emerging Development Management DPD. A condition has been attached to ensure the submission of a Construction Management Plan.

Aviation Safeguarding, Television / Radio and Communications

- 6.56. At 292.5 metres Above Ordnance Datum (AOD), the development will breach the aerodrome safeguarding limit for Birmingham Airport's Outer Horizontal Surface. An Aviation Safeguarding Assessment and Radar Assessment has been provided in support of the application and concludes that that all current published flight procedures appear to be unaffected by the proposed development and the proposals are not predicted to impact any of the published Minimum Safe Altitudes defined for Birmingham Airport. Birmingham Airport has confirmed they have no objections subject to condition an obstacle lighting scheme and a crane management plan.
- 6.57. The application is supported by a Telecommunications Services Study which identifies the fixed point-to-point radio telecommunication links within the vicinity of the proposed development that may potentially be affected by the proposed development. It notes that should a radio telecommunication link be interfered with by the proposed development an appropriate means of mitigation would be agreed with the link operator. Overall, this approach is considered acceptable.
- 6.58. A TV Reception Study has been submitted in support of the application which assesses the potential of the proposed development on the reception of television services in the surrounding area. It concludes that the proposed development may have a slight impact on terrestrial TV services from the Edgbaston transmitter in areas north of the development, however mitigation is available in the form of higher gain antenna, re-locating existing antenna or re-point the existing antenna to another transmitter. Overall, the impacts are noted to be negligible and if there is a case of interference, methods of mitigation have been suggested.

Flooding, Drainage and Ground Conditions

- 6.59. The site lies within Flood Zone 1 and extends to less than 1 hectare. Accordingly, a Flood Risk Assessment is not required to support the application. However, a Sustainable Drainage Statement has been prepared in support of the application,

and this demonstrates how the proposals respond to the requirements of Policy TP6 (Management of flood risk and water resources) of the BDP. The Environment Agency have raised no objection subject to the prior submission of a remediation strategy to deal with land contamination and prior submission of piling details if piling using penetrative methods are to be undertaken.

- 6.60. The LLFA are in support of the discharge rate which will be capped at 4l/s. Conditions have been attached requiring the submission of a Sustainable Drainage Strategy, Sustainable Drainage Operation and Maintenance Plan and Foul Drainage Strategy.
- 6.61. The Land Contamination Preliminary and Quantitative Risk Assessment submitted in support of the application identifies potential land contamination issues that need to be addressed. As recommended by BCC Regulatory Services and the Environment Agency conditions are attached to secure a remediation strategy and verification report.

Ecology

- 6.62. An Ecological Appraisal has been prepared to accompany the planning application. The appraisal concludes that the site has negligible biodiversity/ecological value, and therefore the development will have negligible effects on habitats or species. The Council's Principal Ecologist is in agreement with the findings within the developer's Ecological Appraisal and has recommended a condition be attached requiring the provision of 'bug hotels' and insect boxes. This has been conditioned accordingly.
- 6.63. Further discussion has been had regarding the provision of peregrine nesting boxes, however the advice from EDP's bird specialist is that by virtue of the design and maintenance requirements, it is not feasible for the following reasons:
- Legal protection - peregrine's are sensitive to disturbance, particularly when nesting, and active nests are afforded legal protection from disturbance under the Wildlife And Countryside Act 1981 (as amended), therefore, the nest location would need to be positioned away from any areas of potential maintenance disturbance in future. Unfortunately no such locations appear to exist due to the design and maintenance needs;
 - Type of maintenance - a substantial Building Maintenance Unit (BMU) is proposed to sit on tracks running around the inside of the roof and will act as a small crane which lowers people in a cage to clean the window and façade around all aspects and at all heights;
 - Frequency of maintenance - the glass and façade on the building will be cleaned every two weeks. Even if the frequency of maintenance was reduced, it would not be appropriate to halt this for 4-6 months during the core breeding season if the nest site became occupied;
 - Space – the roof is not sufficiently wide that the upstanding block in the centre would be free from disturbance from the BMU. Furthermore, this location is also potentially unlikely to provide quite the same 'cliff like' outlook the peregrines seek when identifying nest sites. Screening could be used to reduce BMU associated disturbance, but, given the height of the BMU, this would be hard to achieve without creating a more enclosed environment the peregrines are unlikely to use; and
 - Façade design – owing to the uniform design of the façade and outlook of flats around all aspects and on all floors, it is understood that there are no

opportunities to incorporate a nest box and furthermore, this would also be subject to the same maintenance disturbance outlined above.

- 6.64. The Council's Principal Ecologist accepts the applicants reasoning and is in agreement that a condition requiring the provision of peregrine nesting is not required in this instance.

Noise

- 6.65. Chapter 8 of the Environmental Statement accompanying this application assesses effects arising from the development in relation to noise and vibration. The assessment concludes that the proposed development will not result in any unacceptable impacts in respect of noise and vibration, and is in accordance with draft Policy DM6 (Noise and Vibration) of the emerging Development Management DPD. BCC Regulatory Services have raised no objection and recommend that prior submission of a noise insulation scheme between residential and commercial units. Overall, the proposed development would not have negative noise implications for future occupants of the development subject to conditions.

Sustainability

- 6.66. A Sustainable Construction Statement has been prepared in support of the application which sets out how the proposed scheme meets the highest standards of sustainable design and construction throughout all stages of the development, including construction and long-term management.
- 6.67. A number design and energy efficiency measures have been proposed including: demand controlled ventilation; improved fabric thermal performance; low distribution losses; highly efficient plant; energy efficient lighting; and heat recovery from ventilation systems. The air tightness of the building has a significant impact on the energy consumption of the building and has been sought to be optimised above requirements of Part L (of Building Regulations).
- 6.68. The application is supported by an Energy Statement that notes that the most suitable low carbon technology which will be implemented is an Air Source Heat Pump (ASHP) system. A 19% reduction in carbon dioxide emission on the regulatory minimum as referenced in the Birmingham City Council Guidance Note on Sustainable Construction and Energy Statements is achievable due to the use of ASHPs and the façade U values and thermal bridge targets. A condition has been attached requiring further details of the proposed ASHP prior to works commencing on site (except demolition).
- 6.69. The use of CHP, a requirement of Policy TP4 for 200+ units has been discounted due to the CO₂ cost effectiveness of CHP reducing dramatically as the carbon intensity of grid electricity reduces. In contrast, technologies such as ASHPs show an improvement in CO₂ cost effectiveness.
- 6.70. The Energy Statement further explains the feasibility of connecting to the local District Heating Network (DHN) and it is noted that discussions were held with Engie and at the time it is was noted that the programme to decarbonise the Birmingham City Centre district heating network was not yet confirmed and will not be concluded until after the development will be complete. Furthermore, as per the Council's 'Guidance note on Sustainable Construction and Low and Zero Carbon Energy Generation' requires connection to the DHN for smaller development, subject to it being practical and viable. 'Smaller development' is defined as residential

developments of 10 or more units but less than or equal to 200 units and the current scheme falls outside the criteria specified.

Conclusions of Environmental Statement

6.71. The conclusion and recommendation with this report has been reached following reasoned consideration of the significant effects of the proposed development and any cumulative effects as reported within the submitted Environmental Statement. The Environmental Statement reports the following residual significant beneficial effects:

- A series of moderate beneficial townscape and visual effects covering changes to townscape character in the Northern Gateway (LTCA8), changes to the character and amenity of views from City Centre Gardens, Centenary Square to Hall of Memory, Victoria Square to Chamberlain Square from between the Town Hall and Council House, New Street to the Town Hall at the junction with Victoria Square, Sandpits to B4135 and City Centre Gardens (western entrance)
- Moderate-major beneficial to minor-moderate neutral townscape and visual effects to users of Victoria Square and Chamberlain Square
- Major beneficial to minor beneficial townscape and visual effects to users of Centenary Square
- Moderate beneficial to minor neutral townscape and visual effects to streets to the north of the site within the Jewellery Quarter
- Moderate beneficial to minor-moderate beneficial townscape and visual effects to pedestrians and road users of the B4135 and Great Charles Street Queensway
- Major beneficial townscape and visual effects to the view from Centenary Square looking north.

Significant adverse effects reported in the Environmental Statement are limited to:

- Moderate adverse heritage effects to the setting of Baskerville House (grade II listed building) during the construction phase
- Moderate adverse effects to the level of daylight within the Shakespeare Inn on Lionel Street, a major adverse effect on the external courtyard, and moderate adverse effect of sunlight reflected glare on Paradise Circus
- Moderate adverse heritage effect to the setting of the Council House, City Museum and Art Gallery and Council House Extension (Grade II* listed building)

6.72. Mitigation measures identified within the Environmental Statement are controlled via the proposed planning conditions. It is not considered necessary to impose any specific monitoring measures over and above those already captured with the proposed planning conditions.

CIL and Planning Obligations

6.73. Given the number of proposed apartments the City Councils policies for Affordable Housing and Public Open Space in New Residential Development apply. The applicant is not able to meet in full the affordable housing or off-site public open space requirements. The applicant has submitted a Viability Statement with the application, which has been independently assessed by the City Council's assessor.

- 6.74. Policy TP31: Affordable Housing requires housing developments of 15 dwellings or more to provide 35% of dwellings as Affordable Housing. A Viability Assessment has been prepared and has been submitted in support of this application. Although the assessment establishes that the proposed development cannot support any affordable housing provision or planning obligations, the developer has agreed to honour the provision of 30 of the apartments for affordable private rent, which is equivalent to 8.1% which is as concluded by the Council's independent advisors.
- 6.75. The Council's independent assessor has concluded that including the 8.1% affordable provision would generate a developer's profit on cost of 8.5% against a minimum benchmark of 10% profit on cost. In conclusion it is their opinion that the applicants offer is the most that the scheme can sustain from a viability perspective.
- 6.76. BCC Education, BCC Leisure Services and Sport England have also requested financial contributions. However, in this instance it is considered that affordable housing is the greater priority. The proposed development does not attract a CIL contribution.
- 6.77. The application site is located outside of the defined 'High Value' area as set out in the adopted charging schedule, and on this basis the residential accommodation proposed will attract a £nil charge. The adopted charging schedule also confirms that commercial uses including retail convenience floorspace below 2,700 sq m and leisure uses do not carry a charge.

7. Conclusion

- 7.1. In principle the development proposal is considered acceptable. The development would be instantly recognisable; marking the heart of the city with a unique octagonal form. The development would stand tall and proud as a signpost for Birmingham, making the most of its location on the Birmingham ridge - a line of higher ground that stretches from Snow Hill to Five Ways along Colmore Row and Broad Street.
- 7.2. The justification for a tall building in this location is accepted; the design is bold and unique and has the potential of become an architectural landmark for the city as well as for the West Midland's Region. Subject to safeguarding conditions the scheme would provide a high standard of residential accommodation and would provide for an exceptional visitor experience. Furthermore, the public benefits of the scheme demonstrably outweigh the less than substantial harm caused to the setting of nearby heritage assets. It is therefore considered that the application is acceptable subject to completion of a legal agreement and safeguarding conditions.

8. Recommendation

- 8.1. Approve application 2020/08215/PA subject to the prior completion of a Section 106 Legal Agreement to secure the following:-
- a) 30 affordable private rent units (APR) at 80% of market rent in perpetuity comprising the following:
 - 15 x 1 beds
 - 15 x 2 beds
 - b) A financial contribution of £1,500 for the administration and monitoring of this deed to be paid upon completion of the agreement.

and subject to the conditions listed below.

8.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the 30th May 2021 or such later date as may be authorised by officers under powers hereby delegated, planning permission be refused for the following reason(s):-

a) In the absence of a legal agreement to secure affordable housing, the proposal conflicts with Policy 8.50-8.54 of the adopted Unitary Development Plan, Policy TP31 Affordable Housing of the Birmingham Development Plan 2017 and Affordable Housing SPG.

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

-
- 1 Requires submission of a Noise Insulation Scheme
 - 2 Limits the noise levels for Plant and Machinery
 - 3 Requires the prior submission of noise insulation (variable)
 - 4 Requires the submission of extraction and odour control details
 - 5 Requires the prior submission of a contamination remediation scheme
 - 6 Requires the submission of a contaminated land verification report
 - 7 Requires the prior submission of a sustainable drainage strategy
 - 8 Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan
 - 9 Requires the prior submission of an obstacle lighting scheme
 - 10 Removes PD rights for telecom equipment
 - 11 Requires the prior submission of a construction employment plan
 - 12 Requires the submission of a lighting scheme
 - 13 Requires submission of full architectural and specification details
 - 14 Requires the provision and agreement of a sample panel of building materials
 - 15 Requires the submission of a CCTV scheme
 - 16 No obstruction, displays or signage fitted to commercial frontages
 - 17 Requires the submission of a landscape management plan
 - 18 Requires the submission of hard and/or soft landscape details
 - 19 Requires the submission of boundary treatment details
-

-
- 20 Requires the submission of hard surfacing materials
 - 21 Requires the prior submission of a construction method statement/management plan
 - 22 Requires the submission of details of refuse storage
 - 23 Requires full implementation of programme of archaeological works
 - 24 Requires the prior submission of details of insect boxes and bug hotels
 - 25 Requires a post completion telecommunications reception assessment
 - 26 Requires the prior submission of the low and zero carbon energy generation system
 - 27 Requires the submission of wind mitigation measures
 - 28 Requires the parking area to be laid out prior to use
 - 29 Requires the submission of a parking management strategy
 - 30 Requires the submission of cycle hub / storage details
 - 31 Requires the scheme to be in accordance with the listed approved plans
 - 32 Implement within 3 years (Full)
-

Case Officer: Miriam Alvi

Photo(s)



View from Summer Row (Google 2021)



View from Great Charles Street Queensway (Google 2021)

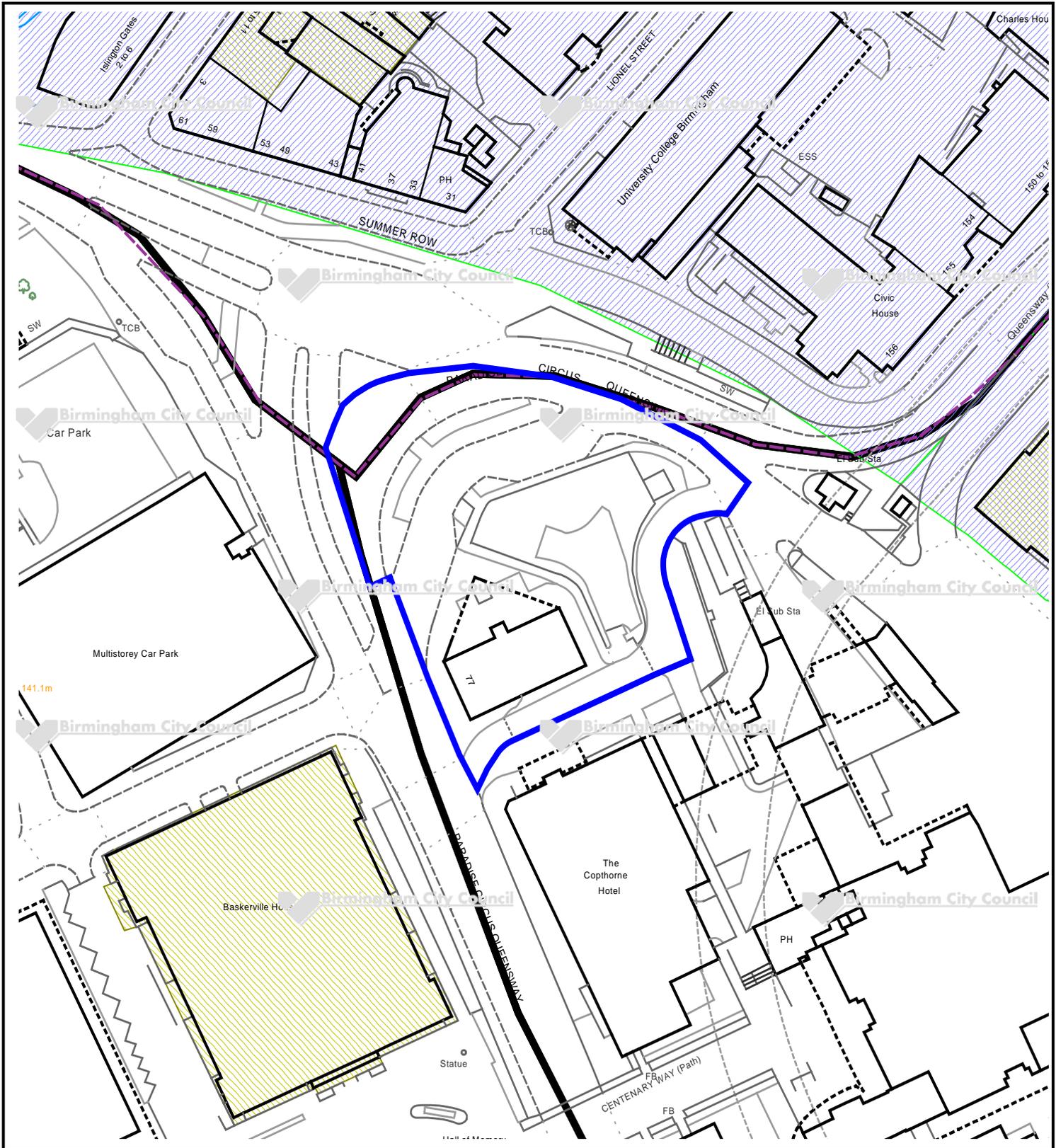


View from Paradise Circus (Google 2021)



View from Cambridge Street (Google 2021)

Location Plan



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|-----------------|------------|---------------------|---------------|
| Committee Date: | 29/04/2021 | Application Number: | 2020/00999/PA |
| Accepted: | 07/02/2020 | Application Type: | Full Planning |
| Target Date: | 07/06/2021 | | |
| Ward: | Newtown | | |

53-68 Princip Street, Gun Quarter, Birmingham, B4 6LN

Demolition of existing buildings and erection of a residential development of 337 apartments across three buildings with heights of 6, 11 and 25 storeys with associated cycle parking and amenity space

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

- 1.1 The application relates to a site of approximately 0.49ha, which lies within the Gun Quarter, at the junction of Princip Street and Lancaster Street (A34). It has frontages to the south side of Princip Street and to the west side of Lancaster Street and its southern boundary extends to the rear of properties fronting Price Street. Most of the site is currently occupied by the vacant premises industrial premises but there is also a pair of semi-detached dwellings, a small car parking, sub-station and an area of public highway. The application proposes the regeneration of the site to provide a private rental scheme of 337 apartments and associated communal facilities.
- 1.2 The proposal would demolish all the existing buildings and other structures to allow for its redevelopment with three separate residential blocks of 6, 11 and 25 storeys. The tallest Block A comprises of a tower of 25 storeys which would occupy the corner of the site facing Princip Street but also extend around part of the Lancaster Street frontage. The rest of the Lancaster Street frontage would be occupied by Block B at 11 storeys. Block C at 6 storeys would be located on the remainder of the site frontage to Princip Street. The three blocks would be grouped around landscaped amenity space for residents covering approximately to 2,306 square metres.

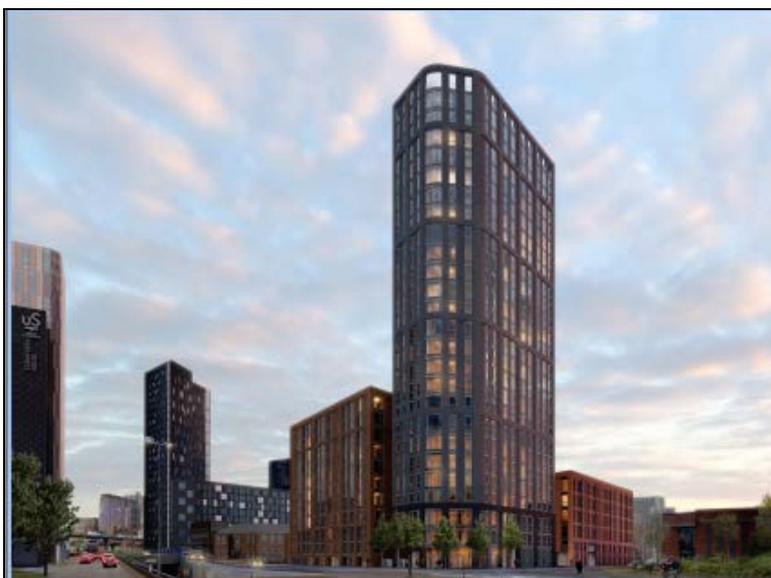


Figure 1: CGI showing view of proposed buildings from Lancaster Street

- 1.3 The development would provide 337 apartments for rent comprising 146 x 1 bed (43%) and 191 x 2 bed (57%). The apartments would range in size from 40 – 61 sq.m for the 1 bed and 61 – 80 sq.m for the 2 bed units and would provide a mix of 1,2,3,4 person accommodation. 16 of the units (4.7%) are being offered for affordable private rent to be let at 80% of Market Rent in perpetuity.
- 1.4 A range of shared communal facilities for residents are also proposed totalling 551 sq.m which are located at ground floor level. These comprise a reception area/lounge in each block and a games area, lounge, office area, gym and shared kitchen/dining within Block B. There would also be two internal cycle stores and a maintenance/cleaning area for cyclists to use. Further cycle racks would be located within the shared communal courtyard/garden areas.

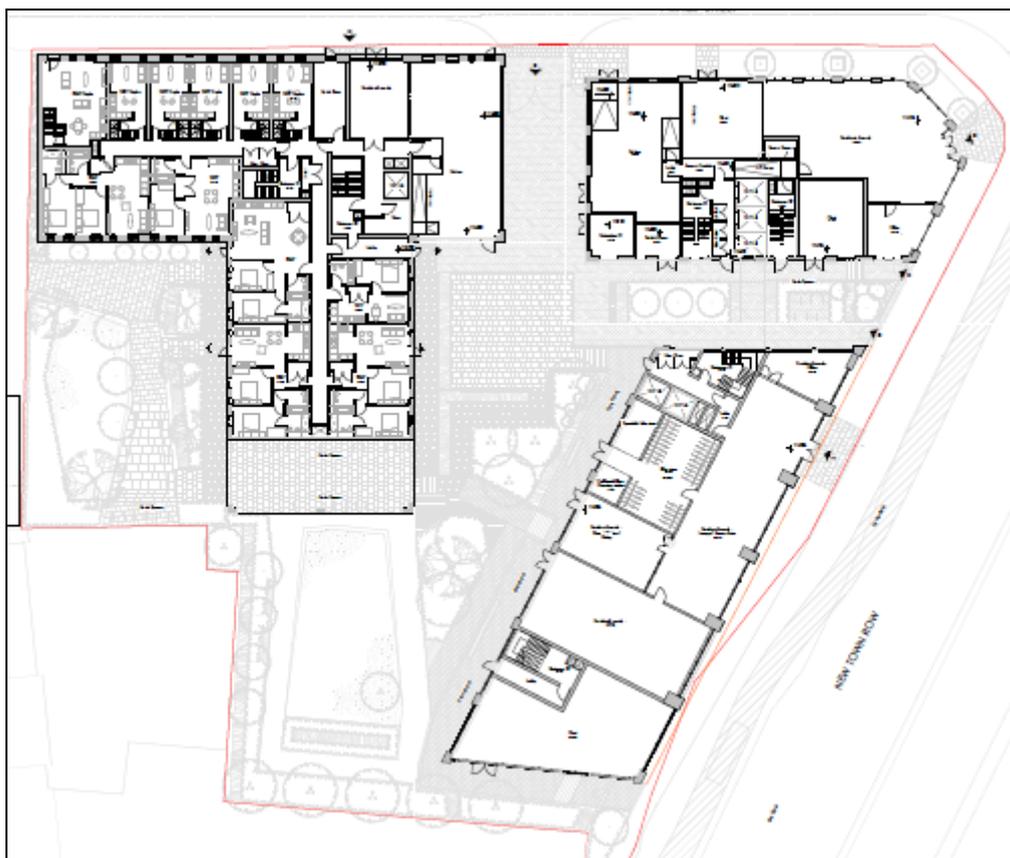


Figure 2: Proposed Ground Floor Plan

- 1.5 The development has been designed as individual blocks but with some similarities so they appear as a related group. Block A would have a frame of blue brickwork with a recessed secondary vertical frame also of blue brickwork but arranged in a stack bond. Spandrel panels would be used between windows arranged in a horizontal pattern. The design includes a curve on the corner of the building where the junction of Lancaster Street and Princip Street meet. Larger floor to ceiling heights are proposed at ground floor level with full height glazing for the communal spaces. The brick frame would continue to an open crown on the top of the building where the glazing is replaced with balustrading.
- 1.6 Block B fronting Lancaster Street would be of a similar design but the brickwork would be red rather than blue. The two gable ends of the building include an abstract pattern using extruded brickwork. Large floor to ceiling heights are proposed at ground floor level with wider and full height glazing used the communal spaces fronting Lancaster Street. Building C fronting Princip Street has been designed to have a more traditional appearance with narrower window openings set within a red brickwork including a secondary recessed brick frame and soldier course bands

between the windows on each floor. A wider band of recessed brickwork is proposed between the ground and first floor windows and the ground floor living accommodation is raised above stall risers, for duplex units which would have with living rooms fronting the street. The visible end gable would also include a projecting brickwork pattern and the roof includes a parapet wall with a coping detail.



Figure 3: Views of the three blocks from Lancaster Street and Princip Street

- 1.7 The courtyard areas would be laid out to provide a mixture of hard and soft landscaping, seating areas and cycle storage. The landscaping includes some large trees including four Dawyck beech on the Princip Street corner of the site in front of the building to act as wind mitigation measures. The courtyard areas would be enclosed with metal railings and gates to the street and the entrance onto Princip Street between Blocks A and B would also be able to accommodate delivery vehicles. No car parking is proposed but there would be cycle storage for 171 (58%) cycles. The application also includes proposals to reconfigure the existing footpath and remove the areas of amenity planting and low retaining walls currently situated on the Lancaster Street frontage. These would be replaced with a new resin bound gravel footpath to the edge of the site but also extend up to the edge of the existing cycle path and along Princip Street in front of Block A.



Figure 4: Plan showing location of courtyard garden spaces

- 1.8 Key sustainable measures within the development include a fabric first approach to reduce the buildings energy demand. It would have energy efficient lighting systems and measures to reduce water consumption during occupation through a range of efficiency measures including low flow sanitary fittings. There would also be measures to enhance site biodiversity through new native planting and on all three buildings the flat roofs would be used to accommodate solar panels and new green habitats.
- 1.9 The application has been supported by a Design and Access Statement, Planning Statement, Pedestrian Wind Comfort and Safety Statement, UXO Risk Assessment, Television and radio Signal Survey & Television and Radio Reception Impact Assessment, Townscape Visual Impact Assessment, Arboricultural Impact Assessment, Preliminary Ecological Appraisal and Preliminary Bat Roost Appraisal, Transport Statement/Travel Plan, Sustainability Design and Construction Statement, Noise Impact Assessment, Housing Market Report, Heritage Statement, Economic Impact Statement, SuDS Assessment Report, Daylight and Sunlight Study, Ground Investigation Phase I, Archaeological Desk Based Assessment, Air Quality Assessment and Financial Viability Statement.
- 1.10 [Link to Documents](#)
- 2.0 Site & Surroundings
- 2.1 The site occupies a corner location at the junction of Princip Street and Lancaster Street (A34) and has been assembled from a number of parcels of land. These comprises 53 – 60 Princip Street a range of warehouses formerly used by Talbots a jewellery packaging business with an associated car park, 61 & 62 Princip Street a pair of two-storey residential properties currently let as HMO's and 63 – 68 Princip Street a range of brick industrial buildings and offices formerly occupied by Turner Machine Tools. The site also includes two areas of land currently owned by the City Council fronting Lancaster Street. These comprise a small car park and substation on the junction with Princip Street and part of the wide footway, bench and planting beds located on a low retaining wall which extends along the entire Lancaster Street frontage up to the junction with Price Street.
- 2.2 The existing buildings adjoin a 3 storey apartment building and its car park at 40-49 Price Street which lie to the south of the site together with the curtilage of Gunsmith House at 51 Price Street a locally listed building. To the west at 48-52 Princip Street, is a 2 storey warehouse and its delivery area which has planning permission for its demolition and erection of 3/4 storey building for 26 apartments and ground floor commercial space as approved under application 2018/06374/PA. On the opposite side of Princip Street is a row of two and three storey industrial/warehouse buildings including Nos 16-18 Princip Street which are Grade II listed. There is also a two storey storage depot close to the junction with New Town Row which has planning permission for its demolition and erection of a development of 266 apartments in blocks with heights of 6, 7 and 23 storeys approved under application 2020/03829/PA.
- 2.3 Within Princip Street there is a mix of uses including wholesale retail, warehousing, workshop, and residential. On the opposite side of the Lancaster Street frontage are a number of tall blocks providing student accommodation.
- 2.4 The site is not within a conservation area but is within the locality of a number of listed buildings. These include no's 16-18, 37-38 and 47 Princip Street which are all Grade II listed buildings. Within the wider vicinity are the Grade II* Cathedral Church of St Chads (330 metres) and within 250 metres are several Grade II listed buildings including 94-99 Bath Street & 28A-32 Shadwell Street; The Gunmakers Arms and

100 and 101 Bath Street and Barker Bridge over the Birmingham Fazeley Canal. 51 Price Street, 90 Lancaster Street and 46 Princip Street.

2.5 [Site Location](#)

3.0 Planning History

- 3.1 There is no relevant planning history for the site but there have been a number of recent applications in the vicinity:
- 3.2 16/2/21 - 2020/03829/PA – Planning permission granted for demolition of existing building and erection of a development of 266 apartments in blocks with heights of 6, 7 and 23 storeys and associated works on land at 5 Princip Street opposite the site.
- 3.3 24/4/20 - 2019/03186/PA - Outline planning permission granted for application for demolition of existing buildings (apart from Gunsmith House), conversion of retained building and erection of new three-five storey buildings to provide up to 69 apartments with associated works at 51-61 Price Street to the south of the site.
- 3.4 04/11/2019 – Prior approval granted for change of use from offices to 10 residential apartments at 19A Princip Street.
- 3.5 11/12/19 - 2018/06374/PA. – Planning permission granted for demolition of existing buildings and erection of 3/4 storey building for 26 apartments, ground floor commercial space and associated works at 48-52 Princip Street which adjoins the western boundary of the site.

4. Consultation/PP Responses

- 4.1 Transportation – No objections subject to conditions requiring a construction management plan, a suitable highways agreement for the various highway alterations including reinstatement of redundant footway crossings, provision of new crossing and any associated Traffic Regulation Order amendments together with provision of cycle parking spaces. Advise that the plans will require the stopping up of an area of highway on the Lancaster Street frontage which is currently occupied by paving with a bench and landscaping. This will require a Section 247 stopping up resolution. The plans show a minimum 2m public footway width will be maintained.
- 4.2 Lead Local Flood Authority – No objection subject to conditions requiring a detailed Sustainable Drainage Assessment and a Sustainable Drainage Operation and Maintenance Plan.
- 4.3 Local Services – No objections but as the application is for over 20 dwellings request a contribution of £687,000 for off-site provision in accordance with BDP policy.
- 4.4 Regulatory Services – No objections in respect of contaminated land and noise subject to suitable conditions being imposed to address the shortcomings in the submitted reports and requiring additional noise monitoring, an assessment of ventilation needs and overheating. However in respect of air quality objects in principle to a development that may adversely impact the wider air quality compliance with the CAZ and creates new residential exposure in an area with significant air quality challenges
- 4.5 Employment Team – No objection subject to a condition or Section 106 agreement to secure a construction management plan.

- 4.6 Historic England – Have concerns regarding the application on heritage grounds. Comment that the scheme will see the loss of unlisted early 20th century industrial buildings which clearly hold some architectural and historic interest, and which provide a reminder of the area's roots in manufacturing as part of the setting of nearby listed buildings. The site is noted by the local authority as being a non-designated heritage asset. Their total loss would therefore result in harm.
- 4.6.1 In addition Historic England comment that the scheme also proposes yet another tall building in the setting of the Grade II* listed St Chad's Roman Catholic Cathedral. No reference is made to St Chad's in the applicants Heritage Statement. Whilst the proposed tower is not visible from Viewpoint 8 within the Townscape Visual Impact Assessment (TVIA), it is clear that the proposed tower would be prominent in the setting of St Chad's, likely visible above and behind its roof and spires in a number of views from the south west. It would also add to a growing number of tall buildings affecting the setting of St Chad's in this area, diminishing its intended architectural presence. The cathedral's listing description acknowledges that both Pugin's original building and its setting are 'very much mutilated'. The latter implies the loss of buildings of the former Gun Quarter, and the dominant presence of busy roads and encroaching development. This situation has been continually exacerbated in recent years with the addition of a number of dominant developments within the immediate setting of St Chad's. They fear that this application will bring some further continuation of this trend. The Local Authority should consider the potential impact on St Chad's, and in particular the cumulative impact alongside the many existing, permitted, and emerging developments in this area which risk further crowding out and overwhelming this highly significant part of Birmingham's heritage.
- 4.7 Birmingham Airport – No objections subject to a condition being imposed to require a crane management plan.
- 4.8 West Midlands Police – Raise no objections and request conditions to prevent crime and anti-social behaviour.
- 4.9 Birmingham Fire Service – Development will need to comply with Building Regulations.
- 4.10 Ward Councillors, MP, residents associations, local residents and businesses notified of the original proposals, site/press notices displayed. Two letters received which make the following comments:-
- Support new development in the Gun Quarter, but question why existing properties are being replaced with buildings of 11 and 25 storeys.
 - The scale of the new developments is a problem, due to major parking restrictions in the street and locally and the limited parking being provided for such a size of complex.
 - The height of the buildings and visual impact will blight the general low level buildings in the area. Development should be permitted but maintain consistency with the current height of the buildings in the street.
 - The site includes land at the corner of Price Street and New Town Row which the applicant does not own, and has not served the correct notice on.
 - If the proposal, will result in an 11 storey building immediately at the rear of 40-49 Price Street, which stands at just three storeys. The proposal dwarfs the neighbouring apartment building and bears no relationship to it, completely ignoring the immediate context.
 - BDP Policies require all new development demonstrate high design quality, respect the scale and massing of their surroundings and neighbouring uses should reinforce local character and fronts and backs of buildings should be clearly defined to ensure that places feel safe, pleasant and legible. The proposal is at odds with these fundamental principles.

- If approved, the proposals would prevent the comprehensive redevelopment of the corner of Lancaster Street and Price Street and the discordant juxtaposition will never be resolved.
 - Objector has instructed surveyor to safeguard his interests further, regarding land ownership and Rights to Light.
- 4.11 The pre application proposals for the site were considered at the Design Review Panel meeting on 13 January 2020. The panel concluded that the principle of a tower of this scale and size in this location with its associated blocks can be supported however not the architectural solution arrived at. Blocks should be individual and bolder in their design concepts. The following comments were made:-
- The position and height of the tower was acceptable.
 - They were content with the cluster of tall buildings and both the heights and (broadly) the plot formation.
 - As the scheme was not presented in relationship to other schemes in the vicinity questioned and the relationship to these developments and what place was being created and for whom?
 - The location of Building B was considered somewhat awkward which could be resolved by eliminating the colonnade and allowing the upper floors to cantilever forward of the existing alignment.
 - Access through and within the site and this sequential experience was considered to be weak.
 - The location of Building C was considered appropriate being sat back of pavement to rear wing. Although it was noted that Block C would be larger than normally considered appropriate along the Princip Street frontage (and in the absence of historic precedents) its scale could be tolerated in the setting of nearby listed buildings.
 - It was felt that the overall architectural design was very weak. The concept to create an association between buildings A and B were not necessary and that all buildings could have their own architectural identity yet still read as a family or group.
 - For Block A it was considered that the tower should be simplified given a stronger base and greater clarity to its crown. They did not support the use of a different system of architecture for the bottom four floors. The use of blue brick should be carefully considered with the opportunity taken to provide more creative bonding. The curve is welcomed however substantial concerns were raised over its application using a faceted system. The modelling of the elevation could be stronger and needs more detail.
 - For Block B it was considered that the design of the base is weak and they could not support the lower four floors having a different aesthetic to the upper 7 floors.
 - The top comprises little more than the framing system and could benefit with having a parapet. The glazing and spandrel system needs to be addressed. The expressed brock relief design to the gables is welcomed but is required that this is meaningful in terms of its depth and delivery.
 - Block C was considered to be the poorest of the three blocks. The presentation included precedents of other buildings which were admired and it was regrettable that something of this strength and rationale were not proposed for this block.

5. Policy Context

- 5.1 Birmingham Development Plan 2017, Birmingham Unitary Development Plan (saved polices), Big City Plan, Canal Corridor Framework SPG, Places for Living SPG, Loss of Industrial Land to Alternative Uses SPD, Places for All SPG, Places for Living SPG, Car Parking Guidelines SPD, Public Open Space in new Residential Development SPD, Affordable Housing SPG, Birmingham Development Management DPD, emerging Birmingham Guide and NPPF.

6. Planning Considerations

Land Use Policy

- 6.1 The Birmingham Development Plan (BDP) in Policy GA1 promotes the City Centre as the focus for a growing population and states that residential development will be continued to be supported where it provides well designed high quality environments. The majority of new housing is expected to be delivered on brown field sites within the existing urban area. Policy GA1.3 relating to the Quarters surrounding the city centre core states that development must support and strengthen the distinctive characteristics, communities and environmental assets of each area. The site is within the Gun Quarter where the aim is to maintain the area's important employment role but also to complement this with a mix of uses around the canal and improved connections to neighbouring areas. Policy TP28 regarding the location of new housing states that it should not be in conflict with other BDP policies including those for protecting core employment areas.
- 6.2 The existing commercial buildings on the site were last used by a tool manufacturers and a packaging company and therefore have an industrial/warehousing use. As they occupy most of the site it is classed as employment land its proposed redevelopment for residential use needs to be assessed against Policy TP20 (protection of employment land) within the BDP. This states that states that employment land and premises are a valuable resource to the Birmingham economy and will be protected. The "Loss of Industrial Land to Alternative Uses" SPD 2006 sets out the information required to justify the loss of industrial land but also states that within the City Centre it is recognised that a more flexible approach towards change of use from industrial to residential is required to support regeneration initiatives. Proposals involving the loss of industrial land will be supported, but only where they lie in areas which have been identified in other planning policy documents as having potential for alternative uses.
- 6.3 Policy GA1.3 of the BDP supports a mix of uses around the canal within the Gun Quarter and the application site is covered by the City Centre Canal Corridor Framework. This states that there are a number of significant conversion and redevelopment opportunities for mixed use activities in close proximity to the canal within the Gun Quarter including around Lancaster Circus and Lancaster Street. The uses suggested include commercial/office space and residential development with frontage buildings to address the A34 New Town Row, Lancaster Street and Corporation Street. A number of residential buildings have been erected in recent years along the east side of New Town Row / Lancaster Street and this development would extend the pattern of frontage buildings to the west side of this major route. Planning permission has also recently been granted for a residential development of 266 apartments on the former depot at 5 Princip Street opposite the site. Therefore this proposal would follow the recent trend of allowing the regeneration of these under used brown field sites within this part of the Gun Quarter. The principle the redevelopment of the site for housing is therefore supported and the benefits in bringing forward this site for residential use are considered to outweigh its retention for employment purposes.

Demolition

- 6.4 All the existing buildings on the site would be demolished and the site cleared including the removal of the car park, landscaped area and planting adjacent to Lancaster Street. None of the existing buildings are in a conservation area, listed or locally listed. No objections have been raised to the loss of the buildings on the former Talbots site at 53 – 60 Princip Street or the pair of dwellings at 61-62 Princip Street as these are not considered to be of any architectural or historic interest.

However the former Turner Machine Tools buildings at 63 – 68 Princip Street are considered to be an undesignated heritage asset by Historic England, the City Design Manger and the Councils conservation officer.



Figure 5 : Views of former Turner Machine Tools building at 63-68 Princip Street

- 6.5 The buildings at 63-68 Princip Street date from the early 20th century and are considered to have some architectural and historic interest and also are a reminder of the area's roots in manufacturing as part of the setting of nearby listed buildings. The conservation officer states the buildings are of a good quality which respond well to the scale, form and architecture of the Gun Quarter and positively contribute to the streetscape setting of the heritage assets on Princip Street, notably 16-18 Princip Street, 37-38 Princip Street and the Comet Works. She considers they provide a good example of early 20th century industrial architecture and together with the other heritage assets in Princip Street hold group value and significance as non-designated heritage assets. Their total demolition fails to preserve the elements that make a positive contribution to the significance of the assets and therefore would cause less than substantial harm to their significance. This less than substantial harm will need to be weighed against the public benefits of the development in accordance with paragraph 196 of the NNPF, which is addressed in section 7 of this report.

Tall Buildings Policy

Principle

- 6.6 The development comprises of three blocks arranged as a group with Block A comprising of a tall tower of 25 storeys located to face Princip Street but extending around the junction onto Lancaster Street. As the scheme includes a tower the City Council's SPG on tall buildings High Places 2003 needs to be considered. The site is located outside the 'central ridge zone' identified within the High Places SPG and is not identified as a suitable location for a tall building. Therefore a tower in this location would not normally be appropriate unless there are exceptional circumstances.
- 6.7 The cityscape of Birmingham has changed significantly since the publication of High Places in 2003 and sites around the canal and along the A34 Lancaster Street and Newtown Row frontage continue to be developed with taller buildings. These include the number of student accommodation blocks opposite the site and along Lancaster Street of 17, 16 and 15 storeys and the recent completed Onyx development at Lancaster Circus of 24 storeys. Planning permission has also been granted for a student scheme of 25 storeys at the junction of Lancaster Street and Lawson Street and for a 23 storey tower opposite the site on Princip Street. The site is also within a

location where many of the existing buildings are under used or vacant and create a poor environment that requires regeneration and transformation.

6.8 Elsewhere within the city centre tall buildings have been approved to aid the regeneration and transformation of the area. A tall building in the location proposed would also follow the pattern of development on the other side of Lancaster Street where there is now a line of tall buildings on the street frontage. Subject to the consideration of the detailed design, the impact on the setting of heritage assets in the vicinity it is considered that a tall building could be allowed in this location.

6.9 In terms of design Policy PG3 of the BDP requires all new development to be of a high quality contributing to a strong sense of place and Policy TP27 expects new housing to contribute to making sustainable places, characterised by a strong sense of place with high design quality so that people identify with, and feel pride in, their neighbourhood. The NPPF seeks to ensure new developments are visually attractive as a result of good architecture and layout, are sympathetic to local character and history, including the surrounding built environment. High Places SPG sets out the criteria against which a tall building should be judged and states that it should:-

- be of the highest quality in architectural form, detail and materials;
- must respond positively to the local context
- should not have an unacceptable impact in terms of shadowing and microclimate;
- help people on foot to move around safely and easily;
- be sustainable and good places to live;
- consider the impact on local public transport; and
- be lit by a well-designed lighting scheme.

These criteria are addressed below:-

Design

6.10 The proposals for the site have been amended several times since they were considered by Design Review Panel and to address objections raised by consultees. The plot occupied by Block A, on the corner of Lancaster Street and Princip Street, encompasses the small surface level car park and sub-station fronting the A34 to create a new rational frontage to Lancaster Street, also using the 'leftover' land to form a new building line. This would link through to Block B and replace the current blank wall that faces towards Lancaster Street with an active frontage. The tower would have a curved form to follow the road junction and at ground floor level and its design has been simplified and given a stronger base using the same architectural treatment throughout. More creative bonding has been introduced with the use of a stack bond and the crown on the top floor has been revised.



Figure 6: Image of Block A and detail

- 6.11 The design has evolved and the ground floor now relates to the upper floors and the crown has been improved. As for the principal body of the tower, the grouping of windows has been further stretched and with a rearrangement of the secondary plane of masonry gives a greater vertical emphasis and now employs stack bonding to help define the layers of the building and the hierarchy of the vertical members. The curve to the façade is welcomed following the amendments made. The concerns raised over the depth of modelling have been addressed with the submitted sections illustrating that this will now be more than the original 200mm and that between the two planes of brickwork there will be a full brick depth followed by a further half brick to the window plane. Amendments have also been made to the lift core by incorporation of a mirrored glass spandrel panels to mimic the other window bays. Overall the building is acceptable rather than outstanding.

Local Context

- 6.12 A Visual Impact Assessment has been submitted with the application to assess the nature of the change, as a result of the proposals, upon the existing townscape character and visual environment within which the site is located. It comments that the arrangement of the three blocks creates a variation in height along the street and responds to the different building elevations which can be observed in the immediate site. The proposed layout and massing also aims to reinforce the gateway character perceived on the approach to the city core along Lancaster Street, with the recently completed student developments including the Globe Works and Bagot Street Campus Living Villages which act as key gateway elements. This will also be reinforced by the proposed development of 'Lancaster Wharf', which includes a 23-storey tower. It is considered that the proposals can be accommodated within this urban context without detriment to the quality and character of the receiving environment. The proposed built form is not significantly higher than other existing buildings located in its immediate setting and will therefore not be at odds with what presently exists and with the developments to come. The proposals would not result in significant harm to the townscape character or visual environment and can be successfully integrated in this urban environment.
- 6.13 The Design and Access Statement illustrates the grouping of the tower with the existing and future tall buildings emerging along this corridor into the city. The Townscape and Visual Impact Assessment goes further to establish the nature of the impact, and no objection is raised to the height of the tower. This site can handle height especially as the towers developed in this area to date have appear squat in their collective impact, when viewed on the approach from Spaghetti Junction and can be accepted as part of the emerging scale of this part of the city. Moreover, the height and massing was a tested at DRP and was deemed acceptable.

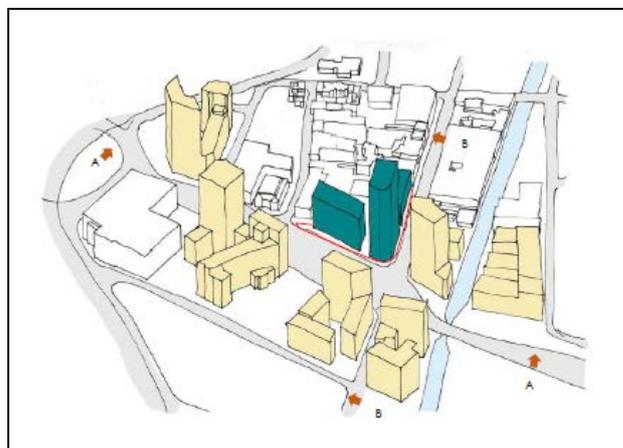


Figure 7: Image of site (in green) in relation to existing and approved developments

- 6.14 The proposed tall buildings would add to the cluster of tall buildings along a key route into Birmingham which acts as landmarks at an important gateway into the city. This cluster of towers includes Lancaster Street (26 storeys), Onyx (26 storeys) and Bagot Street (16 storeys) so is appropriate to local context. It would also re-establish the street pattern to Lancaster Street strengthening the traditional street layout that has been lost. Comments have been received questioning why existing two and three storey developments are being replaced with much taller buildings as their height and visual impact is considered to blight the general low level buildings in the area. Although tall towers have been approved and are proposed fronting Lancaster Street heights have been reduced and stepped down further along Princip Street to reflect the lower scale of existing buildings in this side street. Higher buildings and greater density of uses, where appropriate, make a more efficient use of brown field sites in the city centre and help meet the city's growth agenda. Birmingham Airport have requested a condition to require a crane management plan which is recommended..

Microclimate and Shadowing

- 6.15 A wind/microclimate assessment has been submitted with the application which concludes that within the public realm surrounding the site wind mitigation measures are required to ensure that the microclimate will be suitably comfortable and safe for the planned pedestrian uses. Wind mitigation measures have therefore been developed and validated for effectiveness and incorporated in the landscaping masterplan. The measures include the planting of four 10 metres high trees on the Princip Street frontage in front of Block A, the erection of porous gates 3 metres high between the 3 blocks on the site frontages, the planting of a number of mature trees and wind break hedging within the courtyard areas. The report concludes that these measures will ensure that the wind microclimate within the public realm will be suitably comfortable and safe for pedestrian uses.
- 6.16 Two daylight/sunlight assessments have also been submitted. One of these assess whether the units within the tower on the first to tenth floors would receive satisfactory levels of daylight and sunlight. This is because the rear elevation of the tower faces towards the side elevation of the 11 storey building shown as Block B. The distance between the two facades is about 7.8 metres however two of the apartments on each floor also have windows on the side elevations to provide an additional source of light. But there is a one bed apartment on each floor that would only have an outlook across the entrance courtyard towards the side of Block B.
- 6.17 The report concludes the majority of the rooms surpass their Average Daylight Factor (ADF) targets by a significant margin. However, 7 of the living/dining/kitchen rooms fall short of the targets but still achieve the minimum recommended target applicable to living rooms. All rooms also pass the room depth test. The living/dining/kitchen windows face within 90 degrees of due south and therefore all windows pass both the total annual sunlight hours test and the winter sunlight hours test. The proposed development therefore satisfies the BRE direct sunlight to windows requirements.
- 6.18 The other report considers the impact on neighbouring developments and concludes that that the proposed development does cause areas of non-compliance with the daylight recommendations set out in the BRE Guide with the most significant impact being to 5 and 48 Princip Street. However both these properties are currently used for commercial purposes and have planning permission for their redevelopment. The tower does not lie in close proximity to the habitable windows of any existing residential properties with the closest student accommodation being approximately 56 metres away and separated by a wide dual carriageway. To the south the apartments at 40-49 Price Street are about 53 metres away from the proposed tower but there would be the 11 storey Block B between the two developments.

- 6.19 The greatest impact of the tower on residential development is likely to be to the approved development at 5 Princip Street where the current depot building is to be replaced with a 23 storey residential tower. This has a 6 storey wing fronting Princip Street opposite proposed Block A so that there is likely to be some impact on light to the proposed apartment windows within this development. However having regard to the comparatively small footprint of the proposed tower on the application site it is not considered that any potential loss of sunlight would be unacceptable. Within both developments the apartments have large floor to ceiling windows and there would be a separation distance between the two developments of about 18 metres.

Helping People Move Around

- 6.20 The proposals do not amend existing routes around the site and the development itself would help define the edge of the Gun Quarter. Together with the other existing and emerging tall buildings on the A34 Newtown Row frontage it would form part of a cluster framing views into and out of the City and forming a local landmark to help legibility within this part of the City Centre. The ground floor communal uses and entrances into the development would provide activity to ground floor frontages and in particular introduce more vibrancy to the Lancaster Street where there is currently blank facades fronting the street. The proposals also include resurfacing the footway along the site frontage providing a more attractive environment which would be designed to provide suitable and safe access for all members of the community.

Sustainability and Providing Good Places to Live

- 6.21 The proposed development will reuse a brownfield site in a location with good access to services and facilities within the City Centre core by public transport and by foot. It is also close to bus stops and within walking distance of the metro and Snow Hill and Moor Street stations. On site cycle parking is provided and other sustainable measures included within the development include:-
- A fabric first approach to reduce the buildings energy demand, maximising the use of insulation, stringent airtightness standards and energy efficient lighting systems
 - Measures to reduce water consumption during occupation through a range of water efficiency measures including low flow sanitary fittings
 - SuDS to reduce the impermeable area of the site and achieve betterment in rate of surface water run-off.
 - Measures to mitigate and enhance site biodiversity through new native planting within the courtyards and creation of new habitats on the flat roof areas.
 - Use of sustainable materials and construction methods which reduces resource use and reduces the environmental impact of development through good design
- 6.22 High Places and Policy TP27 of the UDP require that tall places should be good places to live and deliver a strong sense of place so that people identify and feel pride in their neighbourhood. A range of one and two bed apartment sizes would be provided all of which would meet the guidance set out in the Nationally Described Space Standards. There is a range of private shared amenity areas included within the overall development design including reception areas with seating in each block and meeting spaces, lounge, games area, gym, shared kitchen and dining area. External space includes the courtyard garden spaces.

Impact on local public transport

- 6.23. A Transport Assessment has been submitted in support of the planning application which confirms that the will be 'car free' as the site benefits from excellent highway links, provision of sustainable transport infrastructure and that facilities and services

are in close proximity to the site. There are existing high frequency and vast provision of public transport infrastructure along Lancaster Street with a bus stop in front of the Block B as well as the recently completed segregated cycle path. The site is also within walking distance of retail, leisure and employment opportunities along existing footways including the nearby canal towpath. The proposed Travel Plan will also help keep residents informed of their available alternative sustainable travel options.

Lighting

- 6.24 The Design and Access statement includes a lighting strategy which is to provide a low level warm illumination around and within the site which would accentuate the main pedestrian and vehicular access route leading directly from Princip Street and Lancaster Street and between the buildings. Within landscaped courtyard space, low level external light fittings and lighting bollards are to be provided enabling wayfinding and a comfortable ambience when spending time in the spaces. Indirect illumination rather than flood lighting is proposed for the main facades using energy efficient LED sources operated with a lighting control system. Conditions can be imposed to secure the exact details as also requested by West Midlands Police.

Conclusions

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

Layout and building heights

- 6.26 Policy PG3 of the BDP states that all new development will be expected to be designed to the highest possible standards which reinforces or creates a positive sense of place and safe and attractive environments. The NPPF in Para 124 states that good design is a key aspect of sustainable development and creates better places to live and work and Para 127 seeks to ensure developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture and layout, are sympathetic to local character and history, including the surrounding built environment and maintain a strong sense of place.
- 6.27 The site layout proposed would provide buildings 7.8 and 8.8 metres apart located close to the back of the footway on the sites frontages which would be characteristic of the traditional form of development in the Gun Quarter. Although the Block A would be set slightly back from Princip Street frontage to allow trees to be planted in front of the building the reconfigured public realm on Lancaster Street would be laid out in resin bound gravel to provide a suitable setting and space of between 4 - 6.5 metres in width to the front of the two blocks. The buildings would be arranged around a central private amenity space varying in width between 14 and 26 metres and the space between each building would also be landscaped to provide courtyard style entrances. These areas would be subdivided low retaining walls to address the difference in levels across the site as well as being laid out with a variety of soft and hard landscaping.

Block B

- 6.28 Comments on the layout and height of Block A are dealt with in detail in the paragraphs relating to the tall buildings policy above. Blocks B at 11 storeys would complete the remainder of the Lancaster Street frontage and is of a lower scale to

give a transition between the height of the proposed tower and the lower scale of development on to the south of the site around Price Street which is 2 and 3 storeys high. The layout includes the main entrance in to the building and communal uses at ground floor to provide natural surveillance to the street.

- 6.29 Objections have been raised to the height of Block B on the grounds that it would completely dwarf the neighbouring apartment building on Price Street which is only 3 storeys high and the development therefore fails to respect its immediate context. Whilst the 11 storey block would be higher than its neighbour it is not considered to be out of keeping with other recent development fronting the A34 on Newtown Row and Lancaster Street. This area was previously developed with low rise industrial buildings but over recent years these have been replaced or have planning permission for much taller buildings and this application is continuing this trend. The buildings on the opposite side of Lancaster Street are between 14-16 storeys in height and planning permission has been granted for a 25 storey tower so block B at 11 storeys is not considered to be out of context. The objector also comments that the proposals would prevent the redevelopment of the apartment buildings on the corner of Lancaster Street and Price Street and the juxtaposition of the two sites could not be resolved. Each case however needs to be treated on its merits and there is no current proposal to redevelop the neighbouring site.

Block C

- 6.30 The height of this Block at 6 storeys offers a response to the lower scale development in Princip Street and would match the height of the wing to the 23 storey tower recently approved at part of the redevelopment of 5 Princip Street opposite the site. It would also provide a transition of building heights along Princip Street from the 4 storey development approved adjacent to the site at 48-52 Princip Street to the 26 storey tower proposed as Block A. The building would sit to the back of the footway on Princip Street and provides duplex units with living rooms at ground floor level as well the main entrance to give activity to the street.

Design

- 6.31 The scheme comprises three different elements that are responding to different environments and the architecture has been refined through the application process and to address concerns raised by officers and by Design Review Panel. The design of Block A is addressed in paragraphs 6.10-6.15 above as part of the tall building assessment but the other blocks B and C are assessed below.

Block B

- 6.32 Block B follows a similar design approach to that proposed for Block A but would be built of a red brick rather than a blue brick. The façade has been divided into three sections with the base consisting of mainly full height glazing to the ground floor with 2 storeys of residential curtain walling above. The main body consists of a single 6 storey segment capped with a 2 storey top section and parapet. The brick would be recessed in areas to emphasise the façade grid and add a sense of verticality to the overall dimension of the building. As the gable end of block B has less windows to reduce overlooking the elevations have been articulated further with recesses and patterned brick detailing. Although the architecture now corresponds very closely to Block A the building is vastly better than originally proposed and is acceptable.



Figure 8: Image and detail for Block B

Block C

- 6.33 The approach to the design for Block C has been to provide an appearance that reflects a more traditional factory building and as this is the smallest of the 3 blocks it consists of only a base and a main body to be constructed of red brick. The base differs from the other blocks as it comprises mainly of residential uses including duplex units fronting the street with only full height glazing used to highlight its entrance. The design has an emphasis on vertical proportion and a number of amendments have been made to the elevations to secure a more consistent rhythm to the façade. The brickwork also has soldier course banding to break up the elevation and respond to the traditional nature of Princip Street. The gable end of Block C is also designed to have recessed brick and extruded brick details.
- 6.34 DRP felt that the design of Block C was the poorest of the three blocks. However a number of alterations have been made since the original pre-application submission. The amendments now create a difference between the base and upper floors, defined along the line of the newly introduced duplex units. In addition the window locations have revised to provide order and consistency to the façade and the width of the brick piers has been equalised along the elevation. The overall composition is still slightly disjointed but as the street facing elevation is less distracting than before it can be supported.



Figure 9: Image of Block C and its relationship to approved at 48-52 Princip Street and (in grey) and historic buildings (in pink) at the Comet Works at 47- 44 Princip Street.

Dwelling Mix

- 6.35 Policy TP27 of the BDP states that new housing in Birmingham is expected to contribute to and demonstrate that it is meeting the requirements of creating sustainable neighbourhoods which are characterised by a wide choice of housing sizes, types and tenures to ensure balanced communities catering for all incomes and ages. Policy TP31 seeks 35% affordable housing on schemes of 15 dwellings or more and where this percentage cannot be provided it states that the viability of the proposal will be assessed. National planning policy guidance on build to rent schemes states that affordable housing should be provided in the form of affordable private rent and that 20% is generally a suitable benchmark for the level of affordable private rent homes to be provided (and maintained in perpetuity) with a minimum rent discount of 20% relative to local market rents.
- 6.36 The application proposes 337 apartments for rent comprising 146 x 1 bed (43%) and 191 x 2 bed (57%). The apartments would range in size from 40 – 61 sq.m for the 1 bed and 61 – 80 sq.m for the 2 bed units and thus all meet the minimum national described space standards. In addition the development also provides a range of internal communal space for residents totalling 551 sqm which equates to a further 1.6 sq.m per apartment. In terms of tenure the applicant has offered to provide 16 of the units (4.7%) as affordable private rent to be let at 80% of Market Rent. This is low provision but has been justified by a financial appraisal which is addressed further in paragraph 6.67 below.

Impact on Heritage Assets

- 6.37 In determining this application the LPA must comply with the statutory duties relating to listed buildings as set out in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires LPA's to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Case Law has now firmly established that the "special regard" duties of the LB Act require that the decision maker should afford "considerable importance and weight" to the desirability of preserving a listed building along with its setting. It has also been established that "preserving" means "doing no harm" for the purpose of interpreting the LB Act duty.
- 6.38 Policy TP12 of the BDP states that great weight will be given to the conservation of the City's heritage assets and that development affecting a designated or non-designated heritage asset or its setting, will be expected to make a positive contribution to its character, appearance and significance. The NPPF states that in determining applications, LPA's should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. They should take this into account when considering the impact of a proposal on a heritage asset, in order to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal. Any harm to, or loss of the significance of a designated heritage asset should require clear and convincing justification. Para 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 6.39 In addition to the loss of the non-designated Turner Machine Tools building dealt with in the demolition section of this report in para's 6.4 and 6.5 above a further key heritage issue to be taken into consideration is the indirect effect of the proposals on the significance and setting of nearby designated heritage assets, as a result of development proposed within their setting. The applicants have submitted a heritage assessment which has considered the significance of heritage assets in the vicinity of

the site and the impact of the proposed development on them. The heritage assets considered include 16-18 and 47 Princip Street, 94-99 Bath Street & 28A-32 Shadwell Street, the Gunmakers Arms, 100 and 101 Bath Street and Barker Bridge over the Birmingham Fazeley Canal which are all Grade II listed. Locally listed buildings considered are no's 51 and 61 Price Street, 90 Lancaster Street and 46 Princip Street. The heritage statement did not consider the impact of the development on 37-38 Princip Street which is Grade II Listed or on the Grade II* Cathedral Church of St Chads but additional information has now been submitted to address this.

- 6.40 The applicant's heritage assessment statement concludes that having assessed the significance of designated and non-designated heritage assets near the application site and the elements of setting that contribute to their setting, it is considered that the proposed development would not diminish or harm their significance. A tall building is proposed, but within an area already characterised by a mix of low rise and tall buildings including the 24 storey Onyx development at Lancaster Circus and the 17 and 16 storey student accommodation buildings fronting Lancaster Street. The document considers the proposed development responds to the character of the area through the use of three differing buildings on the site which allows for the overall mass to be broken up. Due to the varying roofscape of the proposed buildings and the combination of glazing and the brick tones which are characteristic of the Gun Quarter, the proposed development does not appear dominant in views such that it would detract from the significance of nearby heritage assets. The form of the tower whilst prominent within certain views is not considered to compete with nearby listed buildings. The overall layout and siting together with the proposed form and appearance are said to respond to the nearby listed buildings and locally listed buildings along Princip Street. Overall it concludes that the development sustain the significance of the designated and non-designated heritage assets and meet the requirements of s66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the NPPF.
- 6.41 The Heritage Statement acknowledges that the proposed development will be visible within the context of a number of views of the nearby heritage assets. However it does not consider that the development would diminish or harm their significance or appear dominant in views. However officers do not agree with these conclusions and consider that the development would detract from the significance of these assets and compete with the listed buildings thereby causing harm the identified heritage assets. The conservation officer considers that although some elements of historic and architectural significance would be sustained a large part of the setting of these heritage assets is Princip Street and the surrounds of the Gun Quarter. The scale of the proposed development, particularly the tower element, is felt to be at odds with the existing setting of the heritage assets within an established low-scale historic townscape. Therefore the proposed scale of the development would cause a degree of harm to the setting of the listed buildings. Although the benefits arising from the scheme are noted the conservation officer does not consider they are enough to outweigh the harm caused by way of scale. In addition she considers the overall design of the development, particularly Blocks A and C are not of sufficient quality to either outweigh or suitably balance this harm.
- 6.42 In relation to the addition information provided in respect of the impact on significance of 37-38 Princip Street the conservation officers notes that the applicants conclude that the overall change to context is limited and whilst visible would not diminish the significance of the listed building, its former use as an industrial works will remain appreciable and it will not impede or diminish the ability to appreciate the architectural and historic interest of the listed building. However the conservation officer considers that due to the general low historic scale of development in the Gun Quarter, the existing site makes to the historic streetscape character and the historic

value which gives the setting of the listed building, which sits together in a shared and still relatively cohesive streetscape along Princip Street with other historic buildings of a shared scale, historic use and materiality. The site itself is acknowledged as contributing positively to the setting of this heritage asset and the loss of the existing building is not only a regrettable loss to setting but as the replacement buildings are substantially larger and bring larger scale development closer to the Gun Quarter, including a tower with an elevation to Princip Street itself. The conservation officer concludes that the existing setting is not preserved and therefore is considered harmful to the setting of 37-38 Princip Street.

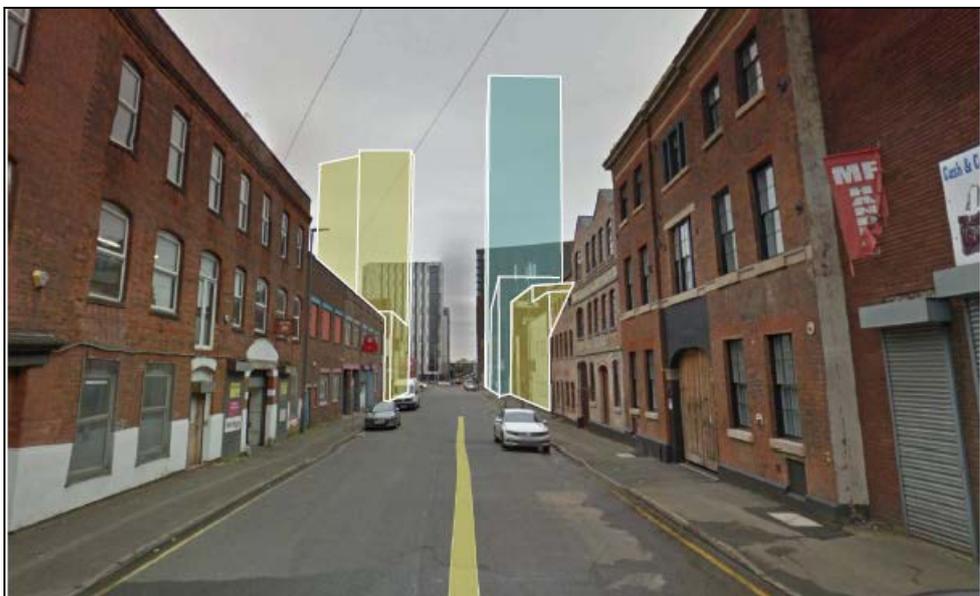


Figure 10: Image of proposed development (Blue) and approved development on Princip Street (in yellow) in relation to existing development in Princip Street

- 6.43 Historic England have also expressed concern that the scheme proposes yet another tall building in the setting of the Grade II* listed St Chad's Roman Catholic Cathedral and that no reference is made to St Chad's in the applicants Heritage Statement. They consider that the proposed tower would be prominent in the setting of St Chad's and is likely to be visible above and behind its roof and spires and in a number of views from the south west. It would also add to a growing number of tall buildings affecting the setting of St Chad's in this area, diminishing its intended architectural presence. They express concern regarding the growing number of tall buildings affecting the significance and architectural prominence of St Chad's Cathedral. Whilst the cathedral's listing description acknowledges that both Pugin's original building and its setting are 'very much mutilated' this situation has been continually exacerbated in recent years with the addition of a number of dominant developments within the immediate setting of St Chad's.
- 6.44 The applicant's heritage statement addendum however concludes that those aspects of setting which contribute towards the significance of the listed Cathedral Church of St Chad would remain unchanged as a result of the development. The statement comments that it is already experienced in combination with a number of modern and taller buildings and the application site is separated from the church by intervening development and changing topography levels. In addition the applicants statement considers the development would not be visible from those aspects of setting which contribute to the significance of the listed building including views from the east, south and immediate west of the church. It acknowledges that the proposals would be visible above the nave of the church in an elevated view from Great Charles Street but would be experienced within the context of established modern tall development which already sits alongside or above the listed building in this view. In conclusion the applicants statement advises that the proposed development would

not screen or impede important views of the church nor conceal or disrupt its distinctive spires. It would be visible above the nave, like other modern development, but this would not diminish an appreciation of its width and mass.

- 6.45 The conservation officer notes that the applicants heritage statement identifies that the proposed development will be visible above the nave of the Church in elevated and in her opinion key views from Great Charles Street. She considers that in views from the southwest the tower will be very dominant in views of St. Chad's and would compete with the prominence of the church, rising up behind the nave. Whilst the Conservation officer acknowledges that St. Chad's does exist in an existing and emerging context of large buildings, and some recently approved tall buildings, none of these actually appear to rise up behind the Church and interrupt the roof scape and architectural form to this degree. The conservation officer is of the opinion that this impacts on the architectural significance of the building and the dominance of the tower set in the visual backdrop of St. Chad's would further 'mutilate' its setting. She therefore cannot fully support the findings of the heritage statement and concludes that the setting, prominence and architectural qualities of St Chads would further diminished thereby causing less than substantial harm as a result of the development.
- 6.46 In relation to the impact of the application proposals on heritage assets in the vicinity of the site there are a some positive benefits to this scheme from a heritage point of view including the reinstatement of the tight urban grain historically found within the site and surrounding area, improving the wider setting of the historic buildings and the regeneration of a largely vacant site. However the conservation officer and Historic England consider the buildings at 63-68 Princip Street hold heritage value as a non-designated heritage asset and their demolition would cause a loss of significance to this asset. The conservation officer also considers the setting of the listed buildings in the vicinity of the site will be harmed by the scale and design of proposed Blocks A and C and furthermore that Block A would cause harm to the setting of St Chad's Cathedral by the development diminishing elements that contribute positively to its architectural and historic significance . The degree of harm is less than substantial and contrary to the statutory duties contained within Section 66 of the Listed Building Act. This harm must be afforded considerable importance and weight and also gives rise to conflict with policy TP12 of the BDP and therefore engages paragraph 196 of the NPPF whereby the harm needs to be weighed against the public benefits of the development. This is assessed further in section 7 of this report.

6.47 **Residential Amenity**

Living and Amenity Space

- 6.48 The proposed mix of apartments would provide 1 and 2 bed units with there being slightly more 2 bed at 57% than 1 bed at 43%. The apartments would range in size from 40 – 61 sq.m for the 1 bed and 61 – 80 sq.m for the 2 bed units and provide a mix or 1, 2, 3 and 4 person accommodation with the emphasis on 1 bed x 2 person and 2 bed x 3 person sized units making up 74% of the units to be provided. All the accommodation which would meet the minimum nationally space standards. 16 of the units (4.7%) are being offered for affordable private rent to be let at 80% of Market Rent. The development would also provide a variety range of internal and external communal areas for residents totalling 2,857 square metres the equivalent of approximately 8.5 sq.m per apartment.
- 6.49 The site layout provides distances between the opposing windows on elevations at the rear of the site of between 16 and 20 metres. However the separation between the blocks on the site frontages is lower at 7.8 - 8.8 metres and there are windows to

habitable rooms in the side elevations on all three blocks. However these side windows all provide a secondary means of light with the apartments affected having main windows that either face the street or the courtyard spaces. The only exception to this is a that there is a one bed flat in Block A that faces towards the side of Block B which is 11 storeys high so that the outlook from this apartment would be more limited on the lower floors. This is however considered to be acceptable as already discussed in para 6.18 and 6.19 above. Overall the development would provide a suitable living and amenity space.

Noise and Air Quality

- 6.50 The application is supported by a noise assessment and although Regulatory Services have some reservations regarding its data they consider a suitable mitigation scheme can be developed for the site. They therefore recommend conditions requiring further noise monitoring, a noise mitigation scheme and overheating assessment. An Air Quality report has also been provided which Regulatory Services comment does not address the issues they have raised including an objection in principle as majority of development has a façade on Lancaster Street and therefore the scheme is creating new residential exposure in an area with significant air quality challenges. This could adversely impact the wider air quality compliance with the CAZ and as such consider they there is the potential for a significant adverse impact on the proposed development from air quality which would lead to harm to health and quality of life for future residents. Notwithstanding this they appreciate their objection will need to be considered as part of the wider planning balance of the development and therefore recommend appropriate conditions in the event that the application is approved. They also request conditions to require a site investigation/remediation strategy and verification.
- 6.51 In response to the objection regarding air quality the proposed development is located within the Birmingham CAZ and therefore all vehicles will be required to comply with CAZ emissions standards which come into force in June this year or there will be a charge. The proposals do not include any on-site car parking the site is in a highly accessible location. Having regard to the likely influence of the CAZ charging structure on future vehicle use it is considered that the proposed development would not influence the CAZ or BCC's ability to achieve compliance with the annual mean NO₂ objectives. The development would not be occupied until about 2024 prior to which an assessment can be made and required via conditions for further NO₂ monitoring at the site. If any exceedances of the NO₂ annual mean objective are identified, mitigation measures can be incorporated into the ventilation strategy for the proposed development to safeguard future residents.

Impact of neighbouring development

- 6.52 The closest existing dwellings to the site are the apartments at 40-49 Price Street, which comprises 18 apartments over three floors and adjoin the southern boundary of the site. Currently the single storey workshops/industrial sheds with a series of gable end roofs at 56-60 Princip Street abut the rear of this building which are to be demolished but above the sheds are a row of windows at first and second floor level. The building was a formerly offices but was converted into apartments in about 2007/8 and the approved plans show the apartments to be single aspect in their layout with the main windows fronting Price Street. The windows at the rear of the site serve a corridor that runs along the rear of the building on each floor which currently looks onto the roofs of the existing industrial buildings. The only exception to this is that on the first floor at the eastern end of the block one of the windows provides secondary light into a living/kitchen area and on the second floor above the window provides light to a bathroom.



Figure 11: Floor plans of 40-49 Price Street and photo showing rear windows

- 6.53 The proposed development would locate Block B which is 11 storeys in height within 5.5 metres of the rear wall of the adjacent apartments. It would present a side view to the rear of the apartments for a depth of 13 metres. Beyond this the development locates a landscaped courtyard to the rear of the neighbouring apartments within which sits Block C which is 6 storeys in height and some 27 metres away. It is not considered that there would be any loss of amenity to residents of the apartments due to the location of Block C and in fact the setting of the apartments would be enhanced by the removal of the workshops. There would be some loss of light to the corridor windows due to the location of Block B however this is a circulation area rather than habitable accommodation. The corridor also has a long line of windows at second floor level most of which will not be affected. Although there are fewer windows into the corridor at first floor level light here is already restricted by the existing buildings. There would also be some loss of light to the rear bathroom window and living area to the two end apartment however a bathroom is not a habitable room and the living area already has a window at the front facing Price Street. The applicant's sunlight/daylight report also calculates the light to these rooms to still meet BRE guidance.
- 6.54 The end wall of proposed Block B also has two windows on each of floors 1-10 providing secondary light into the adjacent apartments. The windows at the eastern end would not face the apartment building as it is sighted slightly forward of this neighbouring block, however the windows at the western end would be opposite the existing windows. However as they serve a corridor it is not considered that there would be any undue loss of privacy to neighbours.
- 6.55 Overall the impact of the development on 40-49 Price Street is considered to be acceptable. Although the owner of the apartment building considers there would be an impact on their Rights to Light this is a separate private matter that can be pursued through other legislation. The objector also claims that he has used,

landscaped and maintained the land at the corner of Price Street and New Town Row for 13 years and enclosed it with railings. Whilst the land is unregistered he advises that he has submitted a possessory title claim to the Land Registry. This land is within the application site but shown as being used for planting and a footway. Its ownership is a private legal matter with the objector's claim being disputed by BCC.

- 6.56 On Princip Street there is currently no residential development in the immediate vicinity of the site however planning permission has been recently been granted for a residential development at 5 Princip Street for a 23 storey tower with a 6 storey wing to provide 266 apartments. The impact of the development on this schemes which lie opposite the site is set out in para 6.20 above. Proposed Block C which is 6 storeys in height would lie adjacent to the 4 storey block of 26 apartment proposed at 48-52 Princip Street and opposite the 3 storey building at 19A Princip Street where prior approval has been granted for the conversion to 10 apartments. In respect of 48 Princip Street the approved plans show no windows in the gable end facing the application site. Although there is a wing at the rear facing towards the current site it is set back about 6 metres from the boundary and would look towards the proposed courtyard garden space with a separation distance of about 25 metres between opposing windows. At 19A Princip Street the separation distance would be about 18 metres and the 6 storey height is not considered to cause an unacceptable loss of light to its street facing windows. The proposed development would not have an unacceptable development on these approved developments.

Transportation Matters

- 6.57 The application does not include any car parking spaces but would provide 171 cycle spaces (51%). This is below the 100% guidance recommends but is considered to be acceptable being based on the use of spaces in other large apartment schemes. There would be opportunity to provide more spaces within the courtyard areas if the need arises. The submitted Transport Statement confirms that there are a wide range of local facilities, services and employment opportunities within easy walking distance of the site and it is well served by high frequency bus services and major railway interchanges. The development would be serviced by refuse and other service vehicles from Princip Street. A Framework Travel Plan has been provided to assist residents from using the car in favour of more sustainable transport modes.
- 6.58 Although objections have been received to lack of parking spaces being provided Transportation raise no objections to the development subject to conditions and comment that there will be a highway gain with reduced traffic levels from the proposal. Although the lack of parking has the potential to lead to increased pressure for on street parking the site is close to the City Centre where on street parking is tightly controlled and enforced. BCC parking guidelines are also maximum requirements. As a car free development residents are less likely to try and bring cars to the area particularly as the unrestricted on-street parking nearby is also due to be removed as part of the Clean Air Zone scheme.
- 6.59 Transportation also raises no objection to the proposal to incorporate the strip of highway land, planting and bench which front Lancaster Street into the application site as a 2 metre wide footway would be retained. This will require the removal of the 3 existing trees on the corner of Lancaster Street and Princip Street but these are to be replaced with 4 semi mature trees as part of the proposals. The loss of this area of highway will require Stopping up Order as is included in the recommendations.

Planning Obligations

- 6.60 Policy TP31 of the BDP requires 35% affordable dwellings on site of 15 dwellings or more and TP9 seeks either on site public open space at 2ha per 1000 population or

contributions towards off site provision for developments of 20 or more dwellings. The applicant has submitted a financial assessment with the application that concludes the development would not make sufficient return to enable any on site affordable housing to be provided. This has been assessed by the Council's consultants and an offer of 16 (4.7%) affordable private rent units has been agreed to be let at 80% of Market Rent in perpetuity. The mix offered is 6 x 1 bed 1 person apartments, 6 x 2 bed 3 person apartments and 4 x 2 bed 4 person apartments.

- 6.61 The Section 106 offer is disappointing for a development of the scale proposed. However the Council's consultants have undertaken their own assessment and conclude that the proposals would generate a developer's profit on cost of 10.09% with the inclusion of 16 affordable private rent units which is in line with the target profit margin for a private rental scheme and is the most that can be sustained by the development without impacting on viability and deliverability. Therefore although Section 106 contributions have been requested from Local Services in view of the viability position it is considered that priority should be given to the provision of on-site affordable private rent dwellings.

7.0 The Planning Balance

- 7.1 The development would comply with several of the relevant BDP policies relating to the re-use of urban land and delivering of new housing within the City Centre, creating sustainable and high quality new places. It would also meet the objectives and policies set out for the Gun Quarter for sites close to the canal network and fronting Lancaster Street which support mixed uses including new housing. Although the site is also not explicitly proposed for a tall building within the High Places SPG it is considered to be a suitable quality and would provide an attractive living environment.

- 7.2 However there are also a number of conflicts between the application proposals and the heritage policies of the development plan as BDP policy TP12 states that great weight will be given to the conservation of the City's heritage assets and that development affecting a designated or non-designated heritage asset or its setting, will be expected to make a positive contribution to its character, appearance and significance. The harm caused is due to the loss of the non-designated heritage asset buildings at 63-68 Princip Street as well as to the setting of listed buildings and other heritage assets in Princip Street and to the setting of St. Chad's through the development diminishing elements of architectural and historic significance that contribute positively to significance. Although these conclusions are disputed by the applicants heritage consultants these are the views of the Council's conservation officer and Historic England.

- 7.3 The degree of harm would be less than substantial and contrary to the statutory duties contained within Section 66 of the Listed Building Act which must be afforded considerable importance and weight. This therefore engages paragraph 196 of the NPPF whereby the harm needs to be weighed against the public benefits of the development and these include the following:-

7.4 *Heritage Benefits*

- Removal of the existing low quality buildings at 53-62 Princip Street and delivery yard which currently provides an uncharacteristic gap in the street frontage.
- Re-providing a back-of-pavement building line and a tighter and more characteristic urban grain along Princip Street.

7.5 *Economic Benefits.*

- Redevelopment of a vacant site

- Providing 337 apartments with ancillary communal facilities and courtyard gardens creating a high quality living environment
- High density use of a brownfield site and making a positive contribution to the overall mix of uses in the area;
- Increase in natural surveillance of the surrounding area reducing fear of crime
- Creation of part-time and full-time jobs associated with the management of the Build-to-Rent development.
- Investment in the city and area equating to approximately £53.725 million during the construction phase
- Encouraging the wider regeneration of the Gun Quarter
- Increasing spending power for the local economy, through the additional number of persons occupying the site helping to sustain shops and other businesses in the Gun Quarter.

7.6 *Design*

- Replacing poorly designed warehouse/offices with high quality buildings to the street frontages.
- Increasing the natural surveillance of Lancaster Street by replacing blank facades with windows and activities fronting the road
- Providing activity at ground floor level and duplex units to enhance overlooking of the street frontages.

7.7 *Affordable Housing*

- Provision of 16 low cost market rental dwellings in perpetuity

7.8 *Sustainability*

- Redevelopment of a brownfield site close to the City centre core and good accessibility to local services via pedestrian and cycle routes and with good bus, metro and train services nearby
- Proving buildings designed to reduce energy use and carbon including use of water efficiency measures, sustainable materials and PV panels
- Provision of a sustainable drainage scheme
- Opportunities for ecological enhancement through amenity planting and green roofs inclusion of suitable native planting and bird/bat boxes.

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

8.0 Conclusion

8.1 The proposals for this site have been amended following consideration of the pre application proposals by DRP since the original application submission in February 2020 and now provide a suitable high quality development for the site. Although the demolition 63-68 Princip Street and the tower element of the scheme is considered to cause some harm to heritage assets this would be less than substantial harm which is outweighed by the public benefits offered in favour of the development are of sufficient weight as material considerations to justify approval of the application subject to the Section 106 agreement and conditions as recommended below:-

9.0 Recommendation

9.1 That no objection be raised to the stopping up of the areas of public highway within the application site and that the Department for Transport be requested to make an Order in accordance with Section 247 of the Town and Country Planning Act 1990

- 9.2 That application 2020/00999/PA be APPROVED subject to the prior completion of a Section 106 Legal Agreement to secure the following:
- a) The provision of 16 units for market rent at a 20% discount on open market rent in perpetuity comprising 6 x 1 bed 1 person apartments, 6 x 2 bed 3 person apartments and 4 x 2 bed 4 person apartments.
 - b) Payment of a monitoring and administration fee associated with the legal agreement of 3.5% of the value subject to a maximum of £10,000.
- 9.3. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the 7 June 2021, planning permission be refused for the following reasons:-
- In the absence of a legal agreement to secure any on-site affordable market rent dwellings the proposal conflicts with Policy TP31 of the Birmingham Development Plan and the National Planning Policy Framework.
- 9.4 That the City Solicitor be authorised to prepare, complete and seal an appropriate agreement under Section 106 of the Town and Country Planning Act.
- 9.5 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority by the 7 June 2021 planning permission for application 2020/00999/PA be APPROVED, subject to the conditions listed below:-

| | |
|----|--|
| 1 | Requires the prior submission of a demolition management plan |
| 2 | Requires the prior submission of a construction method statement |
| 3 | Requires the prior submission of a ecological construction mangement plan |
| 4 | Requires the submssion of a construction ecological mitigation plan |
| 5 | Prevents demolition prior to a redevelopment contract being entered into |
| 6 | Requires the prior submission of a contamination remediation scheme |
| 7 | Requires submssion of a crane management plan |
| 8 | Requires the submission of a contaminated land verification report |
| 9 | Requires the prior submission of a drainage scheme |
| 10 | Requires the prior submission of plans for the disposal of foul and surface water flows |
| 11 | Requires the prior submission of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan |
| 12 | Requires the prior submission of level details |
| 13 | Require the submission of an employment constuction plan |
| 14 | Requires the submission of sample materials |
| 15 | Requires the submission of sample brickwork |
| 16 | Requires the prior submission of archictural details |
| 17 | Requires the submission of a detailed section of the proposed brick work recess details. |

-
- 18 Requires details of proposed external ramps, steps and retaining walls
 - 19 Requires the submission of boundary treatment details
 - 20 Requires the submission of hard and/or soft landscape details
 - 21 Requires the submission of details of the hard landscape treatment and public realm to the frontages to Blocks A and B
 - 22 Requires implementation and testing of the wind mitigation measures.
 - 23 Requires an air quality study and management plan
 - 24 Requires a scheme of noise mitigation measures
 - 25 Limits the noise levels for Plant and Machinery
 - 26 Requires the submission of a lighting scheme
 - 27 Requires the submission of a scheme for ecological enhancements
 - 28 Requires the prior submission of details of bird/bat boxes
 - 29 Requires the submission of details of biodiversity roofs
 - 30 Requires the submission of a residential travel plan
 - 31 Requires the submission and completion of works for the S278/TRO Agreement
 - 32 Requires the provision of cycle parking prior to occupation
 - 33 Requires the submission of a CCTV scheme
 - 34 Requires the submission of details of the energy and sustainable design measures
 - 35 Requires details of any roof top plant or equipment
 - 36 Requires the submission of details of the solar panels.
 - 37 Requires the scheme to be in accordance with the listed approved plans
 - 38 Implement within 3 years (Full)
-

Case Officer: Lesley Sheldrake

Photo(s)

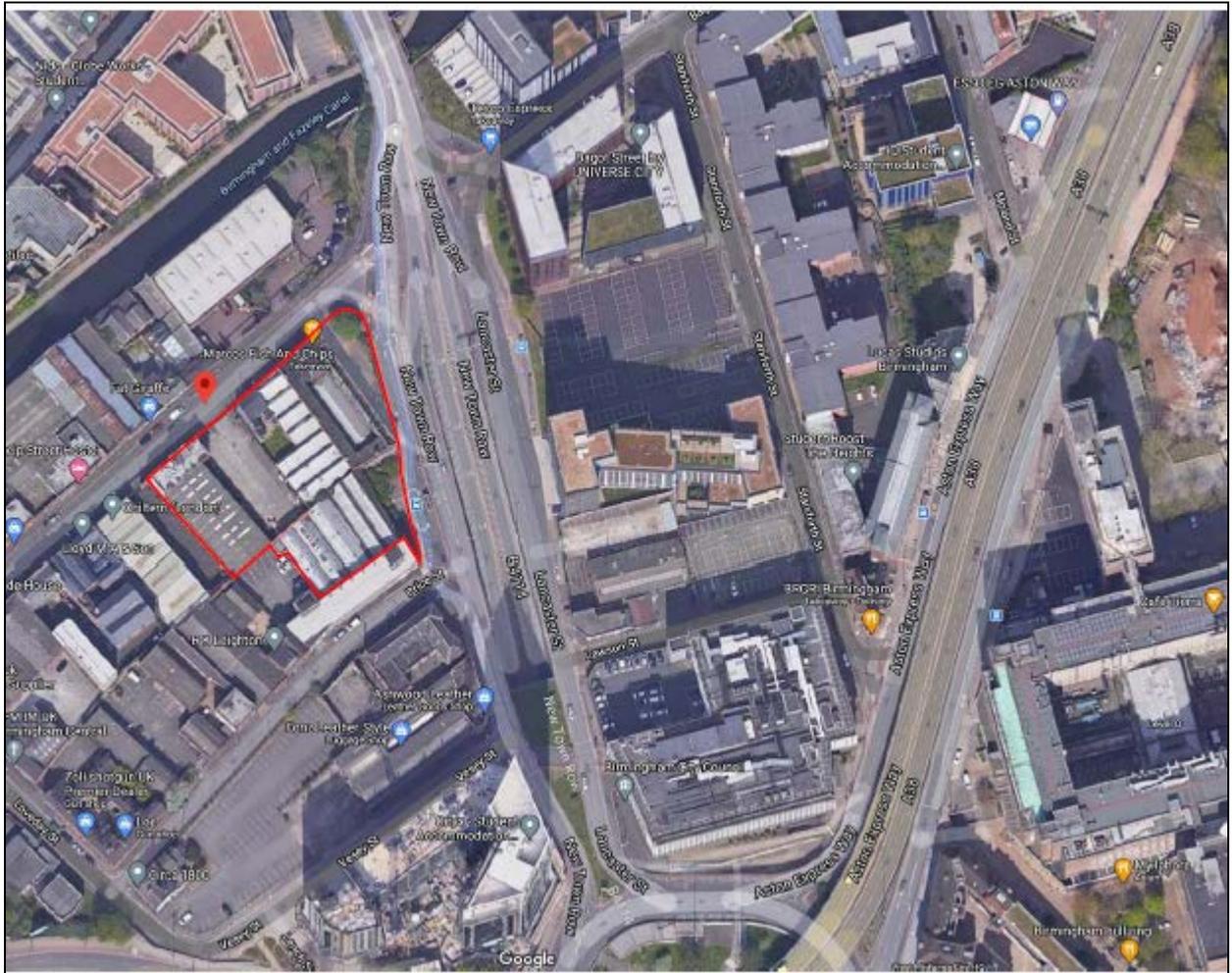


Photo 1: Aerial View of site



Photo 2: 3D Aerial View of site and surroundings

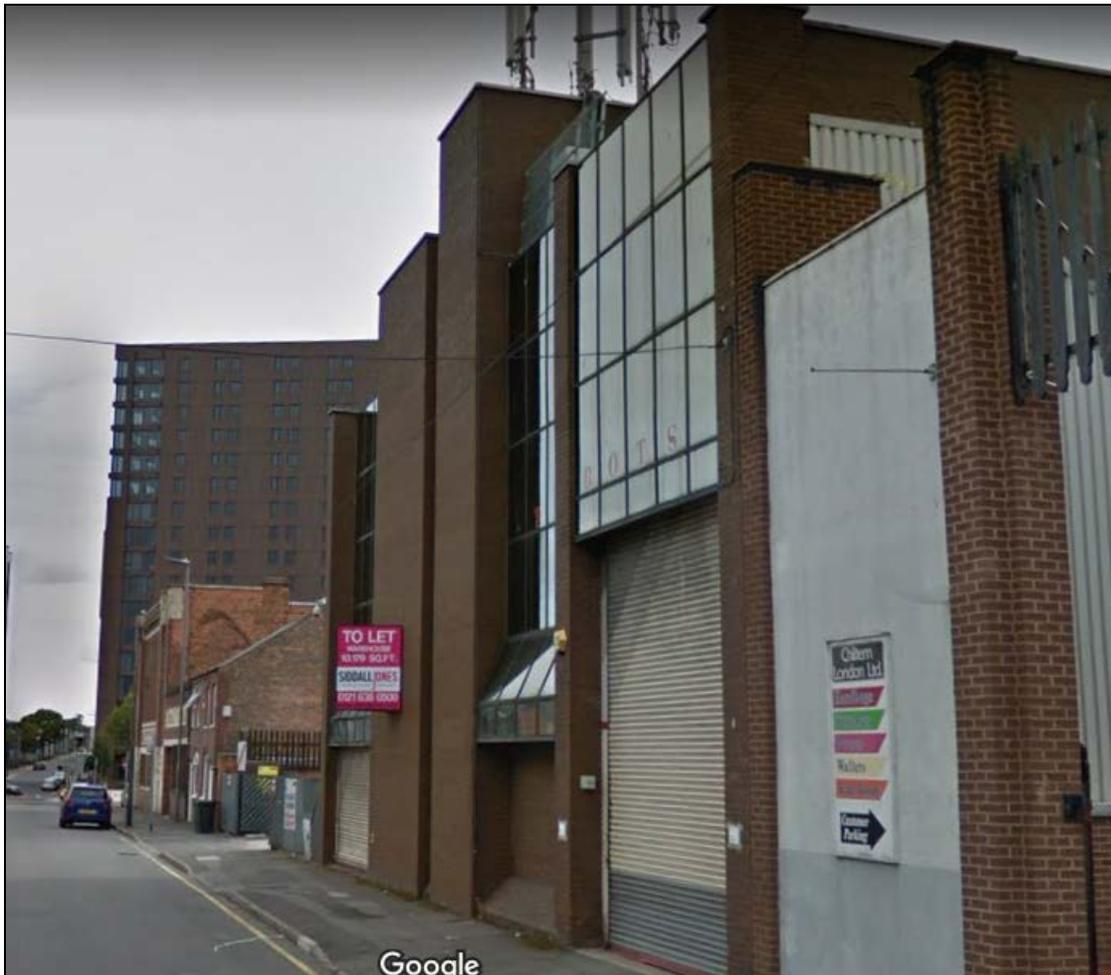


Photo 3: View of site from Princip Street looking towards Lancaster Street



Photo 4: Wider view along Princip Street



Photo 5: Site frontage to Lancaster Street



Photo 6: Wider view from Lancaster Street looking towards New Town Row

Location Plan



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BIRMINGHAM CITY COUNCIL

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

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

WARD: BORDESLEY AND HIGHGATE

29th April 2021

SUMMARY

1. This application was reported to your Committee on the 20th December 2018, when it was deferred for a site visit, further consideration of additional information submitted and the specialist character of the area. Following the Committee site visits, negotiations have taken place with the applicant and Nightingale to find a way to address the concerns. However, it has not been possible to reach agreement and the applicant has appealed against non determination.

2. More recently, Members will recall that a further report was considered by your Committee at the meeting on the 4th March 2021, to seek endorsement of the reasons for refusal if the Local Planning Authority had been in a position to determine the application. Three reasons for refusal were agreed:-
 - I. The applicant has not demonstrated to the satisfaction of the Local Planning Authority that the proposed glazing / wall specification would when the windows are closed adequately mitigate noise from the Nightingale. This would result in a poor quality living environment for prospective residents and complaints against the Nightingale, which could affect the Nightingale and hence the Gay Village. As such the proposal would be contrary to Policies GA1, TP24, TP25, TP28 of the Birmingham Development Plan, the Revised National Planning Policy Framework and Public Sector Equality Duty.

 - II. In the absence of an agreement to secure satisfactory noise mitigation measures at the Nightingale through application of the agent of change principle, the proposal would result in a poor quality living environment for prospective residents and complaints against the Nightingale, which could affect the Nightingale and hence the Gay Village. This would be contrary to Policies GA1, TP24, TP25, TP28 of the Birmingham Development Plan, the Revised National Planning Policy Framework and Public Sector Equality Duty.

 - III. In the absence of a suitable legal agreement to secure affordable dwellings the proposal would be contrary to TP31 of the Birmingham Development Plan and Revised National Planning Policy Framework.

3. The appellant has subsequently agreed to enter into a legal agreement to provide affordable housing to enable the third reason for refusal to fall away. A financial appraisal has been submitted to demonstrate that, with a policy compliant contribution the scheme would not be financially viable. The report has been assessed by independent consultants who consider that the scheme can sustain a contribution of circa £750,000. This would equate to 11 (9.5% provision) affordable low cost units (4 x 2 bed and 7 x 1 bed) at 75% of open market value.

Recommendation

4. That in order to discharge the third reason for refusal the City Solicitor be authorised to prepare, seal and complete the planning obligation to secure the following
 - a) 11 affordable low cost units (4 x 2 bed and 7 x 1 bed) at 75% of open market value; and
 - b) payment of a monitoring and administration fee associated with the legal agreement of £1,500

Birmingham City Council

Report to Planning Committee

29 April 2021

Subject: Enforcement Performance

Report of Ian MacLeod - Acting Director, Inclusive Growth Directorate
Email Address: Ian.MacLeod@birmingham.gov.uk

Report author: Mark Franklin - Principal Enforcement Officer, Planning & Development.
Email Address: mark.franklin@birmingham.gov.uk

Does the report contain confidential or exempt information? Yes No

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

1. Executive Summary

1.1. At a recent previous committee, Planning Committee resolved to receive a quarterly report on enforcement performance. This report shows performance/data for the calendar year quarter 1, 1 January 2021 to 31 March 2021.

2. Recommendations:

2.1. The report is for information only and recommended that Planning Committee note the high volume of live case work within the Enforcement team and the positive actions in terms of cases closed; notices served, prosecutions and confiscation orders.

3. Background:

3.1 A review into the operation of the team was undertaken in November 2020 and it was concluded that the enforcement team would be divided into North and South teams. The North team managed by James Fox, Acting Principal Enforcement Officer and the South team managed by Mark Franklin, Principal Enforcement Officer.

3.2 Head of Enforcement, Householder and Technical Services is James Wagstaff. There are eight senior enforcement officers (two are part time) who investigate complaints received and one enforcement officer who registers the complaints.

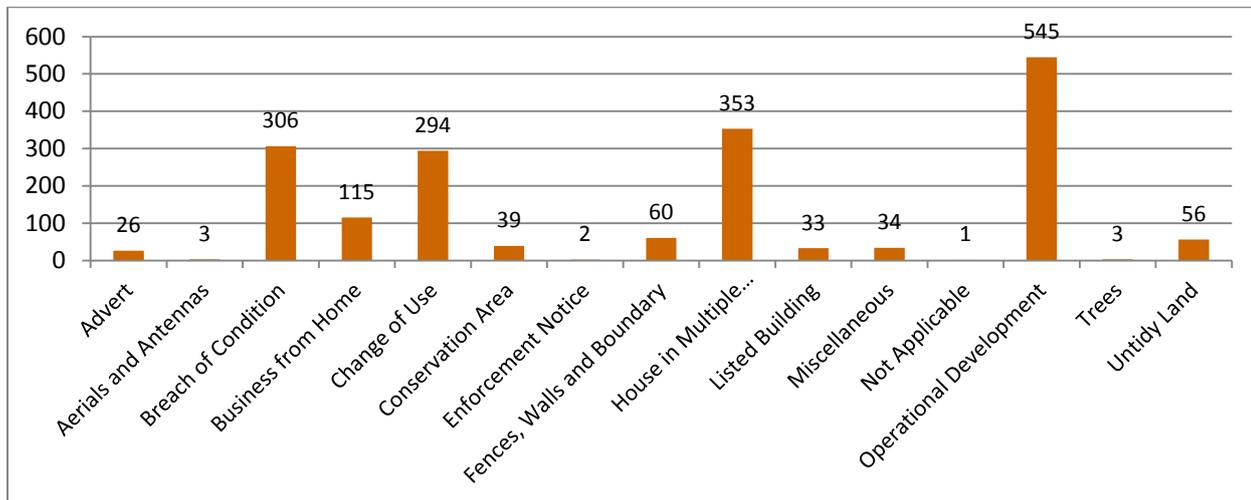
3.3 It is considered the above management structure of the team is more efficient and effective way of managing the workload.

3.4 February 2021 has seen the loss of 1x Senior Enforcement Officer to long term sick leave and the introduction of 2x Graduates onto the team. Due to the high volume of case work, 2 agency staff were appointed on a 6-month contract.

3.5 The Birmingham Local Enforcement Plan (BLEP) which will be reported to Cabinet in May 2021 for adoption states that enforcement figures will be reported to Planning Committee on a bi - annual basis. Quarter 1 and quarter 2 reports will help to determine if bi -annual reporting will be sufficient and the performance/figures provided in the report are what Planning Committee require.

4. Performance/Data:

4.1 The chart below outlines the total number of live cases as at 31 March 2021 (1870). These can be categorised as the following:



4.2 The table below illustrates the number of live cases per ward:

| WARD | Count |
|--------------------------|-------|
| Acocks Green | 58 |
| Allens Cross | 7 |
| Alum Rock | 49 |
| Aston | 42 |
| Balsall Heath West | 21 |
| Bartley Green | 14 |
| Billesley | 24 |
| Birchfield | 51 |
| Bordesley & Highgate | 27 |
| Bordesley Green | 34 |
| Bournbrook & Selly Park | 81 |
| Bournville & Cotteridge | 21 |
| Brandwood & King's Heath | 39 |
| Bromford & Hodge Hill | 34 |
| Castle Vale | 1 |
| Druids Heath & Monyhull | 10 |
| Edgbaston | 22 |
| Erdington | 66 |
| Frankley Great Park | 6 |
| Garretts Green | 3 |
| Glebe Farm & Tile Cross | 24 |
| Gravelly Hill | 26 |
| Hall Green North | 64 |
| Hall Green South | 30 |

| | |
|---------------------------------|-------------|
| Handsworth | 36 |
| Handsworth Wood | 44 |
| Harborne | 32 |
| Heartlands | 22 |
| Highter's Heath | 14 |
| Holyhead | 29 |
| King's Norton North | 8 |
| King's Norton South | 8 |
| Kingstanding | 15 |
| Ladywood | 26 |
| Longbridge & West Heath | 17 |
| Lozells | 31 |
| Moseley | 69 |
| Nechells | 17 |
| Newtown | 27 |
| North Edgbaston | 45 |
| Northfield | 16 |
| Oscott | 26 |
| Perry Barr | 52 |
| Perry Common | 6 |
| Pype Hayes | 24 |
| Quinton | 21 |
| Rubery & Rednal | 7 |
| Shard End | 7 |
| Sheldon | 16 |
| Small Heath | 37 |
| Soho & Jewellery Quarter | 92 |
| South Yardley | 19 |
| Sparkbrook & Balsall Heath East | 54 |
| Sparkhill | 51 |
| Stirchley | 20 |
| Stockland Green | 52 |
| Sutton Four Oaks | 14 |
| Sutton Mere Green | 9 |
| Sutton Reddicap | 6 |
| Sutton Roughley | 3 |
| Sutton Trinity | 11 |
| Sutton Vesey | 23 |
| Sutton Walmley & Minworth | 8 |
| Sutton Wylde Green | 9 |
| Tyseley & Hay Mills | 14 |
| Ward End | 32 |
| Weoley & Selly Oak | 17 |
| Yardley East | 14 |
| Yardley West & Stechford | 16 |
| Total | 1870 |

4.3 There has been a total of 323 cases closed during the 1st quarter. The table below shows the number of closed cases per ward:

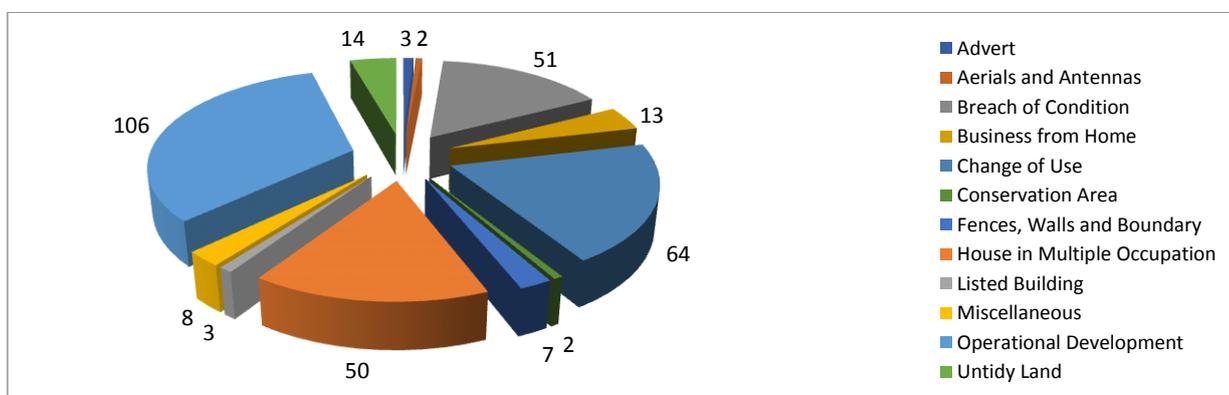
| WARD | Count |
|------|-------|
|------|-------|

| | |
|---------------------------------|----|
| Acocks Green | 19 |
| Allens Cross | 2 |
| Alum Rock | 2 |
| Aston | 6 |
| Balsall Heath West | 1 |
| Bartley Green | 2 |
| Billesley | 7 |
| Birchfield | 8 |
| Bordesley & Highgate | 7 |
| Bordesley Green | 8 |
| Bournbrook & Selly Park | 14 |
| Brandwood & King's Heath | 3 |
| Bromford & Hodge Hill | 5 |
| Druids Heath & Monyhull | 1 |
| Edgbaston | 4 |
| Erdington | 8 |
| Frankley Great Park | 2 |
| Glebe Farm & Tile Cross | 4 |
| Gravelly Hill | 4 |
| Hall Green North | 6 |
| Hall Green South | 8 |
| Handsworth | 2 |
| Handsworth Wood | 19 |
| Harborne | 4 |
| Heartlands | 1 |
| Highter's Heath | 1 |
| Holyhead | 5 |
| King's Norton North | 1 |
| Kingstanding | 2 |
| Ladywood | 7 |
| Longbridge & West Heath | 2 |
| Lozells | 4 |
| Moseley | 14 |
| Nechells | 1 |
| Newtown | 5 |
| North Edgbaston | 9 |
| Northfield | 2 |
| Oscott | 4 |
| Perry Barr | 2 |
| Pype Hayes | 2 |
| Quinton | 5 |
| Rubery & Rednal | 1 |
| Shard End | 2 |
| Sheldon | 8 |
| Small Heath | 9 |
| Soho & Jewellery Quarter | 8 |
| South Yardley | 3 |
| Sparkbrook & Balsall Heath East | 18 |
| Sparkhill | 9 |
| Stirchley | 3 |
| Stockland Green | 6 |

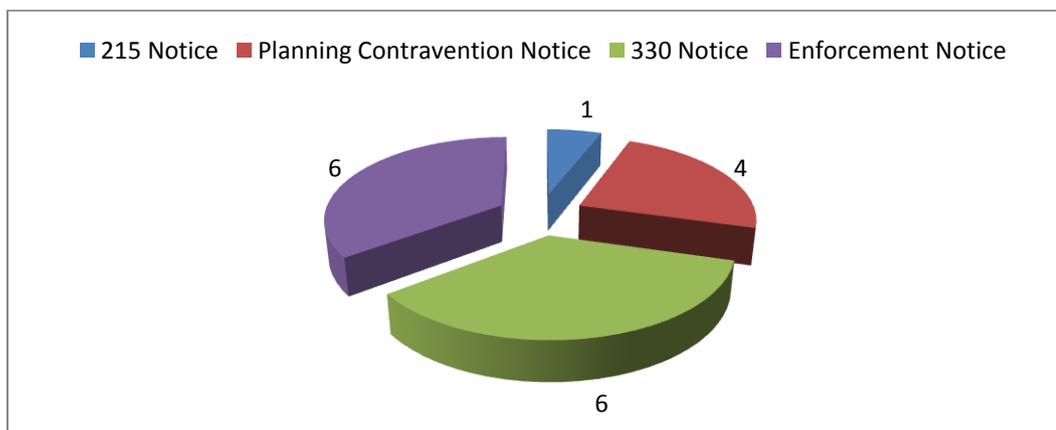
| | |
|---------------------------|---|
| Sutton Four Oaks | 4 |
| Sutton Mere Green | 5 |
| Sutton Reddicap | 1 |
| Sutton Roughley | 1 |
| Sutton Trinity | 1 |
| Sutton Vesey | 3 |
| Sutton Walmley & Minworth | 3 |
| Sutton Wylde Green | 1 |
| Tyseley & Hay Mills | 6 |
| Ward End | 3 |
| Weoley & Selly Oak | 5 |
| Yardley East | 2 |
| Yardley West & Stechford | 8 |

323

4.4 The chart below shows the categories of those cases closed:



4.5 The chart below displays the number of notices and type of notice issued during the 1st quarter:



4.6 Since 2018 the local planning authority has referred several cases, where appropriate, to Crown Court to obtain a confiscation order under the Proceeds of Crime Act. The table below shows our success to date. A total of £310,981.89 has been awarded to the Council. The Planning Enforcement Team receive roughly 1/6th of that figure, so approximately £50,000 which must be reinvested into prevention/detection of crime and separating offenders from the proceeds of their crimes.

| <u>Date</u> | <u>Payment</u> | <u>Breach</u> |
|-------------|--------------------|---|
| 02/01/2018 | £5,004.38 | Unauthorised erection of a first-floor extension |
| 04/01/2019 | £114,000.00 | Unauthorised change of use to a hot food takeaway |
| 27/03/2019 | £50,000.00 | Unauthorised change of use to a hot food takeaway |
| 02/04/2019 | £5,896.00 | Unauthorised change of use to a hot food takeaway |
| 10/03/2020 | £25,000.00 | Unauthorised change of use to shisha cafe |
| 11/03/2020 | £25,000.00 | Unauthorised change of use to shisha cafe |
| 12/03/2020 | £19,000.00 | Unauthorised change of use to shisha cafe |
| 14/04/2020 | £28,000.00 | Unauthorised rear extension |
| 15/04/2020 | £9,433.39 | Unauthorised rear extension |
| 05/03/2021 | £15,000.00 | Unauthorised first floor extension |
| 10/03/2021 | £14,648.12 | Unauthorised first floor extension |
| | £310,981.89 | |

5.0 Recommendation

- 5.1 That the report be noted and going forward, due to the large number of statistical information contained in the report that bi-annual reports are presented to Planning Committee in accordance with the Birmingham Local Enforcement Plan.

Ian MacLeod
 Director of Inclusive Growth (Acting)

Contact Officer: Mark Franklin
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Birmingham City Council

Report to Planning Committee

29th April 2021

Subject: Update on future Planning Committee Meetings

Report of: Acting Director, Inclusive Growth

Report author: Sean Hannaby, Interim Assistant Director Planning

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

Does the report contain confidential or exempt information? Yes No

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

1. Executive Summary

1.1. To update Planning Committee regarding the latest news concerning future Planning Committee meetings after the 7th May 2021.

2. Recommendations:

2.1. To note the update report

3. Background:

3.1. As a result of the outbreak of Covid 19 in early 2020 the country has had to deal with unprecedented disruption to normal life and as a result of social distancing, self-isolation, shielding and 'lockdown' restrictions; face to face Council meetings ceased in March 2020.

3.2. The Government issued Regulations that enabled Council's to hold virtual meetings from the 4th April 2020 and since then Planning Committee has met virtually. Similar powers were put in place in Wales but were already in place in Scotland. Recently Wales have enacted new permanent powers to hold virtual meetings but the UK Government has not extended them or made them permanent in England because, according to the local government minister; the government's legislative programme was 'already under severe pressure' and it was not possible to bring forward emergency legislation. As a result, these powers come to an end on the 7th May 2021 and therefore, from then on, it will be necessary to hold face to face committee meetings.

3.3. Local Government Lawyers (LLG), the Association of Democratic Services Officers (ADSO) and Hertfordshire County Council have raised a High Court challenge on the

issue and at the time of writing, the result of this challenge is not known. The hearing is to be held on 21st April. Any update will be reported verbally to the meeting.

3.4. In the event that the legal challenge fails it will be necessary to continue with arrangements to hold Covid safe meetings that comply with the current social distancing regulations. Plans are in place corporately that will be separately reported but there may be a gap between the end of virtual meetings and the commencement of face to face meetings that will require an interim solution for Planning Committee. Any update and recommendations will be reported to the meeting.

3.5. Clearly, not holding Planning Committee meetings only affects those applications that would have been reported to Committee and delegated decisions will continue to be issued. The potential options that you may wish to consider during any hiatus include the following possible alternatives:

1. Do nothing and wait until face to face meetings resume.

Depending on the length of the gap this may not be ideal as it will delay the determination of major planning applications that are important to the future economic vitality of the City. Also, a change in the number of Covid 19 cases or to the current 'road map' could impact upon arrangements for face to face meetings and as such the length of gap cannot be predicted with certainty.

2. The Chief Executive Officer uses emergency powers to make decisions on behalf of the Council.

These powers were not used in March 2020 when the cessation of meetings was more unexpected.

3. The normal delegation to the Chair to act for the Committee in between meetings be explicitly extended to cover the period from the end of April until Committee's reconvene.

This power is exercised 'jointly' with the Director.

4. The power to take all decisions be delegated to Officers from the end of April until Committee's reconvene.

This would be a temporary extension to officer delegated powers.

3.6. If Committee wish to consider either option 3 or 4, the delegation could be '*in consultation with*' either a small politically proportionate group of members or the whole Committee; who could meet publicly and virtually to discuss individual applications before a decision is taken under the delegated powers.

3.7. On the 25th March the government issued a call for evidence and to seek views regarding the use of remote or hybrid meetings. If Committee wishes to respond to the consultation then a separate session will be arranged to discuss the matter. The window for responses ends on the 17th June 2021 and the survey can be accessed at: <https://consult.communities.gov.uk/local-government-stewardship/local-authority-remote-meetings-call-for-evidence/>

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