

Birmingham City Council

Planning Committee

29 August 2019

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>
Determine	9	<p>2018/03004/PA</p> <p>16 Kent Street Southside Birmingham B5 6RD</p> <p>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</p>

Committee Date:	29/08/2019	Application Number:	2018/03004/PA
Accepted:	14/06/2018	Application Type:	Full Planning
Target Date:	13/09/2018		
Ward:	Bordesley & Highgate		

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

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

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

Recommendation

Determine

Report Back

1. This application formed the subject of a report to your Committee at the meeting 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. Members may recall that a late objection was received on behalf of Medusa Lodge, which together with a noise report were circulated in advance of the Planning Committee meeting. In addition further public participation letters have been received since the original report was circulated.
2. Subsequently discussions have taken place with the applicant to find a way to address the concerns raised. The approach discussed involves:-
 - a) a Noise Report to be prepared jointly by the applicant's and objector's noise consultants; this would set out an agreed methodology and areas of agreement / disagreement concerning the results. BCC Regulatory Services would then review the outcome;
 - b) this would lead to the formation of conditions on any planning permission for specifying and procuring glazing and ventilation, as well as a commissioning test;
 - c) in addition, there would be a requirement for the developer to inform potential buyers and occupiers of potential sources of noise nuisance in the area; and,
 - d) an agent of change agreement with the Nightingale would also be necessary to diminish the force of any complaints against them.

3. However, the applicant has indicated that they intend to appeal against non-determination of the current planning and submit a new application for the same development. This report therefore sets out the late objections received, views of BCC Regulatory Services and reasons for refusing the current planning application based on the information submitted to date.

Planning Committee Site Visits

4. A night time Committee Site Visit took place on Saturday 26th January 2019, between 9.30pm and 11pm, when Member of the Planning Committee visited the site and walked around the surrounding area. This was followed by a daytime site visit on the 7th February 2019, which members of the public were invited to. At the second meeting which approximately 50 people attended, the following comments were made:
 - The Gay Village has been regenerated by the LGBT community, bringing business and economic benefits to the City. The area can be redeveloped but it needs to be done sympathetically and some of the S106 monies should be used to improve the area
 - The Nightingale is an anchor for the Gay Village and a safe place to meet. It attracts people into the city helping the tourist economy. The proposed development could result in complaints against the Nightingale (as it is impossible to stop loud base noise), potentially impacting on their business, which in turn would impact upon the Gay Village
 - LGBT community feel safe in the Gay Village but the character of the area is changing with new residential development and if the night-time economy is affected this could remove a safe place for the LGBT community to meet. Consideration needs to be given to the culture of the area
 - The proposed development would not benefit the community and the LGBT community will be lost if the proposed development is allowed to go ahead
 - Residents have moved out of Southside because of night time noise and the residential amenity for prospective residents of the development would be poor.
 - Local businesses concerned about renewal of licenses and loss of business would impact on jobs
 - The proposed development would conflict with local planning policy for Southside and national planning policy regarding the agent of change principle, which seeks to protect existing businesses

In addition Cllr Moore raised an objection on 3 grounds: poor residential amenity for prospective residents; impact on the Nightingale Club and wider Gay Village and; changing character of the area with more residential accommodation in the area impacting on the night time economy and removing a safe place for the LGBT community.

Additional Public Participation Comments

5. Medusa Lodge commissioned their own noise report about the Kent Street development. This report was circulated to Members of the Planning Committee in advance of the meeting on the 20th December, and for ease of reference the report's conclusions are set out below:-
 - Thursday night / Friday mornings are nearly as noisy as Saturday nights on Hurst Street, and more noisy on Kent Street, making at least three nights a week that are extremely vibrant and noisy through the night.
 - The scheme experiences noise levels at night that BCC Regulatory Services would be expected to object to and recommend refusal based on their own policy.
 - The results measured at the proposed facades during operation of venues in the locality, compared with those reported and relied on by the applicant try to simplify a complex soundscape and propose mitigation that would be inadequate
 - For a development to be sustainable it must enable people to live in a vibrant area, without having to live in acoustically sealed boxes with no ability to open windows to connect to the world outside. To achieve this in such close proximity to high noise sources requires design of the highest acoustic merit, and the risk remains that even then complaints may result from people who choose to open their windows and expect the environment to be quiet enough for them to be able to sleep. Whilst this might be considered unreasonable if they are bypassing the mitigation provided this is a matter of judgement and could result in formal action which would certainly place unreasonable burdens on the businesses who generate noise in the area, and potentially causing serious harm to the character of the area which is itself valued.
 - If approved it is likely to result in complaints, which could put pressure on venues to be quieter at night, so that "reasonable" people can sleep with their windows open.
 - It is not expected that conditions could be adequate to address the mitigation required to tackle bass music noise in particular and result in sustainable developments, and a fundamental and strategic rethink is recommended. A way forward is proposed, which is based on the Agent of Change principle, which has been introduced under S182 of the National Planning Policy Framework.
 - This area should be considered to be a night time Soundscape of value, for cultural and community reasons, and therefore the vibrancy of the city night time economy protected by refusing the application. This is in the public benefit, as to permit these schemes would place the vibrancy and so the future of the Gay Village of Birmingham under significant threat.
6. The Nightingale Club have submitted an objection on grounds that the two land uses of residential development and night time economy activities are incompatible at this proximity. If they are to co-exist, the level of mitigation to be applied to the "agent of change" (ie: the residential development) needs to be far greater, and must include non-openable windows. Non-openable windows create an unacceptably poor quality

living environment, which is contrary to the Council's Development Plan policies. Development Plan policies have statutory force, and there is a presumption in their favour. Departing from them requires clear and compelling justification.

7. The Nightingale note that the City Council has already reached this conclusion and applied it in another very similar case in the Jewellery Quarter and that the City Council should seek to protect the Gay Village with its iconic clubs and venues. They also make the following points:-

- The proprietors of the businesses in the night time economy, including The Nightingale were not able to be represented in making a sustained objection to the other relevant permissions, but maintain that those developments should not have been permitted either, and for the same reasons as here presented.
- The Committee is entitled to consider the cumulative effect caused by another residential development being permitted after earlier permissions; simply compounding the problem.
- The justification for apparently contradictory decisions was that the relevant windows in the other permitted developments were designed to be sealed closed at all times. The objection to Albion Court was based upon the ongoing possibility for residents to open their windows at will, which had an unacceptably high risk of resulting in noise complaints against the music venues. It is to be noted that the Kent Street development is not proposing sealed windows, but openable windows and is to be compared with Albion Court.
- The Officer's Report talked of the desirability of granting other permissions in pursuance of Regeneration Area projects. It is not understood that the current Kent Street site comprises a Regeneration project.
- They therefore conclude that the Kent Street development should be refused because the development is contrary Development Plan Policy GA1.1, in that the development does not improve the vitality of the Gay Village, and does not support the growth of the area's cultural and entertainment activities, but it poses a threat to these factors; the proposal is contrary to the Agent of Change principle and; the Council has previously refused development in very similar circumstances, (Albion Court, Jewellery Quarter), and the law requires consistency in decision making.

8. Cllr Gareth Moore:-

- Concerned about the officer recommendation for approval as it fails to take into account that this development is contrary to the NPPF. The Nightingale Club is an integral part of the Birmingham gay scene and approval of this application would seriously undermine the viability and hinder the operation of these premises, along with other licensed premises within the Gay Village. This would not only remove a safe space for Birmingham's LGBT community to enjoy a night out, but would also have a wider impact. The LGBT night time economy not only serves Birmingham, but the wider West Midlands and even nationwide, with LGBT people coming from across the country to Birmingham. The report also

makes no reference to Birmingham Pride, which would also be impacted by this application and so threaten one of the largest Pride events which takes place in the UK.

- The NPPF is clear that existing business should not be prevented from continuing to operate, which is the likely outcome if this application is approved. Members will be aware that residents do not always report issues to relevant enforcement authorities, but insufficient complaints do not mean that there is not an issue. The Report also references the Unity & Armouries appeal, but fails to state that this appeal was under the previous planning regime and not the NPPF. Therefore, very little weight should be attached to this and more weight attached to recent Planning Inspectorate decisions which have supported the refusal of planning permission for residential developments where noise is a concern e.g. the African Village appeal.
 - If approved the window and ventilation specification should be equal to or better than for the Timberyard development. It is also important that future occupiers are made aware of their surroundings to prevent future noise complaints, as was also agreed to be the case for the Timberyard development.
 - a significant proportion of the S106 monies should be made available to help address issues and offer improvements to help support the community.
9. Cllr Jon Hunt - concerned that it will have an erosive effect on this neighbourhood as a specialist place of entertainment. Although the building is to be mixed use, the proposal does not comply with the designated character of the area, especially as it immediately neighbours the Nightingale Club. Developers need to be more creative about mixed use developments to fully integrate with the surrounding village.
10. West Midlands Police (Hate Crime coordinator and Force lead for sexual orientation) - whilst Birmingham is a liberal city, attitudes to LGBT people are still mixed. There are many areas of Birmingham, including within the city centre, where same sex couples do not feel safe. Hate crime against LGBT people has increased year on year, especially since the result of the Brexit referendum and increase in right wing activity. The Southside area, and its historic Nightingale club has been a safe place for LGBT people to congregate, socialise and just be themselves for decades. It has also traditionally been viewed as a safe place for women to go in an evening, free of the risk of sexual harassment that they might otherwise experience on Broad Street. Venue owners and their staff have worked so hard over the years to make it a welcoming, inclusive space where people can be themselves. The relationship between venues, the BID and the police is strong and positive.
11. 89 letters/emails objecting to the application have been received, including from LGBT Network; the Sexual health team at LGBT centre; Directors and Founders of Birmingham LGBT, LGBT Venue owners and Southside BID:-
- The application to build residential apartments so close to the bustle of Birmingham's gay village will undoubtedly have an extremely destructive impact on the LGBT community, in turn, Birmingham's reputation of being a diverse city, benefitting only the property developers and ignoring the needs of Birmingham's

communities. The gay village is both culturally and historically important to this city and to destroy that would be at the great loss to a majority of the people who live and travel here.

- The LGBT community and nightlife attracts LGBT people to come and live in Birmingham from further afield, some of them with a significantly above average ability to contribute to the local economy. The economic benefits of a vibrant nightlife are not limited to the direct spend of its customers and the gay scene in Birmingham performs a similar function. Any development that decimates that scene for short term gains is thus economically as well as socially short-sighted.
- The venues and spaces in the area provide a safe space for LGBT people to socialise and access support of the community. The proposal will have a major negative effect on existing gay bars and businesses forcing them to close. These businesses are respected and appreciated in the local community, and Birmingham City Council must ensure that new developments in and around the "gay village" will not have a detrimental effect on these venues and the jobs they maintain. Triple glazing is the least that should be imposed on any new property in this area, as venues have already provided huge improvements to their own sound-proofing, with double-doors and canopies wherever relevant.
- Building a large residential block next to one of the biggest and most important gay nightclubs in the UK would threaten the existence of that nightclub. It would only take one resident to complain about noise and the nightclub could lose its licence. Like any city, Birmingham needs areas where nightlife can flourish and areas which are safe LGBT spaces. These districts take decades to develop and are thus largely unplanned and precious where they do exist. The current concentration of nightclubs in this area is the best place for them to be and works well. This is not just any old nightclub that can be relocated elsewhere - there is currently nowhere else in Birmingham that has the character and community and the space for this club to exist in the way it currently does. Being in the middle of largely industrial buildings means there is little scope for friction.
- Concerned about the City Council's aspiration to build more residential apartments in the City Centre. There has been a dramatic change in this area over the last 15 years with more residential and restaurants that do not meet the needs of the community. The Council is taking this strategy of urban living too far, and its needs to be curtailed to ensure there is always an effective balance and mixture of retail / office and leisure use.
- This area is about to be over-run with residential use to such an extent it will bring about more social issues that need to be addressed, at a time when the infrastructure available are not able to cope. The lower ground at the very least should be made available for office business use and not just restaurant or leisure use. The application should be rejected on the basis that this area is already saturated with similar uses, the lack of consideration for the need for parking; protection for the leisure venues in the area against noise abatement so they are not required to afford change, and finally an impact study on how this is affecting the gay community, which is basically being moved out of their area.
- The undeveloped areas could be rejuvenated in more appropriate ways, a decent car park and a "green space" would be far more desirable.

- The building works will also have a detrimental effect on the lives of the residents in the area given the amount of noise it will make. The size of the building will also have a detrimental effect on the natural lighting in the area.
12. One letter of support commenting that the real LGBT people of Birmingham gay scene have not been happy with the area and community feel for a number of years. It all looks a mess down there and new apartments will look much nicer. Gay scenes are becoming less anyway due to equality, and it is only really events that will carry on.

Comments from BCC Regulatory Services

13. BCC Regulatory Services have reviewed the additional information submitted and have the following concerns:-

- Attended noise monitoring – although the figures in applicant noise report are similar to BCC figures from 2007, there is no way of knowing if the Nightingale terrace was operating the way it does now. The applicant has not completed any attended measurements and/or recordings, so does not know what volume the Nightingale was operating at, whether the Nightingale terrace was in operation (and if so, what volume the speakers were).
- The necessary mitigation is complex and full details should be included in the approved plans as part of the submission rather than required by conditions. This is to ensure that the mitigation is included at the design stage. If this is conditioned then there is a risk that insufficient mitigation may be installed resulting in refusal to discharge the condition and/or enforcement action. The applicant should ensure that the worst case noise levels have been considered in the acoustic assessment when designing mitigation.
- Ventilation would need to provide comfort cooling (circa 4 air changes per hour), whilst ensuring noise break in (from outside and the ventilation plant) is acceptable.
- Glazing specification – BCC Regulatory Services have not been able to confirm whether or not the glazing specification would deal with the worst case scenario. In addition, the highest specification for the Lower St and Kent Street façades should be for the whole façade not just for bedrooms (as living rooms could be used as bedrooms).
- The noise from proposed A1 to A4 uses can be controlled through restricting hours of operation (and deliveries) as well as a sound insulation condition for commercial to residential uses.
- The submitted noise reports indicate that to ensure an acceptable indoor environment residents of the proposed development would have to keep their windows closed to mitigate entertainment noise. Whilst the African Village decision implies this is acceptable this would not be acceptable under Statutory Nuisance provisions. If the proposed development goes ahead and residents complain as a result of intrusive noise BCC Regulatory Services are almost

certain to determine a statutory nuisance from the Nightingale and will be legally obliged to serve notice (as under statutory nuisance residents would be entitled to open their windows regardless of whether mechanical ventilation is available or not). The only way to resolve the issue is for both sides to enter into an agent of change agreement.

Planning Issues

Issue 1 – Compliance with Development Plan Policies

14. The application site is located within the Southside and Highgate Quarter within the City Centre Growth Area as defined by Policy GA1. Policy GA1.3 identifies that development in this location should support the growth of the area's distinctive cultural, entertainment and residential activities, its economic role and provide high quality public spaces and pedestrian routes. Policy GA1.1 also states that the City Centre will be the focus for retail, office, residential and leisure activity. It adds that new development should make a positive contribution to improving the vitality of the City Centre and should aim to improve the overall mix of uses. This policy concludes that residential development will continue to be supported in the City Centre where it provides well-designed high quality living environments.
15. Also relevant is Policy TP25, which seeks to promote Birmingham's role as a centre for tourism, culture and events. It states that this will not just be focused on major sporting, business tourism and visitor attractions but also on protecting and promoting the City's strong industrial heritage and smaller scale venues and attractions that are an important part of creating a diverse offer. Also relevant is TP24, which also encourages and supports a diverse range of uses within centres, consistent with the scale and function of the centre, to meet people's day to day needs, including pubs and bars.
16. In terms of the location of new housing Policy TP28 advises that new residential development should be sympathetic to cultural assets and not conflict with any other specific policies in the BDP.
17. The key policy issues are therefore twofold: whether well-designed high quality residential accommodation can be provided and; whether residential development in this location would place unreasonable restrictions on the Nightingale and undermine the distinctive character of the Gay Village.
18. In this instance the applicant is proposing a high specification glazing system with mechanical ventilation and openable windows. This would allow residents to open their windows, as for the majority of the time the noise environment does not require sealed units. However, for Thursdays, Friday and Saturday night times when noise from Nightingale is loudest, the windows would need to be closed to achieve the required noise mitigation. This solution could create satisfactory living conditions provided the glazing and ventilation specification is adequate.
19. However, with openable windows there is potential for prospective residents to complain about noise nuisance from the Nightingale, which without an "agent of change agreement" could jeopardise the operation of the club and undermine the

Gay Village. As such this would be contrary to the above polices within the Birmingham Development Plan and NPPF.

20. I note that the Medusa Lodge state that the Officer Report does not mention Birmingham City Council document "Planning Consultation Guidance Note – Noise and Vibration Edition 5". This document is not adopted planning policy but background information to the Birmingham Development Plan.

Issue 2 - Inadequate Noise Assessment

21. Although the developers' noise consultants have now agreed to further attended noise monitoring, the current noise assessment is based on unattended noise monitoring, which BCC Regulatory Services have concerns about. In particular, there is no way of knowing if the Nightingale Terrace was in operation and if so, what volume the speakers were.
22. Medusa Lodge also refer to their noise report prepared by Sustainable Acoustics dated 6 September, however, there is no record of this noise assessment being submitted to the LPA in connection with the current application prior to circulation of my original report.

Issue 3 – Glazing and Ventilation Specification

23. The current noise mitigation requires windows to be closed in order to achieve an acceptable noise environment. However, rather than the windows being sealed it is suggested that they can be openable as for the majority of the time the noise environment does not require sealed units. However, BCC Regulatory Services are unable to determine whether or not the glazing specification will deal with the worst case scenario. BCC Regulatory Services have also requested details of the exact make-up of the faced elements along with full details of mechanical ventilation. The applicant has not provided this.
24. In addition BCC Regulatory Services have requested details of the exact make-up of the facade elements along with details of the mechanical ventilation.

Issue 4 – Planning History

Unitary and Armouries Site

25. In 2007 planning consent (LPA ref 2006/03254/PA) was granted on appeal for residential development at the Unitary and Armouries site. At that time the appeal inspector concluded that subject to conditions to secure noise insulation, ventilation and non-openable windows on Lower Essex Street the future occupiers would enjoy an acceptable living condition. This application was renewed in 2011 and in 2013 planning consent was granted to vary conditions. I understand that some work on site has taken place to keep the consent alive..

Pershore Street / Skinner Lane (Timberyard site)

26. In September 2018 planning consent was granted in accordance with application 2017/09461/PA for residential development at Pershore Street / Skinner Lane, also

known as the Timberyard site. In this instance, planning consent was granted subject to suitable glazing, mechanical ventilation and sealed windows to bedrooms on the Hurst Street and Claybrook Street frontages. Comparing the glazing specification with the Timberyard site, the Kent Street scheme requires a higher glazing specification to achieve a satisfactory internal living environment.

African Village Appeal

27. In 2017, planning consent was refused for a five storey apartment building containing 55 apartments within the curtilage of the African Village Restaurant and Bar, Birchfield Road, Perry Barr. The application was refused planning consent on the grounds that the proposed mitigation measures would require occupiers of the affected apartments to close their windows and rely on mechanical ventilation for significant periods of the day resulting in unacceptable living conditions. Although the subsequent appeal was dismissed on grounds of lack of affordable housing, with regard to noise the Planning Inspector commented that “On balance....the proposed development would provide acceptable living conditions for future occupants. Consequently, I find no conflict with PG3 of the Birmingham Development Plan (2017) which requires high standards of design that respond to site conditions.”

Albion Court, Frederick Street, Jewellery Quarter

28. The Nightingale refer to a prior notification application (ref 2018/03393/PA) at 18 -20 Albion Court, Frederick Street, Jewellery Quarter for change of use from office to 23 no. residential apartments. This application was refused in June 2018, on grounds that:-

“It is considered that there would be noise and disturbance to new residents caused by the operation of the nearby commercial uses and their associated outdoor seating area, late night opening hours and the comings and goings to these premises at unsociable hours. The proposed reliance on openable secondary glazing and mechanical ventilation to mitigate noise and disturbance from these existing commercial noise sources would not ensure that residents of the development are adequately protected from noise. Should sealed windows be provided the use of these measures to mitigate against noise would not provide satisfactory living conditions. The proposal would therefore be contrary to Paragraphs 17, 109 and 123 of the National Planning Policy Framework and National Planning Practice Guidance regarding noise.

The applicant has subsequently appealed against this refusal.

Issue 5 Agent of Change

29. The agent of change principle was introduced in the Revised NPPF July 2018. It states at paragraph 182 that:- “Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a

significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed."

30. BCC Regulatory Services have confirmed that if the proposed development goes ahead and residents complain as a result of intrusive noise, BCC Regulatory Services are almost certain to determine a statutory nuisance from the Nightingale and will be legally obliged to serve notice (as under statutory nuisance residents would be entitled to open their windows regardless of whether mechanical ventilation is available or not). They therefore recommended that the only way to resolve the issue is for both sides to enter into an agent of change agreement.
31. As the Agent of Change principle was only recently introduced in the Revised NPPF July 2018, it remains to be seen how the application of the policy will factor into future licensing reviews. However, assuming no change in the operation of a venue, if there is new residential development then the application of the principle should mean that no "unreasonable restrictions" should be placed on the existing venue. An Agent of Change Agreement should therefore reduce the force of any complaint from residents against existing businesses, particularly where they are doing no more than they have done over many years previously.
32. I therefore concur with BCC Regulatory Services and consider that in this instance it is necessary for the applicant to enter into an agent of change agreement with the Nightingale Club to mitigate noise at source. As well as any other company that are likely to have unreasonable restrictions placed on them as a result of the proposed development.

Issue 6 - Public Sector Equality Duty

33. The Equality Act 2010 introduced a new public sector equality duty (the PSED), which covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
34. In summary, the Council must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - (b) advance equality of opportunity between people who share a protected characteristic and those who do not;
 - (c) Foster good relations between people who share a protected characteristic and persons who do not share it.
35. I am of the view that in the absence of an Agent of Change agreement being entered into, the proposal would potentially be contrary to this Legislation as the scheme could potentially impact upon Nightingale, which is a key venue for the LGBT community. The reason for this is that the applicant has not been able to demonstrate to the satisfaction of the local planning authority that the proposed development would not lead to complaints about the Nightingale, which could result in having unreasonable restrictions placed on them. If the Nightingale club had

unreasonable restrictions placed on them, which forced them to close, this would have an adverse impact on the LGBT community.

Issue 7 - Character of the Area

36. Medusa Lodge contend that the officer report incorrectly sets out the character of the area and that it is "irrelevant as to what the Officer thinks of the character of the area.....As to the law, licensing decision-makers are entitled to take into account both the present and future "character" of an area." They argue that a Council is given wide discretion in the assessment of whether the grant or renewal of a licence would be appropriate having regard to the character of the relevant locality. They add that all the contested renewal applications for SEVs in the last two years, including those for Medusa Lounge have raised "character of the area" as a relevant issue, contesting renewal, on the basis of more and more residential development in the area. Further residential development will be raised at the next renewal applications, and is likely to be advanced as an objection to renewal. This is undoubtedly an "unreasonable restriction" placed on the business, contrary to paragraph 182 of the NPPF. They also argue that the application conflicts with BDP Policy TP27 sustainable neighbourhoods, Policy TP28 location of new housing and TP30 type, size and density of new housing by introducing new residential units in the centre of the night time economy with a multitude of licensed premises and SEV's.

Conclusions

37. Since the application was deferred by your Committee in December 2018, careful consideration has been given to the objections raised and a possible approach to bring forward redevelopment of this underused brownfield site has been discussed with the applicant. However, the applicant has indicated that they intend to appeal against non determination and submit a new planning application for the same development.
38. Based on the information submitted to date, BCC Regulatory Services have concerns about the applicant's noise study. Furthermore, they are not able to confirm whether or not the glazing and ventilation specification would be adequate.
39. BCC Regulatory Services also note that if the proposed development goes ahead and residents complain as a result of intrusive noise, they are almost certain to determine a statutory nuisance from the Nightingale and will be legally obliged to serve notice (as under statutory nuisance residents would be entitled to open their windows regardless of whether mechanical ventilation is available or not).
40. There is therefore a risk that the Nightingale could have restrictions place on them, which could affect their business and hence the Gay Village. This would be contrary to policies GA1, TP24, TP25, TP28 and the Birmingham Development Plan and the Revised National Planning Policy Framework.

Recommendation

41. Should your Committee be minded to refuse the application then set out below are suggested reasons for refusal:-

- i) In the absence of attended noise monitoring it is not possible to confirm whether or not the Nightingale Terrace was in operation, and if it was, what volume the speakers were. It is not therefore possible to ascertain whether or not the proposed glazing specification is based on the worst case scenario. As such the proposal is contrary to Policies GA1 and TP28 of the Birmingham Development Plan and Revised National Planning Policy Framework.
- ii) The applicant has not demonstrated to the satisfaction of the Local Planning Authority whether the proposed glazing and ventilation would provide a satisfactory living environment. As such the proposal is contrary to Policies GA1 and TP28 of the Birmingham Development Plan and Revised National Planning Policy Framework.
- iii) In the absence of a suitable Agent of Change agreement, the proposal could result in complaints from prospective residents of the proposed development, which could result in existing businesses having unreasonable restrictions placed on them. This would be contrary to Policies GA1, TP24, TP25, TP28 of the Birmingham Development Plan and the Revised National Planning Policy Framework.
- iv) In the absence of any suitable legal agreement to secure 11 on site affordable dwellings (comprising 4 x 2 bed and 7 x 1 bed at 75% from open market value) the proposal would be contrary to TP31 of the Birmingham Development Plan and Revised National Planning Policy Framework.

Original Report

1. Proposal

- 1.1. This planning application is for demolition of existing buildings and the redevelopment of the site to create a building of between 9 and 12 storeys, comprising 116 apartments and two ground floor commercial units (Use Classes A1-A4, B1(a) and medical services within use class D1) of 268sqm and 479sqm, respectively.
- 1.2. The residential element comprises 64 x 2-bed (55%) and 52 x 1 bed (45%) apartments as follows:-
 - 9 x Type A - 2 Bed @ 73.4sqm
 - 9 x Type B - 2 Bed @ 74.7sqm
 - 26 x Type C - 2 Bed @ 73.5sqm
 - 8 x Type D - 2 Bed Apartment @ 71.8sqm
 - 17 x Type E - 1 Bed Apartment @ 55.7sqm
 - 8 x Type F - 1 Bed Apartment @ 54.9sqm
 - 8 x Type G - 1 Bed Apartment @ 54.1sqm
 - 8 x Type H - 1 Bed Apartment @ 50.6sqm
 - 8 x Type I - 1 Bed Apartment @ 51.7sqm
 - 3 x Type J - 2 Bed Apartment @ 70.9sqm
 - 3 x Type K - 2 Bed Apartment @ 70.0sqm
 - 3 x Type L - 1 Bed Apartment @ 50.9sqm
 - 2 x Type M - 2 Bed Apartment @ 72.3sqm
 - 2 x Type N - 2 Bed Apartment @ 75.8sqm

- 2 x Type O - 2 Bed Apartment @ 70sqm
- 1.3. The proposed building would comprise of three blocks: ground plus 8 storeys to Lower Essex Street, ground plus 9 storey to Kent Street, and set back ground plus 11 storeys to the corner.
- 1.4. The two main facade elements would be constructed with buff brick, with the corner piece constructed with a contrasting black/blue brick. Three different types of brick bond - dog-tooth, extruded Flemish and recessed brickwork – would be used to add interest. Regular window opening groups set up horizontal movements in what are otherwise vertically stacked elevations. Window openings would be full height with some having an aluminium surround reveals and glass Juliet balconies.
- 1.5. The ground floor is set up against the site boundary apart from the ground floor of commercial Unit 1, which is set back from Lower Essex Street to create space for potential outdoor seating. Above ground floor level the building is “L” shaped with wings along both street frontages. At first floor level is a landscaped courtyard garden of 341sqm for prospective residents.
- 1.6. Pedestrian access to the apartments is via the corner of the site where Kent Street and Lower Essex Street meet. Whilst there is a central courtyard/garden, this is exclusively for residents of the scheme, accessed via the 1st floor. Pedestrian access to commercial Unit 1 is provided along Lower Essex Street and Unit 2 along Kent Street.
- 1.7. The development proposals do not incorporate onsite vehicle parking. Within the centre of the scheme on the ground floor, a space is allocated to cycle parking for 116 bicycles on a two-tiered rack system, allowing for 1 space per residential unit.
- 1.8. An 83sqm space has been allocated for bin storage in the centre of the site. The storage is accessed through a service corridor from Kent Street. Collection vehicles would stop for a short duration along Kent Street or Lower Essex Street as per the existing waste collection arrangements for the site and adjacent properties.
- 1.9. In support of the application the following documents have been submitted:-
- Planning Statement;
 - Design and Access Statement;
 - Daylight and Sunlight Study;
 - Ecology;
 - Ground Conditions;
 - Transport Statement and Travel Plan;
 - Noise Report; and
 - Sustainable Urban Drainage Report.
- 1.10. A Viability Statement has been submitted, which seeks to demonstrate that with a policy compliant contribution, the scheme would not be financially viable. However, the applicant has offered 11 affordable low cost units at 75% open market value, which would be delivered on-site. This equates to an affordable provision of approximately 9.5% and the proposed mix is 4 x 2 bed and 7 x 1 bed units.
- 1.11. [Link to Documents](#)
2. [Site & Surroundings](#)

- 2.1. The application site is located on the south side of the City Centre in the Chinese Quarter, at the junction of Kent Street and Lower Essex Street. It is within close proximity to major attractions; the Hippodrome Theatre, Birmingham Royal Ballet and China Town. The site is also within easy walking distance to the central retail and commercial districts of Birmingham, with a 10 minute walk to Birmingham New Street Station and the Bullring Shopping Centre.
- 2.2. The site covers an area of 0.129 hectares and comprises a 3 storey former office building. The office use has been vacated but the lower floor of the building is in use as an occasional nightclub and entertainment premises.
- 2.3. The northern site boundary is formed by the Unity & Armouries site which has planning consent for residential development. The scheme is currently under construction. The western site boundary is formed by existing office buildings occupied by Peter's Books, a supplier of educational books and furniture. On the opposite side of Lower Essex Street to the east is the Nightingale Club and a further phase of the Unity & Armouries development site. Further to the east on Kent Street is Medusa Bar and Sidewalk Bar. These bars / clubs operate each day of the week and open into the early hours of the morning. Across Kent Street to the south is a catering wholesale warehouse. Surrounding uses include offices, leisure and residential.
- 2.4. Direct distances from the application site to the nearby late night entertainment venues are as follows:-
 - Nightingale Club, Kent Street – 12m
 - Medusa Lodge 139-147 Hurst Street – 45m
 - The Fox, Lower Essex Street – 45m
 - The Loft, 143 Bromsgrove Street – 62m
 - Sidewalk, 125-131 Hurst Street – 66m
 - Equator Bar, 123 Hurst Street – 78m
 - The Village Inn, 152 Hurst Street – 115m
 - Missing, 48 Bromsgrove Street – 116m

2.5. [Site location](#)

3. [Planning History](#)

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

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

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

“The appeal site lies within Birmingham City Centre in the Entertainment Zone of the Bull Ring/Markets Quarter. It is an area that includes major new high density residential development bringing forward the Council’s aspirations for City Living as well as a large number of entertainment and leisure facilities. In all respects, other than the concerns about low frequency bass noise, the application was considered to accord with the development plan and SPG

policy and I have found no objection to the principle of mixed use development including residential on the site which enjoys support from PPS1, PPS3 and PPS6. The development of residential apartments in the close proximity of night clubs and the particular problems of low frequency noise may present particular challenges but that does not preclude its successful execution."

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

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

Land at Pershore Street and Skinner Lane

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

4. Consultation/PP Responses

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

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

The noise report does not make reference to noise from people late at night, music from licensed premises, conversations from smokers outside licensed premises and vehicle noise, especially taxis. In light of the above, it is clear that there would be at least an adverse effect for residents of this

development, and more likely a significant adverse effect. The noise impact assessment recommends that suitable glazing and mechanical ventilation would offer sufficient mitigation to residents for outside noise. This does not take into account that residents would need to keep their windows closed to avoid noise nuisance, and so impact on residential amenity by providing poor living conditions and quality of life. This application cannot offer a good standard of amenity and is therefore contrary to the NPPG.

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

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

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

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

The applicant has not related their application to the businesses in the Night Time Economy, in the near vicinity of the proposal. In particular, premises which comprise SEV (sexual entertainment venues) have their licences renewed annually, and at the time of each renewal, the character of the area,

and the suitability of the premises to continue trading in that area is taken into account. One of the key factors is whether there have been any changes to the character of the locality since the last grant, and whether there is any potential for conflict between the licensed premises and any new development. New residential development would undoubtedly be a factor that could be taken into consideration in refusing the renewal of a SEV licence in any future renewal, and could also be taken into account in reviewing the premises licence. No mention or recognition of any of these matters has been made by this Applicant in the course of this application.

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

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

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

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

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

those businesses to flourish and develop, which is contrary to guidance and a material consideration.

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

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

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

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

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

The duties placed upon the Council by the Environmental Protection Act 1990 require noise nuisance to be identified and enforced against where found. It is imperative, therefore, that these potential conflicts between land users are considered at the time that development is seeking permission. It is contrary

to Human Rights law and natural justice for the Local Authority to enforce against pre-existing businesses, who have not changed their operation, as a result of the introduction of more noise sensitive receptors which the Local Authority has chosen to permit, despite having the future likely consequences of the permission pointed out to them at the time of the decision.

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

- 4.12. Severn Trent Water – no objections subject to a condition to secure drainage plans for the disposal of foul and surface water flows.
- 4.13. West Midlands Police:-
- the scheme should be to the standards laid out in the Secured by Design 'New Homes 2016' and Secured by Design 'Commercial 2015' guides;
 - each individual apartment should be treated as a separate dwelling for the purpose of the standards of door security;
 - there is only one communal door into the ground floor lobby area before access is gained to the lifts, stairwell and post room. The creation of only one layer of security within this entrance leaves the building vulnerable to an offender tailgating through the doorway. The lobby should be redesigned, or an additional second, internal, communal door be installed to create an additional line of security;
 - the location of the cycle storage area within the interior of the building would have very little natural surveillance;
 - a suitable CCTV system should be installed to cover the site and an intruder alarm should be installed to the commercial units; .
 - concerned that there is a service corridor between the two retail units and the communal areas of the residential aspect of the building, which could lead to potential issues around offenders accessing one of the uses from the other.
- 4.14. West Midlands Fire Service – approval of Building Control will be required with regard to Part B of the Building Regulations 2010. Where fire mains are provided in the building there should be access to the riser inlet within 18 metres and each access point should be clearly visible. Water supplies for firefighting should be in accordance with "National Guidance Document on the Provision for Fire Fighting"
- 4.15. University Hospitals Birmingham NHS Foundation Trust - request a financial contribution of £7,232.00 to provide additional services and capacity to meet patient demand.

5. Policy Context

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

6. Planning Considerations

Principle of Development

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

brownfield land within sustainable locations. The site is also in close proximity to Smithfield which is identified as part of a wider area of change where a significant mix of uses will be expected. The provision of a residential development with ground floor commercial uses on this site is therefore considered to be acceptable in principle subject to detailed matters.

Noise and Air Pollution

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

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

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

- 6.3. The NPPF and PPG were revised 24th July 2018. Paragraph 182 states that "Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed."
- 6.4. Policy TP25 of the BDP advises that proposals that reinforce and promote Birmingham's role as a centre for tourism, culture and events will be supported. It adds that this will include supporting smaller scale venues that are an important element of creating a diverse offer.

- 6.5. There are already residents living close to/above some of the existing entertainment venues where there are no live noise complaints with Regulatory Services. In addition, this development would reflect and build upon the existing mixed use nature of area. I do not consider this proposal would materially change the character of the area. Furthermore I note that the Council lost an appeal, on noise grounds for new residential accommodation at the Unitary and Armouries site, to the north/northwest of The Nightingale, where the Inspector noted "City Living is not for everyone. Those choosing to occupy apartments in the appeal scheme would be aware of the nature of the area....and the likely night time street and noise environment. Those whom it would not suit would go elsewhere." Ultimately concluding that subject to conditions to secure noise insulation, ventilation and non-openable windows on Lower Essex Street the future occupiers would enjoy an acceptable living condition. Notwithstanding Cllr Moore's comments that this appeal decision was some time ago, I consider this should be given weight.
- 6.6. More recently, Members may recall that at the meeting on the 16th August 2018, a report about residential development for a nearby site at Pershore Street and Skinner Lane was considered. At the meeting your Committee resolved to grant planning consent subject to safeguarding conditions.
- 6.7. For the current application, to achieve an acceptable internal noise level within bedrooms overlooking Lower Essex Street and Kent Street, the building fabric would be designed to achieve specified minimum composite sound reductions. For windows, the sound reduction requirements would require the use of a high performance secondary glazing system. It will be necessary to review the window and structural wall configurations during the design phase to confirm the window configuration to be used which achieves the performance requirements.
- 6.8. In accordance with the results of the site survey and the requirements of BCC Regulatory Services, it is recommended that all living and bed rooms that overlook Lower Essex Street and Kent Street be fitted with windows with a minimum manufacturer's rating of $Rw + Ctr$ 35 dB. All habitable rooms overlooking Lower Essex Street and Kent Street should be provided with mechanical ventilation to enable residents to close windows as required. Any external vents to habitable rooms overlooking Lower Essex Street and Kent Street should be specified to achieve a sound reduction equal to that achieved by the room window system.
- 6.9. For habitable rooms on the rear elevations of the building and which are further from the nightclub and screened from the roads, it is recommended that windows should have a minimum rating of $Rw + Ctr$ 32dB whilst any vents to atmosphere should, when open, have a minimum rating of $Dnew + Ctr$ 38dB.
- 6.10. BCC Regulatory Services initially objected to the application but following submission of a further report they have now withdrawn their earlier objection. They consider that the measured noise levels are acceptable as they are slightly higher than those measures in an Environmental Protection Unit survey in 2007. BCC Regulatory Services have raised no objections to the recommended glazing specification; however, these recommendations require residents to keep windows closed to have an acceptable indoor amenity. Therefore suitable ventilation will be needed – normally 4 air changes per hour.
- 6.11. As this is a noise sensitive location, subject high levels of entertainment noise, to protect both the amenity of future residents and the operation of the entertainment business BCC Regulatory Services consider that it essential that the developer is aware of the implications of both the noise report and the necessary ventilation

system before permission is granted. They have therefore requested the glazing specification (with associated laboratory test data showing that it meets the required performance) and ventilation system (with overheating assessment and details of noise generated) be submitted as part of the scheme and included on the approved plans prior to approval being granted.

- 6.12. The applicants have questioned whether or not it is possible to deal with details of the glazing specification and ventilation system by condition. Notwithstanding the comments from BCC Regulatory Services I consider that appropriate conditions could be attached as follows:-

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

Apartment Mix and Size

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

in the city centre – just 6 years into the 20 year BDP plan period. This represents the majority (95%) of the total number of dwellings completed and in the pipeline in the city centre.

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

Urban Design

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

apartments on the first floor and 1 apartment on the second floor). These rooms all achieve ADF scores of 1.8% and above against the BRE recommendation of 2.0%. However, the BRE Guide recommends that where kitchens are part of open plan rooms, they should be linked to a well-lit living room. Since all three rooms achieve ADF scores above those recommended for a living room (1.5%), they are of the opinion that the quality of daylight should be considered as acceptable.

Transportation Issues

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

Drainage and Ground Conditions

- 6.27. An Outline Drainage Strategy has been submitted, which notes that the site lies within an area classified as Flood Zone 1. The site is smaller than 1 hectare and therefore a Flood Risk Assessment is not required to support the planning application for management of surface water run-off. The report proposes to discharge to the existing STW foul sewer within the site. All surface water would be piped to an underground Attenuation Tank, where the runoff would be stored and discharged at greenfield runoff rates for the site. The development includes a proposed first floor garden 340m² in plan area. It is proposed that some Sustainable Urban Drainage features like tree planters and turf be placed within the garden area to reduce runoff rates.
- 6.28. Following submission of additional information, the Local Lead Flood Authority and Severn Trent Water have raised no objections and suitable drainage conditions are recommended.
- 6.29. The land contamination survey recommends further survey work prior to the commencement of the development and appropriate conditions are attached.

Ecology

- 6.30. The City Council's Planning Ecologist notes that the submitted ecological appraisal by Guma provides a good representation of the ecological value and the opportunities for ecological enhancement. While the site is of low value for bats and there was no evidence of nesting birds at the time of the survey the potential for nesting was there and would increase if and when the building deteriorates further. The building is within a key area for one of our most scarce bird species – the Black Redstart and it is possible that the building has been used as a song post and foraging point. The kestrel observed is/ has been nesting locally. Both of these

species utilise brown field/ derelict sites and disused buildings. Mitigation for both these species has been included in recent developments locally and this should be extended to this development too.

- 6.31. Conditions are attached to secure ecological enhancement measures including the provision of biodiversity / brown roofing and suitable nesting boxes.

Planning Obligations and Community Infrastructure Levy

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

7. Conclusion

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

8. Recommendation

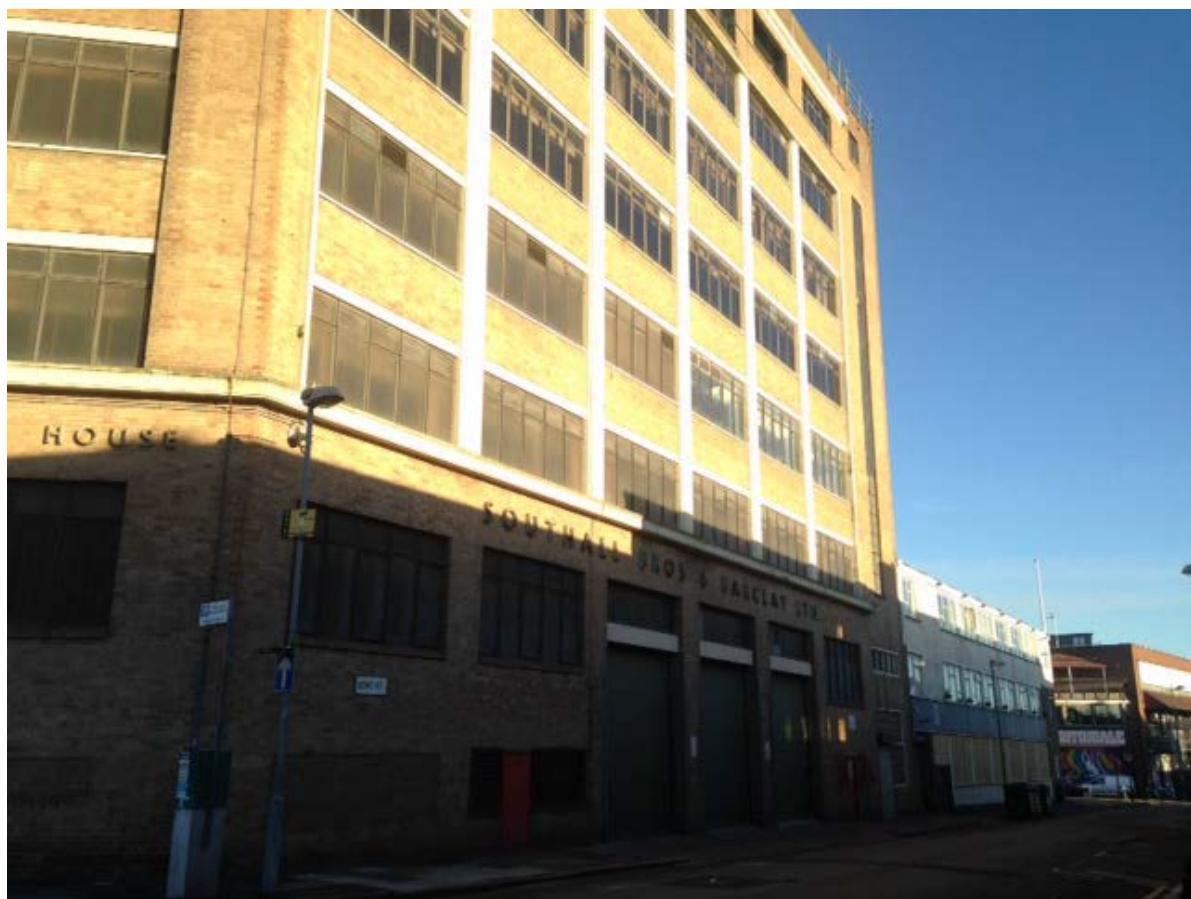
- 8.1. That consideration of planning application 2018/03004/PA be deferred pending the completion of a planning obligation agreement to secure the following:
 - a) 11 affordable low cost units (4 x 2 bed and 7 x 1 bed) at 75% of open market value;
 - b) payment of a monitoring and administration fee associated with the legal agreement of £10,000
- 8.2. In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 20 January 2019 the planning permission be refused for the following reason:
 - a) In the absence of any suitable legal agreement to affordable housing the proposal would be contrary to TP31 of the Birmingham Development Plan, Affordable Housing SPG and the Revised NPPF.
- 8.3. That the City Solicitor be authorised to prepare, seal and complete the planning obligation.
- 8.4. That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 20 January 2019, favourable consideration be given to this application subject to the conditions listed below.

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

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

Case Officer: David Wells

Photo(s)



View east along Kent Street

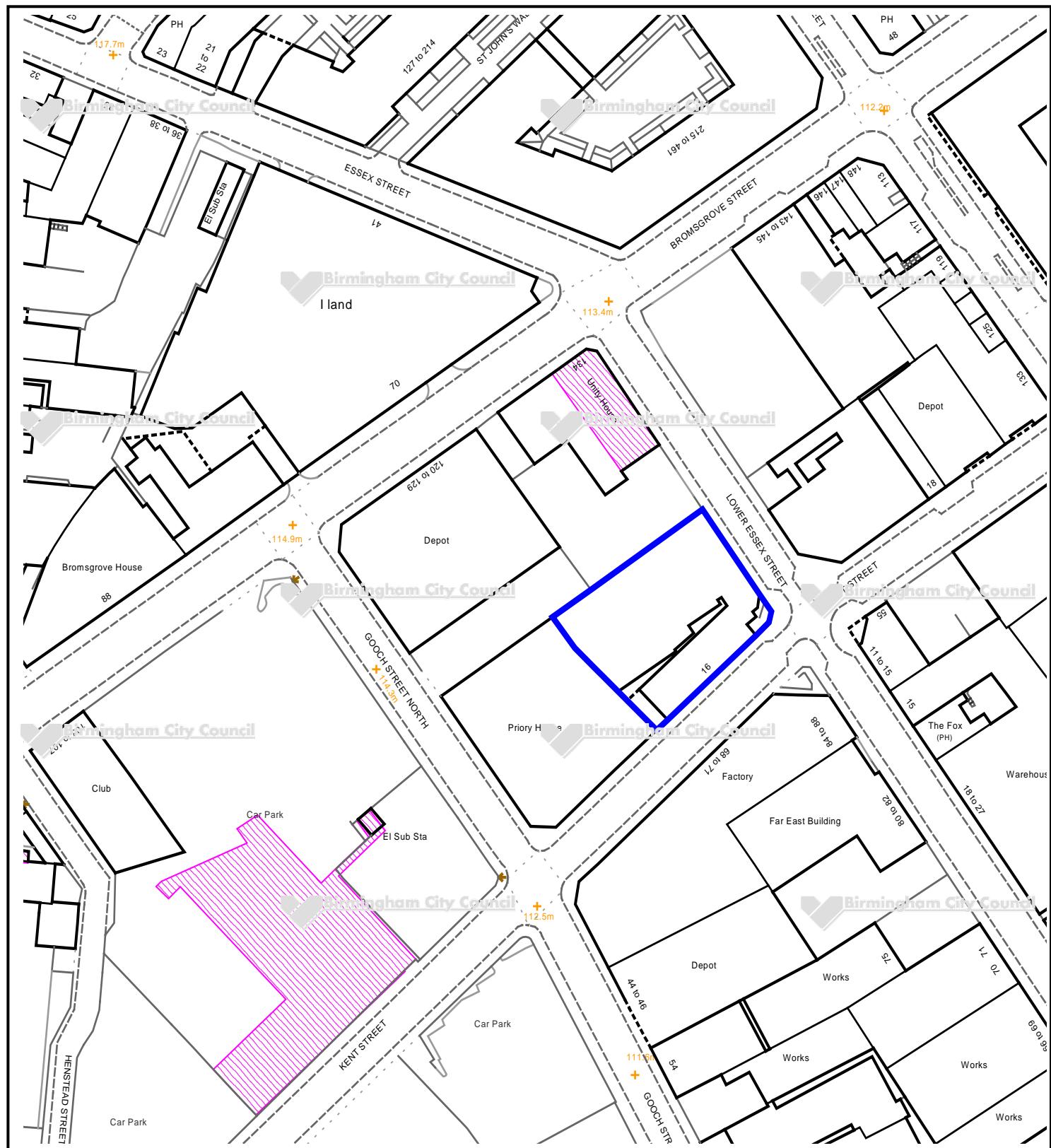


View from corner of Kent Street and Lower Essex Street



View north along Lower Essex Street

Location Plan



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Birmingham City Council

Planning Committee

29 August 2019

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	10	2019/01470/PA 3 Elmdon Road Acocks Green Birmingham B27 6LJ Change of use from residential dwellinghouse to residential institution (Use class C2)
Approve – Conditions	11	2019/04566/PA Former Smith & Nephew Site Alum Rock Road Saltley Birmingham B8 3BX Erection of three storey secondary school building, sports hall and outdoor sports facilities together with associated infrastructure works to include access, parking, landscaping and boundary works
Approve – Conditions	12	2019/02213/PA Lyndhurst Estate and former Normanhurst Care Home Sutton Road Erdington Birmingham B23 5UJ Removal of condition number 31 (Restricts the access onto Chester Road to cycles and pedestrians only) attached to planning approval 2012/07153/PA

Approve - Conditions	13	2018/10061/PA
		Former Lyndhurst Estate Sutton Road Erdington Birmingham B23
		Erection of 19 no. dwelling houses with retained access, landscaping and associated works
Approve – Conditions	14	2019/01038/PA
		Land off Alum Drive (Land Rear Off 24-54 Alum Drive) Bordesley Green Birmingham B9 5PF
		Erection of 4 no. dwellinghouses (Use Class C3) with associated landscaping and parking.
Approve – Conditions	15	2019/05338/PA
		93 Fourth Avenue Bordesley Green Birmingham B9 5RG
		Erection of single storey rear extension

Committee Date:	29/08/2019	Application Number:	2019/01470/pa
Accepted:	27/03/2019	Application Type:	Full Planning
Target Date:	22/05/2019		
Ward:	Acocks Green		

3 Elmdon Road, Acocks Green, Birmingham, B27 6LJ

**Change of use from residential dwellinghouse to residential institution
(Use class C2)**

Recommendation

Approve subject to Conditions

1. **Proposal**

- 1.1. The application is to change the use of the existing semi-detached dwelling to a residential institution (use class C2). Information from the applicants details that the previous owners of the site (Trustees of the Charity of the Roman Catholic Church) had bought the building in December 1994 and had used the property as 'St Anne's' Convent occupied by five nuns. The applicants have purchased the building in January 2019 and now propose to use the building as a children's home to accommodate four children.
- 1.2. The young people at the property will be aged between 11 and 18 years old. The children's home is proposed to be used with children who are not physically or mentally disabled but have challenging behaviours. The property will require Ofsted registration to operate. The applicants have stated that the facility would provide a caring and nurturing environment for young people and shall operate the way a family home does with care staff supporting the young people to become positive members of the community and take pride in their interactions both in and out of the home. The character of the building will remain residential in use. The house will operate like a 'normal' family home with domestic living areas such as bedrooms, living rooms, kitchen etc.
- 1.3. The applicant has stated that each proposed admission to the home will be subject to a risk assessment and matching process to ensure that their individual needs can be met and that any existing Young People placed would not be impinged by their admission. Additionally, the risk assessment takes account of the environment and the local community which will ensure that any Young Person placed has a plan of integration which causes minimal disruptions to the local community.
- 1.4. The home is proposed to be staffed by two members of staff who will be on site 24 hours a day. A registered manager will also be on site between 09:00 – 17:00 Monday to Friday and on call when required.
- 1.5. Shift patterns of day staff are 07:30 – 22:30 with one staff member sleeping on site from 22:30 – 08:00.
- 1.6. No external alterations are proposed.

[Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site is located on Elmdon Road, a tree lined largely residential area made up of a variety of house types and eras set back from the highway. The dwelling is approximately 30 metres east of the Yardley Neighbourhood Centre.
- 2.2. Opposite the application site are two hotels, Atholl Lodge and Elmdon Lodge Hotel.
- 2.3. Adjoining to the east is number 5 Elmdon Road, a residential dwelling, to the west is number 1C another residential dwelling.

[Site map](#)

3. Planning History

- 3.1. 1991/02889/PA- Retention of guest house and formation of car park – approved 10/10/1991
- 3.2. 1991/05213/PA - Vary condition no.16 attached to E/02889/91/FUL to permit a period of 9 months from original permission for rear parking - approved - 23/1/1992
- 3.3. 1994/03483/PA – Change of use from guest house (Class C1) to single dwelling house (class C3)– approved – 10/10/1994
- 3.4. 2005/06564/PA - Proposed Garage Conversion – withdrawn – 11/11/2005

4. Consultation/PP Responses

- 4.1. Site notice displayed. Adjoining neighbours, Ward Councillors consulted – 9 Third Party Representations received.
- 4.2. Objections raised the following concerns
 - The cumulative effect of properties converted into self-contained flats, residential and non- residential care homes,
 - Insufficient on-site parking,
 - Development would cause disruption to the street,
 - Enough care facilities in the area,
 - Proposal would result in an increase in noise.
- 4.3. Councillor John O'shea - I have had concerns raised by residents about car parking, which is already at a premium on this road. The local Police neighbourhood team have raised concerns (to Councillor John O'shea) about additional workload. We already have a number of supported housing facilities within Acocks Green, mostly in the larger properties in this area and elsewhere in the area around the Warwick Road and to the north of it. We contacted the operating company and asked them to come and visit Acocks Green and to consult with local residents, but they did not do so.
- 4.4. West Midlands Police – No objections to the application.

- 4.5. Regulatory Services - No objection.
- 4.6. Transportation Development - No objection, The site has an excellent level of public transport accessibility and is located within close proximity to local facilities within Yardley Road Neighbourhood Centre. Whilst there are noted to be existing local parking issues on Elmdon Road, it is considered that there would not be any justification to resist the development on grounds of material impact from parking demand associated with the use, particularly considering previous and current permitted use scenarios. Recommend conditions requiring cycle storage provision and a commercial travel plan.

5. Policy Context

Birmingham Development Plan (BDP) 2017, Places for All SPG (2001), Places for Living SPG (2001), Car Parking Guidelines SPD (2012), Birmingham Unitary Development Plan 2005 (Saved Policies), National Planning Policy Framework (2019), Specific Needs Residential Uses SPG.

6. Planning Considerations

- 6.1 The guidance set out in Paragraph 8.29 of the Saved 2005 UDP and the Specific Needs Residential Uses SPG is of paramount relevance in the assessment of planning applications for proposed residential care uses. Paragraph 8.29 sets out several criteria against which a proposal should be addressed:
 - 6.1. *Residential amenity*
 - 6.2. The development of residential care homes in semi-detached houses will not be acceptable unless adjoining occupiers can be safeguarded against loss of amenity due to undue noise and disturbance.
 - 6.3. It is not considered that the proposed use, for four young people, would be so intensive so as to result in undue noise disturbance over and above that of a large family home. In addition, Regulatory Services have raised no objection to the application.
 - 6.4. The site lies on a busy road and is in close proximity to a local centre, noise from activities associated with the proposed use, for example the comings and goings of staff members, would to some extent be screened by the existing noise climate within the area and as in this respect would not be so harmful to amenity as to warrant refusal of the application.
 - 6.5. In regards to surrounding development number 9 Elmdon Road has planning history of being used as a HMO (e.g 2010/03334/PA), number 30 received a lawful development certificate in 1999 for the existing use of 2 flats and 4 bedsits (1999/01775/PA). There are no properties on the road on the HMO Public Register and searches have not revealed any other C2 uses on the road. Due to the low presence of such uses in the vicinity it is considered the proposed development would not result in harm to the residential character and appearance of the area.
- 6.6. *Highway Matters*

- 6.7. Transportation Development note the application site is well served with public transport and in a sustainable location. With regard to the comments of Transportation it is considered that the proposed use would not have any detrimental impact on the safety and free flow of traffic on the adjoining highway. A cycle store condition as recommended by Transportation can be imposed on any planning approval. It is considered that a Commercial Travel Plan condition would be unnecessary and unreasonable for such a small residential institution.
- 6.8. Visual impact
- 6.9. The development does not propose any external alteration, therefore it is considered the proposed development would not have an adverse impact upon the character and appearance of the existing building or the surrounding area.
- 6.10. *Amenity space*
- 6.11. The garden area at the site exceeds the SPG requirement for outdoor amenity space of 16 sq.m per occupant. An acceptable living environment would therefore be provided.

7. Conclusion

- 7.1 Paragraph 59 of the NPPF stresses the importance of addressing the needs of groups with specific housing requirements. The proposed development meets these aims and complies with the specific criteria for assessment set out in the Saved 2005 UDP and the Specific Needs Residential Uses SPG.
- 7.2 No objections have been received from Regulatory Services, Transportation or West Midlands Police. Whilst concerns have been raised by local residents it is considered that the small scale of the proposed development would not have an adverse impact upon the amenity of adjacent residents or change the residential character and appearance of the area.

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 cycle storage details
 - 3 Implement within 3 years (Full)
 - 4 Limit no. of children to maximum of 4
-

Case Officer: Kirk Denton

Photo(s)



Fig.1: Front of the property



Fig.2: Front of the property

Location Plan



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Committee Date:	29/08/2019	Application Number:	2019/04566/PA
Accepted:	31/05/2019	Application Type:	Full Planning
Target Date:	30/08/2019		
Ward:	Alum Rock		

Former Smith & Nephew Site, Alum Rock Road, Saltley, Birmingham, B8 3BX

Erection of three storey secondary school building, sports hall and outdoor sports facilities together with associated infrastructure works to include access, parking, landscaping and boundary works

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. Consent is sought for the erection of three storey secondary school building, sports hall and outdoor sports facilities together with associated infrastructure works to include access, parking, landscaping and boundary works. This application has been submitted by Wates Construction (Contractor) on behalf of Education & Skills Funding Agency for Eden Boys School (Star Academy).
- 1.2. The proposal is required to provide an education facility for secondary pupils for a maximum of 800, split between 600 secondary school places for boys aged 11 to 16 and 200 sixth-form pupils aged 16 to 18. A supporting statement confirms that demand for secondary school places is rapidly increasing as larger primary cohorts reach secondary age. This has resulted in additional places required in 2018/19 and beyond with some areas of the city experiencing a pressure for school places. The need for the new school has also arisen partly due to the removal of secondary provision at Al Hijrah School, which is situated within Bordesley Green. It is also partly due to Local Authority's statutory duty requirement to ensure that there are sufficient pupil places, promote diversity and increase parental choice through planning and securing additional provision.
- 1.3. The proposal is for a three-storey flat roofed building that would be situated to the north western part of the site, which has an adjoining indoor sports hall which is lower than the main building and features a single storey connection. The gross floor space of the buildings is approximately 7,149 m². The maximum height would be approximately 12 metres. The buildings would be flat roof and materials are predominately brick with cladding to sports hall. The main entrance would be recessed into the building to create visual connection for staff, pupil and visitors from Alum Rock Road frontage. The glazing would be curtain wall system and windows are designed to incorporate ventilation units and to ensure adequate daylighting to maximise passive ventilation purposes and to ensure quality teaching spaces. The window units are positioned with regularity and purpose, creating a contemporary aesthetic which breaks up the brick facade.
- 1.4. Internally, the school includes a number of classrooms, including specialist rooms for food technology, Information Technology as well as science labs and music

rooms. The school also includes a main hall, library, kitchen, toilets as well offices and meeting rooms, stores, WCs and ancillary facilities.

- 1.5. A link two-storey equivalent sports hall building would be provided to the south of the main school building. The sports hall would be open plan, activity studio, changing rooms, WCs, store and ancillary facilities. The grass playing field proposed would be sufficient size to accommodate a full sized football/ rugby/ cricket pitch and sufficient space for an athletics track. Two multi-use game area (MUGA), space for half basketball court to facilitate all year round sport for football, tennis, basketball etc. adjacent to the sports hall. There is space allocated for future arboretum.
- 1.6. The proposed vehicular access arrangements would be via a new junction from Alum Rock Road frontage. The proposed access arrangement would be located equidistant between the Alum Rock Road/ Foxton Road and Alum Rock Road/ Brook Hill Road junctions. A separate service yard access is also proposed from Alum Rock Road frontage via existing footway crossing, which is located at the western boundary of the site. There would be 94 no. car parking spaces and drop off area (split 54 drop-off/ pick-up/ visitor, 36 staff spaces and 4 disabled spaces) which would be provided within the curtilage of the site. There are also 3no. coach parking spaces 96no. cycle parking provision and 7no. motorcycle parking spaces to be provided within the curtilage of the site. There is an area dedicated for refuse & cycle storage facilities (20no. spaces) within the site.
- 1.7. The landscaping plans show hard/ soft landscape enhancement would be provided across the entire site. Large tree species and hedge/ shrub planting is proposed along the perimeter of Alum Rock Road, Rockville Road and Alderson Road frontages and to the rear of residential boundaries on Alderson Road and Ludlow Road. Horticultural garden is also proposed to the south of the site to the rear of existing dwellings on Alderson Road.
- 1.8. There would be 2.4 metre high black weldmesh fence proposed (some sections with 6m ballstop netting) along the perimeter of the site. On the frontage, there would be black railings with brick pillars on either side of main pedestrian gates aligned with the main building on site. All other internal fencing would vary in height for sport and security purposes.
- 1.9. An EIA screening opinion determined that development proposed would not require an Environmental Impact Assessment.
- 1.10. The application is supported by the following documents:
 - Air Quality Assessment;
 - Archaeology and Cultural Heritage Impact Assessment;
 - Construction Management Plan;
 - Contaminated Land Survey;
 - Design and Access Statement (DAS), incorporating Crime Avoidance Impact Statement;
 - Drainage scheme;
 - Flood Risk Assessment (FRA);
 - Green Travel Plan;
 - Heritage Statement;
 - Landscaping scheme;
 - Noise Impact Assessment;
 - Preliminary Ecological Appraisal (PEA);
 - Statement of Community Involvement (SCI);

- Sustainability Statement;
- Topographical survey;
- Transport Assessment; and
- Tree Survey

[Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site is an irregular shaped cleared plot of land that was formerly occupied by an industrial use for hygiene products (former Smith & Nephew). The topography of the site has a downward slope from south to north. There is dense vegetation to the northern boundary fronting onto Alum Rock Road. Currently, the site is unkempt and used for flytipping. The site is located within an area with a low probability of flooding (Flood Zone 1). The main sewer (culvert) is located centrally, which divides the site in half north to south. Washwood Heath Brook (culvert) is situated to the east of the site from east to west. There are four boreholes situated around the site. The site is located within Air Quality Management Area for traffic related pollutants. The site is not located within an Archaeological Priority Area or Conservation Area, or subject to any TPO's. The site is enclosed by walls, railings and palisade fencing. Total site area is 33,792 sq. metres (3.4 hectares).
- 2.2. There are two current vehicular access points from Alum Rock Road and one from Alderson Road. The site is well served by public transport. Alum Rock Road is key bus corridors in the local area, with bus stops close to the site both east and west bound. Strategic cycle route passes close by to west of the site.
- 2.3. The site is bounded by residential terraced streets of Alderson Road (to the south), Ludlow Road (to west), Rockville Road (to east) and Alum Rock Road (to the north) that also includes a small parade of shops (some with residential flats) and place of Worship on Ludlow Road. A Grade II listed building known as The Brookhill Tavern PH is also situated on the opposite side of Alum Rock Road at the junction of Brook Hill Road. The residential properties to the southwest of the site on Alderson Road and Ludlow are situated on higher ground level than the application site.

[Site map](#)

3. Planning History

- 3.1. 17.04.2015 - 2014/06294/PA - Outline application for the erection of up to 122 residential units (98 dwellings and 24 flats), access to be considered and all other matters reserved – Approved subject to conditions and S.106 Legal Agreement.
- 3.2. 02.03.2011 - 2010/00465/PA - Outline application with all matters reserved for the erection of up to 110 residential dwellings, 3 No business units (Use Class B1), children's day nursery (Use Class D1) and associated development – Approved subject to conditions.
- 3.3. 22.12.2010 - 2010/05667/PA - Outline application for the erection of a new two storey primary school with access and scale for determination (appearance, and landscaping and layout are reserved) - Approved subject to conditions.

4. Consultation/PP Responses

- 4.1. Site and press notices displayed. Adjoining neighbours, Ward members and MP consulted – 4 letters received from adjoining neighbours, two letters objecting to the proposal on following grounds:
- Noise and disturbance
 - Noise nuisance from children hanging around residential streets
 - The area is already congested and the proposal would exacerbate existing situation with regards to parking and traffic congestion.
 - Road safety
 - No secondary school is required as there are two schools (Washwood Heath Academy and Saltley Academy) within 1.2 miles distance from Alum Rock Road. Suggest pupil/ parents commute to these schools.
 - Suggest that site is suitable for commercial development
- One letter of support from a neighbour stating that they support the proposal and consider that this is fantastic idea for the area.
 - One representation from a neighbour stating that they would prefer the proposal to be girls only school.
- 4.2. Historic England – No objections
- 4.3. West Midlands Police – No objections subject to “Secure by Design” initiatives.
- 4.4. Severn Trent – No objections subject to a condition for the disposal of foul waste and surface water.
- 4.5. Education & Skills Directorate – The proposal for new Eden Boys Leadership Academy and they fully support the proposal.
- 4.6. City Ecologist – No objections subject to following conditions:
- Landscape and Ecological Management Plan
 - Scheme for ecological enhancement measures
 - Precautionary method statement in relation to nesting birds, hedgehogs and amphibians.
 - Method statement for the removal of invasive weeds on site
- 4.7. Regulatory Services – No objections subject to conditions:
- Noise levels from plant and machinery
 - Extraction and odour control
 - Contamination remediation scheme
 - Contaminated land verification report
 - Lighting scheme
 - Provision of electric vehicle charging points
 - Hours of use of outdoor facilities
- 4.8. LLFA – No objection subject to conditions for the sustainable drainage to be implemented in accordance with approved details and submission of Sustainable Drainage Operation and Maintenance Plan.
- 4.9. Transportation Development – No objections subject to conditions:
- Construction method statement/ management plan
 - Measures to prevent mud on highway
 - Means of access – construction
 - Siting/ design of Means of Access

- Parking Management Strategy
 - Delivery and service area completion
 - Car parking areas laid out
 - Gate position
 - Vehicle visibility splays
 - Cycle storage details
 - School Travel Plan
 - Electric vehicle charging points
 - S.278/ TRO Agreement in relation to bellmouth, etc.
- 4.10. Sport England – Non-statutory role for creation of new playing fields and a new sports hall has raised no objections subject to the following conditions:
- Scheme of works for laying out playing pitches
 - Maintenance regime for playing fields.
 - Design and specification of ball catch fencing
 - Design and specification of sports hall
 - Design and specification of MUGA
 - Community use agreement
- 4.11. West Midlands Fire Services – Generic comments in relation to sprinkler provision, pump appliance with maximum distances, vehicle access route requirements and width between kerbs, turning facility required for any dead end, Building Regulations approval etc. Supporting statements confirm that the proposed development would meet all the requirements as outlined by West Midlands Fire Services and Building Regulations.

5. Policy Context

- 5.1. NPPF (2019), Saved Policies within Adopted UDP (2005), Birmingham Development Plan (2017), Places for Living/ All SPG (2001), Car Parking Guidelines SPD (2012), SPD The 45 Degree Code (2006), SPG Places for All/ Living (2001), Loss of Industrial Land to Alternative Uses SPD (2006), Access for People with Disabilities (2006), Bordesley Park Area Action Plan (Pre-submission report) (2018).

6. Planning Considerations

- 6.1. The main considerations within the determination of this application are:
- 6.2. **Planning policy/ Principle of use** – The NPPF is clear at Paragraph 94 that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. It advises that Local Planning Authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. It goes onto state that they should:
- a. give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and
 - b. work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.'
- 6.3. The development would align with one of the objectives of the BDP in seeking to achieve the vision for Birmingham in 2031, which is: '*To create a more sustainable City that minimises its carbon footprint and waste, and promotes brownfield regeneration while allowing the City to grow.*'

- 6.4. Policy TP36 of the Birmingham Development Plan recognises that as the City's population grows there will also be a need for additional Primary, Secondary and Special Needs schools and college provision. It adds that proposals for the upgrading and expansion of existing schools and the development of new schools in locations where additional provision is required will be supported subject to having safe access, safe drop-off and pick-up provision, outdoor facilities for sport and recreation, and avoid conflict with adjoining uses. The application site remains undesignated within the adopted Birmingham Development Plan. This area is the subject of Bordesley Park Area Action Plan (Submission report July 2018), which identifies that within the Washwood Heath neighbourhood: '*There is a need to extend the education offer within the area as a whole, and the potential for extending existing school sites or identifying new sites will be explored.*' The entire site is specifically identified in the Strategic Housing Land Availability Assessment (SHLAA) for housing purposes. The Bordesley Park Area Action Plan (Submission report July 2018) identifies the site for residential and/or education uses on the former Smith and Nephew site, Alum Rock Road.
- 6.5. Policy TP11 encourages sport facilities within the City's educational establishments, which can readily be used by the community to provide a useful contribution towards the city's recreational and leisure requirements. This is further supported by policy TP37 of the BDP to help tackle obesity and encourage physical activity.
- 6.6. The application site was previously occupied by B2 (industrial) units, which ceased trading in September 2007. The industrial buildings were subsequently cleared and the site has remained vacant for considerable number of years. Supporting statements confirm that there is a clearly established pressing need for secondary school places across Birmingham and within the catchment area of this proposed school. The application site has been identified as a suitable and deliverable site for a secondary school for boys to meet Birmingham's identified education provision demands. The proposal will also give priority to the displaced pupils from Al- Hijrah School. The sport facilities would also be made available for community use. Consequently, the principle is acceptable as it would bring back a derelict site into active use for a school development in accordance with local and national planning policy support for the provision of new schools. Council's Development Planning, Leisure Services, Education & Skills Directorate and Sport England are supportive of the proposal.
- 6.7. **Provision of new sports facilities** – Policy TP11 of the BDP states that '*proposals for new facilities or the expansion and/or enhancement of existing facilities will be supported subject to compliance with other relevant planning policies.*' Sport England and Council's Leisure Services are in supportive of the proposal as the Council's adopted Playing Pitch Strategy (2017) identifies a shortfall of match sessions for adult, youth and mini football pitches in this part of the city for the provision of new community accessible pitches. Sport England raised no objections subject to a number of conditions to include a scheme of works and maintenance for laying out playing pitches and ball catch fencing in order to protect amenity of adjoining residents within the immediate vicinity of the site. I concur with this view.
- 6.8. **Loss of industrial land** - The application site was previously used for industrial purposes. The 'Loss of Industrial Land to Alternative Uses' SPD states that there is a presumption in favour of retaining land in employment use where appropriate to ensure an adequate supply is maintained for future job creation and securing inward investment to the City. However, under certain circumstances, a change to an alternative use may be appropriate such as where the site is non-conforming (i.e. within a residential area). Planning and Growth Strategy have raised no objections

to the proposals. The site is considered as a poor location for employment development and is constrained by its residential context and poor connections with the strategic highway network. The site was previously occupied by B2 (industrial) units, which ceased trading in September 2007, and were subsequently cleared. I concur that the use of the site for industrial purposes would be considered as a 'non-conforming' use and in principle would be suitable for residential purposes. The principle for the loss of industrial use was established under previous outline planning permission in 2011 for a primary school at the site (420 pupils) and 2014 consent for 122 residential units, which were not implemented and have since lapsed.

- 6.9. **Impact on setting of listed building and archaeology** - Brookhill Tavern PH sits to the northeast of the site and dates back to the early 20th century. The Brookhill Tavern PH is surrounded by predominantly two-storey residential dwellings. The proposed development to include school buildings, sports block and outdoor play space to the south-west of the listed building. The proposed development would provide a buffer from the setting of the public house and the building set-back enables views east down Alum Rock Road to be retained. The site previously benefitted from outline consent for up to 122 dwellings. My Conservation Officer has raised no objections to the proposed development as it would not have an adverse impact to the setting of the listed building in so far as affecting its significance. Also, with regards to archaeology, no objections have been raised as the site is of low archaeological potential and no further archaeological work is required.
- 6.10. **Impact on design and character** – There are a number of constraints to include topography and ground level differences, easements in relation to existing culvert and sewer running through the site, etc. There has been feasibility option appraisal undertaken to demonstrate suitable positions for siting the school building and why various options were discounted. The proposed site layout to siting of the angled school building and set back from the road towards western part of the site has been developed in response to a number of constraints, residential amenity and meet operational requirements together with educational aspirational of the school and community use. To address design constraints, the orientation and siting of the proposed school building creates opportunity to consolidate the hard play, hard games courts, service yards and parking within the site. Substantial landscape enhancement along Alum Rock Road frontage is proposed with mature planting (trees, hedgerow, shrubs, structure planting and ornamentals) that will enhance the character of Alum Rock Road. There is also tree and shrub / hedge planting proposed for the full length of all road frontages, around the car park and rear of residential boundaries, which is discussed below. There is also a zone provided to the front of the school for the safeguarding of the pupils from busy Alum Rock Road and avoids any potential conflict of vehicles and pedestrians.
- 6.11. The principal school building, at three storeys in height, is an appropriate scale for Alum Rock Road frontage. The buildings both have a flat roof with the main building being 3 storeys high and the adjacent sports hall being the equivalent of 2 storeys in height. The building would be modern in appearance with recessed main access. The relatively simple style of architecture for the school building is appropriate and the use of facing brickwork with cladding to sports hall is considered acceptable. Residential and commercial properties bound the site and are a combination of two and three storeys in height within the vicinity of the application site. The front entrance would be aligned with the approach from Alum Rock Road forming a gateway and public realm feature into the school site. Consequently, I consider that the proposed siting, scale and massing would be acceptable and would improve the character and appearance of the site and overall area.

- 6.12. **Impact on residential amenity (Living condition of existing occupiers)** – There are existing windows to the rear and side of the two-storey wings of Victorian terrace residential properties on Ludlow Road. The proposed main school building would be angled and face onto some of the rears of these dwellings. The existing residential properties on Ludlow Road are situated on higher ground level than the application site/ proposed building by approximately 2 metres (maximum level). The minimum distance of the rear windows in the proposed building to the boundary of existing residential properties on Ludlow Road would be approximately 27.5 metres and approximately 40 metres to rear habitable windows, which is considered sufficient separation to prevent an unacceptable loss of privacy. I am also of the view that any views would be acute angle, and as such it is not considered that a loss of privacy would occur to these rooms. The separation distances from proposed three-storey building would comply with standards as laid out in SPG Places for Living, which although not strictly applicable to school buildings, does provide useful guidance for measuring separation distances. Whilst it is recognised that from the rear gardens of properties on Ludlow Road the building will be prominent in views to the east and north, it is considered that additional three-storey situated on lower ground level, would not result in significant loss of amenity to these gardens. There is separation distance over 50 metres from sports hall to rear garden boundaries to residential properties on Alderson Road which exceeds minimum standards as laid out within SPG Places for Living.
- 6.13. With regards to adjoining first floor residential flats above commercial block on Alum Rock Road (adjoining proposed service yard), the minimum separation distance is approximately 31 metres and would again exceed standards as laid out within SPG Places for Living. Consequently, I consider that the proposal is unlikely to have adverse impact on amenity of the occupiers of adjoining residential properties.
- 6.14. **Impact on residential amenity (Noise, disturbance, odour etc.)** - The application site is situated within mixed commercial and residential area. The main school building would be situated at an angle towards western part of the site adjoining rear dwellings and gardens on Ludlow Road, which has the potential to compromise residential amenity of existing occupiers.
- 6.15. The applicant has confirmed that there is no floodlighting proposed for the MUGA or playing fields. Regulatory Services have raised no objections to the proposal subject to conditions to secure cumulative noise levels from plant and machinery, extraction and ventilation and kickboards to proposed fencing. Consequently, the proposal is unlikely to have an adverse impact on the amenities of residential occupiers within the immediate vicinity of the site, subject to satisfactory safeguarding conditions.
- 6.16. **Air Quality** - This application is accompanied by an Air Quality Assessment, which concludes that the development would be acceptable. Regulatory Services have confirmed that they have no concerns over this development in respect of its impact on air quality. Regulatory Services have also recommended that a vehicle charging point is imposed to assist in reducing the City's carbon footprint and improve air quality.
- 6.17. **Land contamination** – Supporting documents advice that there is ground contamination on site and gas protection is required. Regulatory Services have raised no objections subject to land remediation conditions to determine all environmental aspects and requirements to current standards and regulations.

- 6.18. **Impact on ecology** – Preliminary Ecological Appraisal has been submitted that states that majority of the site comprised short perennial/ephemeral vegetation growing in varying densities over the bare rubble ground. The preliminary ecological appraisal confirms that there were no trees on site that were suitable for roosting bats. City Ecologist has requested that a condition be imposed in line with recommendation of the preliminary ecological appraisal (PEA) regarding nesting birds. The site also contained habitat suitable for hedgehogs and reptiles and in order to protect them any clearance works would be conditioned in accordance with the recommendations in the preliminary ecological appraisal.
- 6.19. In terms of black redstart, the most recent records recorded an individual from 2005. City Ecologist have recommended, in line with the PEA that in order to minimise habitat loss an adequate mitigation would be that two black redstart boxes be incorporated into the development, these should be boxes designed specifically for black redstart. Other conditions include ecological enhancement plan to include provision of bird nest boxes designed for house sparrows or swifts into the eaves and design of the building and planting details to incorporate locally native brownfield species mixes such as wildflower meadow or wildflower turf.
- 6.20. There were two invasive plant species (Cotoneaster and Japanese rose) present on site. City Ecologist has recommended that a condition be imposed for an appropriate control and disposal programme should be designed and implemented on site.
- 6.21. A revised landscape plan has been submitted to increase in the habitats being provided either by provision of new features or extension of proposed planting areas. These additional features will add to the overall value for biodiversity and will replicate some of the features lost to development. City Ecologist has suggested that changing the wildflower mixes to some that are more acceptable, including suitable plug planting in the swales/ damp hollows plus the inclusion of bat and bird boxes into the fabric of the building. Ecologist recommended a Landscape and Ecological Management Plan condition be imposed in order to secure the long term benefits of the implementable scheme.
- 6.22. **Impact on trees and landscaping** - The Arboricultural Method Statement identifies that 14no. individual trees and 1 group of trees within and surrounding the site would be removed that are either small, poorly formed or with limited life expectancy. There are no trees protected by Tree Preservation Order within or surrounding the site. My Tree Officer has raised no objections to the removal as the proposal represents an improvement by planting new appropriately specimen trees around the perimeter boundary together with reinforcement of screening with trees along the rear of residential boundaries for the entire site.
- 6.23. A detailed landscaping plan has been submitted that shows large tree species (London Plane) and hedge along Alum Rock Road, formal line of trees (Hornbeam, Field Maple & Cherry) and hedge along residential roads and irregular trees (Birch, Field Maple and Rowan) along residential boundary on Ludlow Road. There is also shrubs and flowering grass to promote biodiversity on site. My Landscape Officer has raised no objections subject to conditions to include planting scheme to be implemented in accordance to approved plans, landscape management plan and level details. There would be a further boundary treatment condition imposed to rationalise and enhance with railing required for the full length of the Alum Rock Road frontage with piers either side of pedestrian and car park entrances, and at changes of direction either side of the pedestrian access. The bin store / enclosures & service yard front walls visible from public realm needs to comprise brick wall and

conditioned accordingly. Further condition would be imposed in relation to site levels and the mound situated to the southern part of the site.

- 6.24. **Impact on highway safety** – Transport Statement and Draft Travel plan have been submitted as part of supporting documents towards this application. The proposed access arrangement would be via a new priority ‘T’ junction off Alum Rock Road, located equidistant between Alum Rock Road/ Foxton Road and Alum Rock Road/ Brook Hill Road junctions. The main pedestrian route to the proposed school is from Alum Rock Road frontage and is located in close proximity to an existing traffic light controlled pedestrian crossing that would provide a direct and safe route to cross the road. When fully occupied, the proposed school will accommodate up to 800 pupils (including a 6th Form of 200 pupils) and 72 staff.
- 6.25. A total of 94 parking are illustrated on submitted drawings (36no. staff and 54no. visitor, drop off/ pick-up spaces) and 4no. designated disabled spaces. There are also 3no. coach parking spaces, 96no. cycle parking and 7no. motorcycle parking spaces to be provided within the curtilage of the site. The proposed provision is in accordance with SPD Car Parking Guidelines. The service yard access is via existing footway crossing from Alum Rock Road located at the western boundary of the site. The existing footway crossing would be modified to the width of the proposed service yard access.
- 6.26. The transport statement includes operational assessments to demonstrate the impact of the development proposal on highway capacity and includes traffic growth factors in 2019 to 2024. The anticipated trip generation of the proposal is calculated using observed mode split from the operational Eden Boys Academy at Perry Barr. The scenarios were modelled for morning and afternoon peak hours for a number of priority junctions within the immediate vicinity of the application site. Transportation Development have reviewed supporting documents and recommended that any highway network modifications could be conditioned as part of any S.278/ TRO Agreement.
- 6.27. In terms of accessibility and alternative modes of transport, the application site is situated within a large residential catchment area and in close proximity to Alum Rock Road District Centre and Ward End Neighbourhood Centre. There are a number of cycle routes and public transport available within close proximity to the site. A draft framework travel plan has been submitted that would ensure sustainable modes of travel options are promoted. This would be subject to imposition of a condition to ensure that the applicants work with BCC’s “Behavioural Change” team and affiliate to Birmingham Connected Business Travel Network and register with the “STARSfor” portal in order to complete a travel plan, and commit towards relevant accreditation. This should include the development of proposals for decreasing reliance on the private car and for continuing staff use of alternative means of transport.
- 6.28. Transportation Development have reviewed supporting documents and raises no objections to the proposal subject to a number of conditions to include siting/ design of means of access, S.278/ highway works. I concur with this view and consider that the proposal is unlikely to have an adverse impact on highway safety within the immediate vicinity of the site.
- 6.29. **Impacts on flooding and drainage** – A drainage statement incorporating a Flood Risk Assessment and Drainage Strategy have been submitted. The site covers an area of approximately 3.37ha and estimated impermeable area of the development is approximately 1.653ha. There are grass pitches proposed on site. The site is

located within Flood Zone 1 area, which is classed as having less than 1 in 1000 chance of flooding in any one year. Environment Agency has raised no objections to the proposal. The landscape proposal has been amended to incorporate tree pits with SuDS aspect for permeable surfacing. The Council as Local Lead Flooding Authority and Severn Trent have raised no objections to the revised details subject to a number of conditions including that the scheme is being implemented in accordance with the Sustainable Drainage Assessment provided, foul waste and the provision of a sustainable drainage operation and maintenance plan. I concur with this view and consider the proposed development would not have an adverse impact on existing drainage or result in additional risk of flooding.

- 6.30. **Sustainability and energy** – The application has been accompanied by an Energy and Sustainability Assessment that considers sustainability matters into the development of the site and has been guided by the principles of BREAM in terms of management, energy efficiency, transport, materials, water, waste etc. On this basis, I consider that the proposed development complies with relevant policies within BDP and NPPF.
- 6.31. **Other issues** - I note the comments raised by West Midlands Fire Service, the majority of which are generic comments covered under Building Regulations and as such, are not planning issues. Supporting statements confirm that the proposed development would meet all the requirements as outlined by West Midlands Fire Services and Building Regulations.
- 6.32. West Midlands Police have raised no objection to the proposal subject to advisory for the scheme to be implemented taking into consideration 'Secure by Design' initiatives in relation to crime and public safety.

7. Conclusion

- 7.1. The proposed secondary school for boys would represent a significant investment that would assist in meeting the education needs of the City's growing population. The proposed development would be in accordance with, and would meet policy objectives and criteria set out in, the BDP and the NPPF. I consider that the proposed school would offer an inspiring educational establishment, delivering a step change in the standard of school and sports provision within Alum Rock area. The new sports hall and play pitches in particular would offer significant benefit to the community. The scheme is acceptable in terms of its design, amenity, highways, flooding/ drainage and ecology. The proposal is therefore recommended for approval subject to conditions.

8. Recommendation

- 8.1. Approved subject to conditions.

-
- 1 Requires the prior submission of a method statement for the removal of invasive weeds
 - 2 Requires submission of landscape and ecological management plan prior to occupation
 - 3 Requires the prior submission of a precautionary working method statement
-

-
- 4 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
 - 5 Requires the prior submission of a contamination remediation scheme
 - 6 Requires the submission of a contaminated land verification report
 - 7 Requires the submission of extraction and odour control details
 - 8 Limits the noise levels for Plant and Machinery
 - 9 Limits the hours of use for multi-use games area and playing pitches (09:00 to 20:00 hours Mondays to Fridays and 10:00 to 17:00 hours Saturdays, Sundays and Public holidays)
 - 10 Requires the provision of a vehicle charging point
 - 11 Requires the implementation of sustainable drainage scheme prior to any building
 - 12 Requires the prior submission of a drainage scheme
 - 13 Requires the prior submission of level details
 - 14 Requires hard surfacing and hard and soft landscape works to be implemented in accordance with details submitted
 - 15 Requires the submission of boundary treatment/ refuse storage and service yard enclosure details
 - 16 Requires the submission of a landscape management plan
 - 17 Requires the submission of a lighting scheme
 - 18 Requires the prior submission of a construction method statement/management plan
 - 19 Requires the submission of details to prevent mud on the highway
 - 20 Requires the prior installation of means of access
 - 21 Requires the submission of the siting/design of the access
 - 22 Requires the submission of details of pavement boundary
 - 23 Requires the submission of a parking management strategy
 - 24 Requires the parking area to be laid out prior to use
 - 25 Requires the submission of cycle storage details
 - 26 Requires the applicants to sign-up to the Birmingham Connected Business Travel Network
 - 27 Requires the prior submission and completion of works for the S278/TRO Agreement
-

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- 28 Requires the submission and completion of works for the S278/TRO Agreement
 - 29 Requires the delivery and service area prior to occupation
 - 30 Requires gates to be set back
 - 31 Requires vehicular visibility splays to be provided
 - 32 Requires prior submission of ground conditions for playing fields
 - 33 Requires submission of a playing field maintenance programme
 - 34 Requires submission of ball catch fencing
 - 35 Requires submission of design and specification of the sport hall
 - 36 Requires submission of design specification for the MUGA
 - 37 Requires submission of community use agreement
 - 38 Requires submission of local employment strategy prior to occupation
 - 39 Requires the submission of sample materials
 - 40 The development hereby approved shall be implemented in accordance with the details submitted with the application and shown on drawing numbers
 - 41 Implement within 3 years (Full)
-

Case Officer: Mohammed Akram

Photo(s)

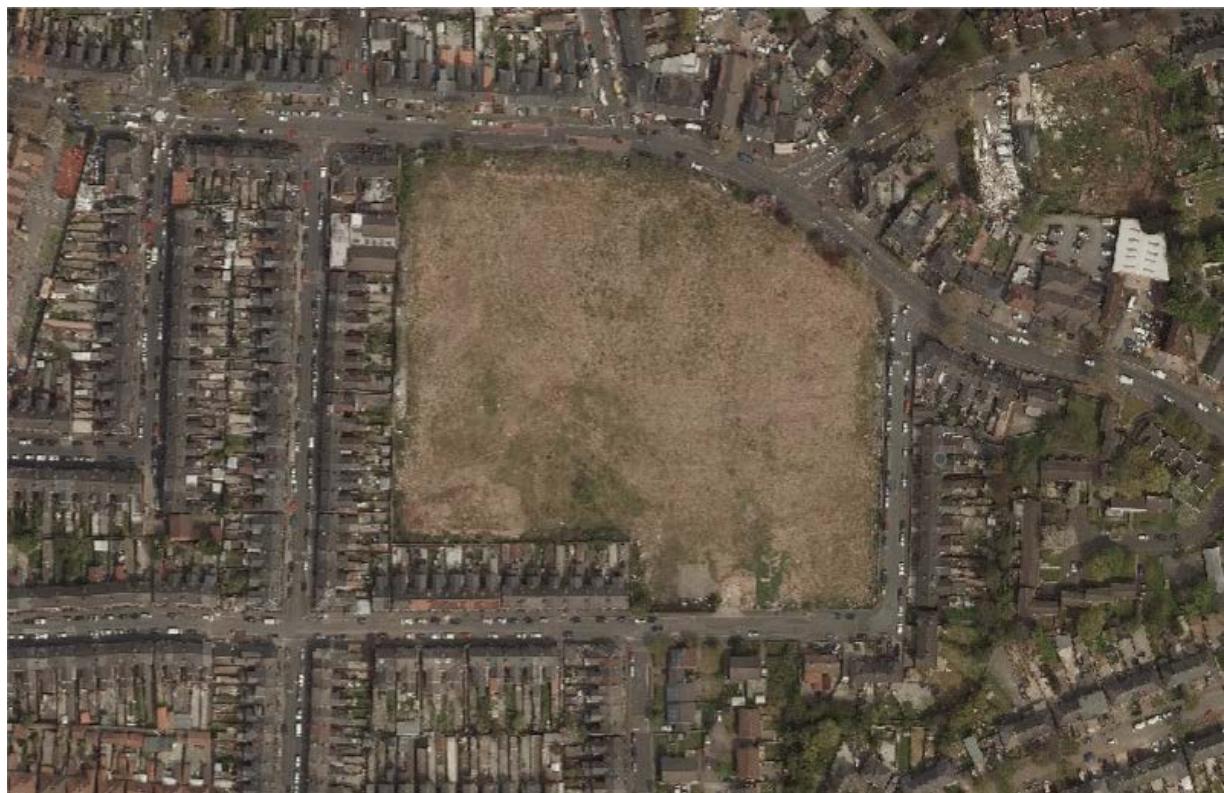


Figure 1: Aerial view

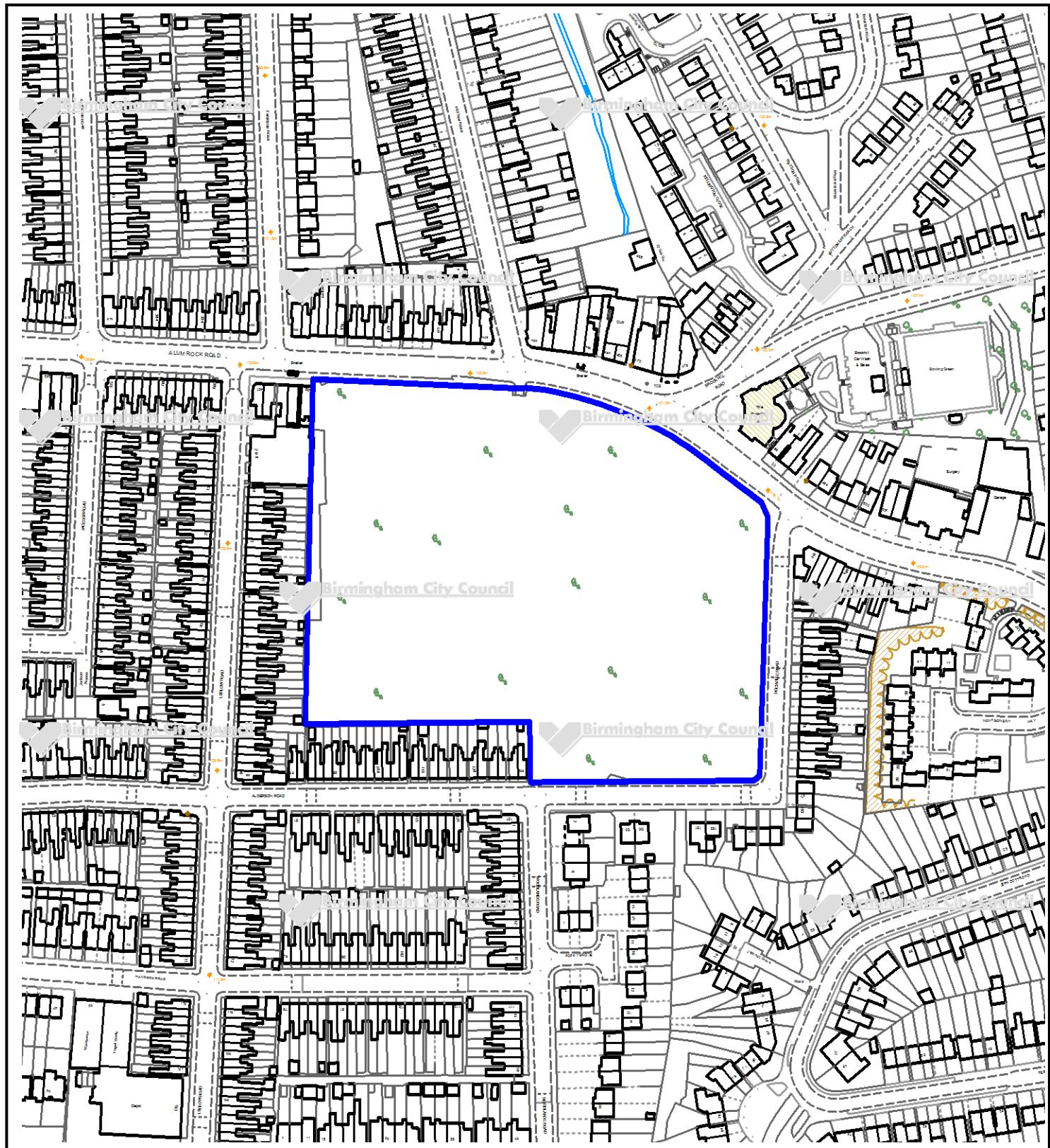


Figure 2: Internal view of Application site



Figure 3: Street view

Location Plan



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Committee Date:	29/08/2019	Application Number:	2019/02213/PA
Accepted:	15/03/2019	Application Type:	Variation of Condition
Target Date:	14/06/2019		
Ward:	Erdington		

Lyndhurst Estate and former Normanhurst Care Home, Sutton Road, Erdington, Birmingham, B23 5UJ

Removal of condition number 31 (Restricts the access onto Chester Road to cycles and pedestrians only) attached to planning approval 2012/07153/PA

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. Full Planning Permission is sought for the removal of condition 31 of planning application 2012/07153/PA which seeks to restrict the access onto Chester Road to cycles and pedestrians only.
- 1.2. The original condition 3 read; “The access shown on the approved plans onto Chester Road shall be for cycles and pedestrians only. The reason for the imposition of the condition was in order to secure the satisfactory development of the application site in the interests of highway safety in accordance with Paragraphs 3.8, 3.10 6.17 and 6.39 of the Birmingham UDP 2005 and the National Planning Policy Framework”.
- 1.3. The application which this condition related to was 2012/07153/PA for the Minor material amendment attached to planning approval 2010/04319/PA for outline application for up to 316 new dwellings and re-provision of public open space and playing fields. Omission of relocated youth centre and new health centre surgery previously proposed and reduction of minimum on-site playing field re-provision from 0.4ha to 0.3ha. All matters reserved for subsequent approval excluding access. Variation of conditions 24, 34, 35 & 37 and deletion of conditions 18, 19, 20, 21, 22, 23, 25 & 26

1.4. Link to Documents

2. Site & Surroundings

- 2.1. The existing site is part of an extensive housing regeneration site situated in east Birmingham. The site is surrounded by predominantly residential properties between the local centres of Short Heath and Erdington. Chester Road bounds the site to the north.
- 2.2. The proposed area covered within the existing Planning Application relates to a proposed footpath situated towards the north of the site originally designed to provide access to for cyclists and pedestrians from within the site to Chester Road.

3. Planning History

- 3.1. 2010/04319/PA - Outline application for up to 316 new dwellings, revised highway layouts, new open space, relocated youth centre, new multi games area and new D1 facility: health centre surgery. All matters reserved for subsequent approval excluding access – Approve subject to conditions
- 3.2. 2012/07513/PA - Application to determine the details for conditions numbers 1,2,3,10, and 18 attached to approval 2012/02168/PA – Approved
- 3.3. 2015/01554/PA - Reserved matters application for the erection of 110 2, 3, 4 and 5 bedroom houses with associated open space, ground works, retaining walls and new roads (phases 2 and 3) associated with outline planning permission ref:- 2012/07153/PA – Approved subject to conditions
- 3.4. 2018/10061/PA – Erection of 19 no. dwelling houses with retained access, landscaping and associated works – Pending Consideration
- 3.5. 2019/02215/PA – Removal of Condition no.2 attached to planning approval 2015/01554/PA regarding pedestrian link – Pending consideration

4. Consultation/PP Responses

- 4.1. Neighbouring residents and Local Ward Councillors have been consulted on this Planning Application. No letters of representation have been received in relation to this Planning Application.
- 4.2. **Transportation Development:** No objections
- 4.3. **Leisure Services:** No objections
- 4.4. No other consultations, regarding this application were sent or requested.

5. Policy Context

5.1. Relevant Local Planning Policy:

- Birmingham Development Plan (BDP) 2017
- Birmingham Unitary Development Plan (UDP) Saved Policies 2005
- Places for Living SPG 2001

5.2. Relevant National Planning Policy:

- National Planning Policy Framework (NPPF) 2019

6. Planning Considerations

- 6.1. The main planning considerations for this application relate to how the proposals will impact on the overall development scheme, the permeability/connectivity of the site and the visual/landscape impact and impact on the residential amenity of the immediate locale

- 6.2. Full planning permission is sought for the removal of condition 31 associated with Planning Application 2012/07153/PA. The original condition stated; “The access shown on the approved plans onto Chester Road shall be for cycles and pedestrians only. The reason given: In order to secure the satisfactory development of the 3.10 6.17 and 6.39 of the Birmingham UDP 2005 and the National Planning Policy Framework”.
- 6.3. The removal of condition application has been determined, taking into consideration a further application which is also on the current agenda, 2018/10061/PA – Erection of 19 no. dwelling houses with retained access, landscaping and associated works. The agent has stated that the rationale for the submission being set out as; *The applicant has submitted a new planning application that seeks permission for the erection of a number of new dwellings. The dwellings will be located on land that would previously have contained the pedestrian link. As such, the link can no longer be delivered. It is considered that the provision of addition dwellings (19 homes) in this case, outweighs the provision of a pedestrian link and is therefore acceptable.*
- 6.4. The route would if implemented provide an alternative for those walking and cycling within the estate to access the Chester Road eschewing a slightly more circuitous route (which would then necessitate leaving the estate and travelling along Sutton Rd & Chester Rd) – the additional distance travelled would be 130m – if considered that an average person can walk 65metres in 1 minute at a moderate pace such = a ~2minute diversion.
- 6.5. The route would be of most significant advantage to those seeking to leave the estate and travel west along Chester Rd towards the railway station. Whilst it is unfortunate for this links omission, on balance it is noted to be of limited advantage in terms of distance and time saved – with the final detail of the link unresolved the quality of such remains undetermined and so it is difficult to comment upon that aspect.
- 6.6. Furthermore, note that of the conditions previously attached to 2012/07153/PA & 2015/01554/PA none specify a ‘trigger’ for the implementation of this link. As such it is considered that by not implementing, the developers would not be contravening a planning consent. i.e. it appears that there would not be a planning breach were this link not to be provided.
- 6.7. The proposals are considered to have a limited impact in terms of visual amenity on the immediate locale. The surrounding area is a new building housing estate which forms part of a larger project of regeneration of the former Lyndhurst Estate. Given the need for housing, and the acceptable scheme proposed, as well as the positive response from the Transportation team, it is not considered that the proposals will lead to a general detrimental impact on the immediate locale, the aims and objective of the BDP or general accessibility guidance.

7. Conclusion

- 7.1. The proposals are not considered to depart from the aims and objectives of Local or National Guidance. The proposals are not deemed to have a detrimental impact on the scheme under development, the further proposed scheme and is not considered to detract from the proposed permeability or the general residential amenity of the area, existing and proposed.

8. Recommendation

8.1. Approve subject to the imposition of conditions detailed below.

- 1 Requires the prior submission of a contaminated land verification report on a phased basis
 - 2 Requires tree replacement within 4 years post development
 - 3 Requires the prior submission of public open space details
 - 4 Requires the prior submission of any flood lighting details and hours of use
 - 5 Requires the submission of reserved matter details following an outline approval
 - 6 Requires the planning permission to be implemented by Birmingham City Council
 - 7 Requires the implementation of the development in accordance with the principles outlined in the Design and Access Statement.
 - 8 Requires the scheme to be in accordance with the listed approved plans
-

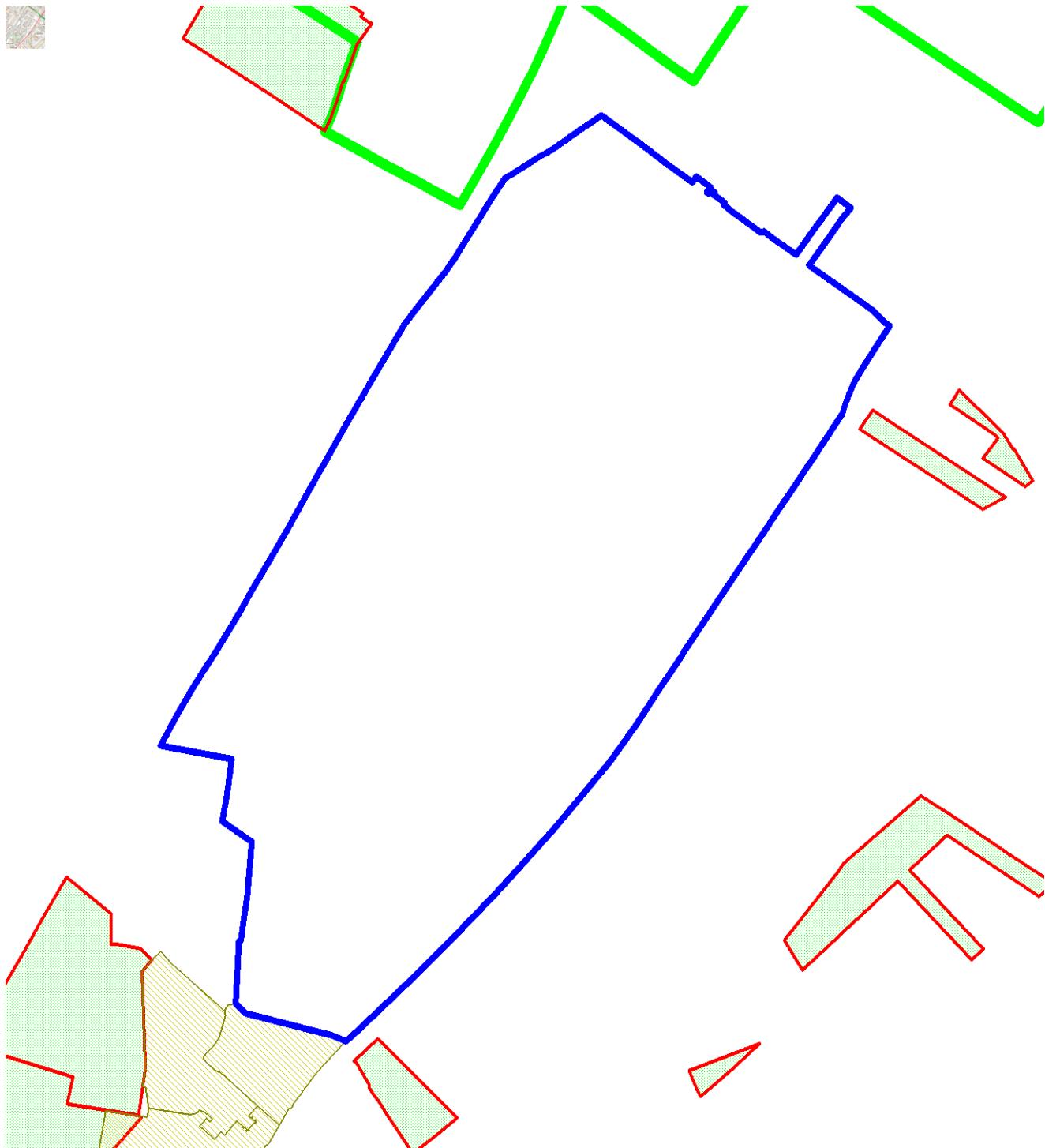
Case Officer: Gavin Forrest

Photo(s)

Fig 1 – previously approved accessed situated in linear area to north of the site



Location Plan



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Committee Date:	29/08/2019	Application Number:	2018/10061/PA
Accepted:	20/12/2018	Application Type:	Full Planning
Target Date:	21/03/2019		
Ward:	Erdington		

Former Lyndhurst Estate, Sutton Road, Erdington, Birmingham, B23

Erection of 19 no. dwelling houses with retained access, landscaping and associated works

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. This Planning application seeks consent for the erection of 19.no dwelling houses with retained access, landscaping and associated works at the former Lyndhurst estate, Sutton Road, Erdington, Birmingham. The site and immediate surrounding locale has been the subject of numerous planning applications which deal with the re-development of the Lyndhurst Estate (also known as Abbeyfield)
- 1.2. Birmingham Municipal Housing Trust (BMHT), the applicant, propose to erect 19 residential dwellings comprising six 2 bedroom homes, nine 3 bedroom homes and four 4 bedroom homes, one of which will be bespoke design. The proposed density is 35 dwellings per hectare. All dwellings are for private sale. The dwellings are predominantly 2 storey in nature with an element of 2.5 storey dwellings.
- 1.3. S-2A is a 2 bedroom 4 person house with an internal floor area of 67.7 sqm with 2 double bedrooms and the bathroom of the first floor. On the ground there is the kitchen, living / dining areas, downstairs W.C and under stairs storage.
- 1.4. S-3A is a 3 bedroom 4 person house with an internal floor area of 89.4 sqm with 2 double bedrooms and 1 single bedroom on the first floor along with the bathroom and airing cupboard, on the ground floor there is the living / dining spaces, kitchen, W.C and under stairs storage space.
- 1.5. S-4C house type is a 4 bedroom 6 person house with a internal floor area of 128.6 sqm over 2.5 floors with 1 double bedroom and 1 single bedroom in the loft floor there is also 1 double and 1 single bedrooms on the first floor. On the ground floor there is the kitchen, living / dining area, W.C and two sets of storage space.
- 1.6. 4B Bespoke house type is a 153.3sqm 4 bedroom 7 person house. Its been designed to sit on small unused plot between advertising boards and Victorian

housing along Chester Road. The overall design of the house is to blend in with its surrounding housing stock along Chester Road with low concrete window cill heights, tall windows with brick soldier courses and tall eaves heights. On the ground floor there is separate living and dining areas, under stairs W.C and with utility area connecting onto the kitchen. On the first floor there are 3 double bedrooms and 1 single, main bathroom and a en-suite connecting to the main double bedroom.

- 1.7. The proposed dwellings will each provide off street car parking for 2 vehicles and will provide amenity space to the rear of each dwelling. A minimum of 52 square metres will be provided for a 3 bed dwelling and a minimum of 70 square metres for a 4 bed dwelling, which will also provide an ancillary structure capable of providing 3 bicycles.

- 1.8. [Link to Documents](#)

2. Site & Surroundings
 - 2.1. The existing site is located approximately 3.5 miles to the north east of Birmingham city centre. The site is a brownfield site, having previously been developed and occupied by the now demolished Burcombe Tower, a residential tower block that was situated to the north east corner of the Lyndhurst Estate. The application site is located to the east of the Lyndhurst estate, a medium density and largely residential area of Birmingham. The application site is located on Old Bell Road, approximately 500m (six minute walk) from Chester Road Railway Station and 1km (12 minute walk) from Erdington Railway Station. The site forms Phase 4 of the Erdington Regeneration scheme, which has seen the demolition of high rise residential towers, with the erection of more general 2 storey housing throughout. The historic vehicular access into the site remains, connecting onto Old Bell Road.

 - 2.2. Phase 4's site is situated by retail units with apartments above facing Chester Road North, a main A road (Sutton Road) and new residential housing. The site is currently undeveloped and used as the main contractor's site office for Phase 2. On the opposite side of the Old Bell Road phases 4 site is over looked by Kentmere Tower Block and parking spaces. Along phase 4's site boundary to Sutton Road is a large public open space with category B trees.

 - 2.3. The site has an area of 0.78 hectares (1.9 acres) of which 0.59 hectares (1.45 acres) is previously developed land. The site also falls within flood zone 1. It is delineated by residential dwellings and shops on Chester Road (A452), trees within a grassed space to the east, beyond which is Sutton Road (A5127), Old Bell Road to the south and residential flats and an all-weather playing pitch, part of an existing community centre, to the west.

- 2.4. The site is situated within a long established residential neighbourhood with a small number of community and retail units within close proximity to the north (at the junction of Sutton Road and Chester Road) and a greater range of community facilities and retail facilities in Erdington District Centre, approximately 800m to the south of the Site. Sutton Coldfield Town Centre is approximately 3km away from the site to the north. A number of schools are located close to the site including St Edmund Campion Catholic School, Wylde Green Primary School and Featherstone Primary School. The Grade II listed Roman Catholic Church of St Thomas and St Edmund, and Abbey Hall sit approximately 650m to the south west of the site.
- 2.5. The site includes a smaller parcel of land to the north that fronts onto Chester Road and is located between an existing dwelling and retail units on the corner of Chester road and Sutton Road. Access to the site is via an existing T-junction on Old Bell Road. Bus stops are located on Sutton Road and Chester Road providing regular services to Great Barr, Alum Rock, Small Heath and Birmingham, Sutton Coldfield. Chester Road Railway Station is located approximately 300m away from the site providing rail connections to Lichfield, Birmingham, Redditch and beyond.

3. Planning History

- 3.1. 2006/02754/PA - Demolition to include removal of foundations, clearance & grading of site & erection of timber trip rail & 1.8 metre high chain link fencing to site boundary
- 3.2. 2008/06367/PA-Demolition of 12 storey residential tower block and erection of chain link fencing-No prior approval required.
- 3.3. 2010/04319/PA-Outline application for up to 316 new dwellings, revised highway layouts, new open space, relocated youth centre, new multi games area and new D1 facility: health centre surgery. All matters reserved for subsequent approval excluding access – Approve subject to conditions
- 3.4. 2012/07153/PA-Minor material amendment attached to planning approval 2010/04319/PA for outline application for up to 316 new dwellings and re-provision of public open space and playing fields. Omission of relocated youth centre and new health centre surgery previously proposed and reduction of minimum on-site playing field re-provision from 0.4ha to 0.3ha. All matters reserved for subsequent approval excluding access. Variation of conditions 24, 34, 35 & 37 and deletion of conditions 18, 19, 20, 21, 22, 23, 25 & 26 – Approve subject to Conditions

4. Consultation/PP Responses

- 4.1. Neighbouring residents and Local Ward Councillors have been consulted on this Planning Application. No letters of representation have been received in relation to this Planning Application.

- 4.2. BCC Transportation Development Team:** No objection subject to the imposition of conditions relating to access design, visibility sightlines and cycle storage.
- 4.3. BCC Arboriculture Team:** No objection subject to the imposition of conditions relating to root protection areas for trees.
- 4.4. BCC Leisure Services Team:** No objection. As a development of below 20 residential dwellings this would not be subject to any off site POS or Play area contributions. Neither is there loss of public open space issues as the land is currently in housing ownership and the Lyndhurst redevelopment has already delivered the required 3.65 hectares of POS in form of a new Neighbourhood park.
- 4.5. BCC Employment Access Team:** No objection subject to the imposition of a condition requiring the prior submission of a construction employment plan.
- 4.6. BCC Ecology Team:** No objection subject to the imposition of conditions relating to submission of details relating to bird/bat boxes, and proposed planting species and bird nesting/ vegetation clearance.
- 4.7. BCC Regulation Services:** No objection subject to the imposition of conditions relating to Noise Insultation Scheme, Contamination Remediation Scheme and Contaminated Land Verification Report.
- 4.8. Local Flood Authority and Drainage Team:** No objection subject to the submission of information relating to the following;
- Calculations are required to demonstrate the performance of the proposed drainage network (for all events up to and including the 100yr plus climate change event).
 - Consideration of the potential impact of development creep over the lifetime of the development is required.
 - Consideration should be given to exceedance flows (e.g. intense summer storms). Levels plans and flow paths should be provided illustrating pre- and post-development exceedance routes to demonstrate that surface water flood risk has been mitigated wherever practicable, and has not been exacerbated by the proposed development.
 - The LLFA recommend that all property finished floor levels (FFLs) should be set to a minimum of 150mm above surrounding ground levels wherever practicable. From the levels plan provided, the LLFA note that there are a number of instances where this is not achieved. The complimenting drainage strategy drawing indicates 'drainage channels' in these locations. Clarification as to the rationale for achieving 150mm clearance for all FFLs

and the rationale for including 'drainage channels' (and details of these features) is required.

4.9. West Midlands Fire Service: No objection.

4.10. West Midland Police: No objection.

4.11. Severn Trent: No objections to the proposals subject to the inclusion of drainage conditions relating to drainage plans.

5. Policy Context

5.1. National Planning Policy Framework(2019); DCLG Technical Housing Standards- Nationally Described Spatial Standard(2015);Birmingham Development Plan(2017);Birmingham Unitary Development Plan Saved Policies (2005);Places for Living SPG(2001);Car Parking Guidelines SPD(2012);Public Open Space in New Residential Development SPD (2007)

6. Planning Considerations

6.1. **Background –** In 2010, planning permission was granted for 316 dwellings. In this time BMHT and Kier Living have constructed approximately 250 residential dwellings, of which 94 are affordable homes and the appropriate level of public open space provided. Regeneration on the site continues with the erection of the remaining dwellings which these proposals forming the fourth phase of development.

6.2. Outline planning permission was granted subject to conditions in 2010 (application ref: 2010/04319/PA) for the erection of up to 316 dwellings, revised highway layouts, new open space, relocated youth centre, new multi games area and new D1 facility: health centre surgery. This particular site was shown as being earmarked for a scheme of approximately 52 residential apartments.

6.3. In 2012, BMHT submitted an application for minor material amendments (application ref: 2012/07153/PA) to the permission 2010/04319/PA following changes to the funding model. The changes were broadly confined to: Retain as much of the existing road pattern as possible; Retain the Malcolm Locker Youth Centre in its existing building, and cast a consequence provision of sport facilities adjacent to the building; Remove the Primary Care Trust building shown in the current plan and utilise the available land for housing to improve the viability of the development; and Changes to open space.

- 6.4. The outline planning permission limited the time period for the submission of reserved matters to six years, ending in 2016. A reserved matters application (ref: 2013/00204/PA) was then submitted in 2013 for the erection of 26, 2, 3 & 4 bed houses (Phase 1A) associated with outline planning permission 2012/07153/PA. The application was approved later that year. A further reserve matters application (ref: 2013/02105/PA) was submitted in 2013 for the erection of 107 no. 2, 3, 4 and 5 bedroom houses and 10, 2 bedroom flats with associated ground works, retaining walls and new roads (Phase 1b). The final reserve matters application was submitted in 2015 (application ref: 2015/01554/PA) for the erection of 111 2, 3, 4 and 5 bedroom houses with associated open space, ground works, retaining walls and new roads (phases 2 and 3) associated with outline planning permission ref:- 2012/07153/PA. The time period lapsed (expiry 21st October 2016) for the submission of final phase (4) for reserved matters to 2012 consent and as such, this full application is submitted to deliver the final phase of the Lyndhurst (Abbeyfield) masterplan.
- 6.5. **Principle of Development** - The City Council had previously granted outline planning permission (application ref: 2010/04319/PA) for the development of residential dwellings on this site as part of the larger Lyndhurst Regeneration Scheme. The regeneration continues on the remainder of the site following the approval of reserve matters.
- 6.6. Policy TP32 of the Birmingham City Council Local Plan supports the continued regeneration of the Lyndhurst Estate. The site remains highly accessible and within walking distance of local amenities. The proposed dwellings are considered to sit comfortably alongside existing residential uses in the vicinity and do not give rise to any adverse impacts which cannot be covered through the imposition of conditions; is not located in flood zone 2 or 3 and does not have any impact upon historic, natural or cultural assets in the immediate vicinity. The BDP (Policy TP28) seeks to guide development, particularly residential development, towards sites like this. It is therefore considered that the principle of residential development has been previously considered and established by the outline planning permissions which considered residential units appropriate for this parcel of land. The proposals also accord with the key housing policies of the BDP.
- 6.7. Chapter 11 of the revised National Planning Policy Framework relates to making effective use of land. Paragraph 119 of the NPPF 2019 indicates that Local Planning Authorities should take a proactive role in identifying and helping to bring forward land that may be suitable for meeting development needs, including suitable sites on brownfield registers or held in public ownership, using the full range of powers available to them. This should include identifying opportunities to facilitate land assembly, supported where necessary by compulsory purchase powers, where this can help to bring more land forward for meeting development needs and/or secure better development outcomes..” The Birmingham Local Plan has identified this brownfield site for residential development.

6.8. Policy TP27 of the Birmingham Development Plan relates to sustainable neighbourhoods, and sets out that new housing in Birmingham is expected to contribute to making sustainable places. New residential development would need to demonstrate that it is creating sustainable neighbourhoods, characterised by:

- A wide choice of housing sizes, types and tenures to ensure balanced communities catering for all incomes and ages.
- Access to facilities such as shops, schools, leisure and work opportunities within easy reach.
- Convenient options to travel by foot, bicycle and public transport with reduced dependency on cars and options for remote working supported by fast digital access.
- A strong sense of place with high design quality so that people identify with, and feel pride in, their neighbourhood.
- Environmental sustainability and climate proofing through measures that save energy, water and non-renewable resources and the use of green infrastructure.
- Attractive, safe and multifunctional public spaces such as squares, parks and other green spaces for social activities, recreation and wildlife.
- Effective long-term management of buildings, public spaces, waste facilities and other infrastructure, with opportunities for community stewardship where appropriate.

6.9. Policy TP28 relates to the location of new housing, stating that it should:

- Be located outside flood zones 2 and 3a (unless effective mitigation measures can be demonstrated) and 3b.
- Be adequately serviced by existing or new infrastructure which should be in place before the new housing for which it is required.
- Be accessible to jobs, shops and services by modes of transport other than the car.
- Be capable of remediation in the event of any serious physical constraints, such as contamination or instability.
- Be sympathetic to historic, cultural or natural assets.
- Not conflict with any other specific policies in the BDP, in particular the policies for protecting Core Employment Areas, open space and the revised Green Belt.

- 6.10. The proposed residential development comprises a mix of two, three and four bedroom houses. The development would comprise the redevelopment of an existing allocated brownfield site, which benefits from access to a range of facilities and amenities, whilst being accessible by public transport. I am satisfied that the application proposals would contribute positively towards the ongoing regeneration of the Lyndhurst neighbourhood of Erdington whilst making effective use of land, as advocated by the NPPF.
- 6.11. Policy TP30 relates to the type, size and density of new housing, and states that developments should be provided at a target density responding to the site, its context and the housing need with densities of at least:
- 100 dwellings per ha within the City Centre.
 - 50 dwellings per ha in areas well served by public transport.
 - 40 dwellings per ha elsewhere.
- 6.12. The application proposals comprise a density of 35 dwellings per hectare and complies with Policy TP30 of the BDP. However, the existing open space situated to the south of the site is retained and included within the redline boundary. Given the existing constraints with the retained Community Centre adjacent and retail units on Chester Road, could be considered to necessitate a slightly lower density.
- 6.13. Given the vacant nature of the site, and the surrounding residential character of the area, the site is considered to be appropriate for residential development. The proposals comply with the overriding adopted planning policies and accordingly are considered to be acceptable in principle.
- 6.14. **Affordable Housing** - Policy TP31 requires 35% affordable homes as a developer contribution to be delivered on residential developments of 15 dwellings or more. The proposal seeks to erect 19 dwellings. Therefore the proposal would in principle attract an affordable housing contribution.
- 6.15. The site is the fourth phase of the Lyndhurst Estate regeneration. The outline planning permission (2012/07153/PA) granted planning permission for 52 dwellings on this site and required the wider Lyndhurst site to deliver 35% of the dwellings as affordable. As a result of these proposals, there will be a reduction of total dwellings on the site from 52 to 19 dwellings. The affordable housing contribution in accordance with the wider is being delivered, including the liability for the previously proposed 52 dwellings on this site. The dwellings that would now be required as part of this proposal has already been met. In the opinion of the Planning Authority therefore consider that the affordable housing contribution in this case would not meet the tests of necessity set out in the NPPF.

- 6.16. **Planning Obligations** – Policy TP9 of the Birmingham Development Plan relates to public open space, playing fields and allotments. The policy sets out that public open space should aim to be provided throughout Birmingham and in new residential developments provision of new public open space will be required broadly in line with the standard of 2 ha per 1000 population. In most circumstances, residential schemes of 20 or more dwellings should provide on-site public open space and/or children's play provision. Developer contributions could be used to address the demand from new residents on other types of open space such as allotments and civic spaces.
- 6.17. Leisure Services have been consulted on the planning application. As a development of below 20 residential dwellings this would not be subject to any off site POS or Play area contributions. Neither is there loss of public open space issues as the land is currently in housing ownership and the Lyndhurst redevelopment has already delivered the required 3.65 hectares of POS in form of a new Neighbourhood park.
- 6.18. **Impact on Visual Amenity – House designs** - The description of the proposed development and the existing site are covered in paragraph 1.1 -2.3. House designs used for Phase 4 of the development carry on from phases 1, 1B and 2, with similar use of materials. House types used for phase 4 are S-2A, S-3A, S-4C and 4B Bes. As detailed in sections 1.3-1.6.
- 6.19. The design of all 3 house types has been enhanced by the use of projecting brick work either by the following the pitch of the roof or by 20mm projecting brick work vertically on both side of the front corners and on the party wall line when there is semidetached block.
- 6.20. The proposed house types are detailed within pages 14- 18 of the Design and Access Statement, November 2018. The proposed house types, and palliate of materials are considered to have a neutral impact on the visual amenity of the area. The generally contemporary design of the dwellings is consistent with the overall design aims of the regeneration site.
- 6.21. The proposed red and buff brick with grey roof tiles are demonstrated throughout the scheme. It is considered that the proposals follow the style of the existing context of the earlier phases of development and also adds interest to the streetscape.
- 6.22. Dwellings across the scheme comprise a mix of semi detached and detached properties and are set close to the pavement. The layout of the proposals ensure a predominantly consistent building line which ensure a recognised secure suburban feeling. However, in areas some dwellings are set slightly further back to allow for in curtilage parking spaces in front of driveways. Each property has a small front

garden, creating a separation between public and private realm, enhanced by the boundary treatments.

- 6.23. To the south of the site there are dwellings which overlook the existing areas of public open space, as well as public rights of way. As well as creating a distinct boundaries between POS and private realm, the dwelling position creates overlooking and surveillance which enhances safety and creates a natural outlook for the dwellings.
- 6.24. **Impact on Residential Amenity** – The proposed residential dwellings would comprise a mix of house types and sizes. The mix of dwellings is understood to have been designed through an assessment of established housing needs in the area as well as the assessment of the aim and objectives of the Lyndhurst Masterplan. Furthermore the proposals are deemed to contribute towards Birmingham's housing requirement as identified within the Birmingham Development Plan.
- 6.25. The proposed internal floorplans presented are considered to achieve an acceptable level of residential amenity for prospective residential occupiers at the development, providing functional layout for family living. The proposed bedroom sizes are considered to ensure that the bedrooms would be of a regular size and would achieve a functional layout which would be conducive to a good quality living environment and comply with the relevant National standards.
- 6.26. The proposed dwellings would each benefit from a rear private garden and garden or driveway to the front. The guidance set out within Places for Living SPG recommends that 70sqm private garden should be provided for family dwellings and 52sqm private garden should be provided for smaller dwellings. As indicated in the submitted Design and Access statement, all of dwellings would achieve the minimum required garden space to the rear of the properties. Despite the gardens sizes detailed in the SPG being guidelines only, the proposals exceed them and are considered to deliver an acceptable house to plot ratio whilst creating sustainable environments.
- 6.27. The separation distances proposed between the new dwellings within the site would be compliant with Places for Living SPG. This document recommends a separation distance of 21.5m between windowed elevations and 10m garden length for two storey dwellings. These distances are therefore unlikely to result in unacceptable instances of overlooking or loss of privacy. All separation distances to windowed elevations or flank walls would comply with Places for Living SPG. I am satisfied on this basis that the proposed residential development would be unlikely to generate any unacceptable instances of overlooking or loss of privacy to the existing dwellings located within the vicinity of the application site or the dwellings proposed within the proposal site.

- 6.28. Regulatory Services has been consulted on the planning application and have not raised any issues that cannot be adequately addressed through the imposition of conditions relating to potential noise and vibration and contaminated land and remediation. No issues were raised in relation to air quality as it has been determined that levels of air pollution in the vicinity of the site are below the respective air quality objectives and that the site is suitable for residential development. The proposed development scenario is considered to be reflective of the density of the surrounding area and accordingly would be comparable to the existing circumstances found in the area. On this basis, I am satisfied that the proposed development would be unlikely to have an adverse impact on neighbouring residential amenity in terms of additional noise and disturbance.
- 6.29. **Impact on Ecology** – As part of the application submission a preliminary Ecological Appraisal formed part of the application pack. The main findings of the appraisal stated that overall the habitats within the site were considered to be of limited ecological value, with only small areas to have the potential to support protected/notable faunal species (nesting birds). Some of the scattered mature trees are being retained within the development scheme and potential enhancements could be made. No potential for Great Crested Newts were found neither were suitable habitats for bats.
- 6.30. The proposals are considered to not have a detrimental impact on the existing ecological position and given the proposed landscaping/ecological improvements, are considered to conform with the relevant Local Development Plan Policies and the National Planning Policy Framework, by achieving a ecological gain. No objection were received the Birmingham City Council Ecologist, subject to the imposition of conditions relating to construction phase ecological mitigation, Construction Ecological Management Plan, pre commencement walk over surveys and ecological safeguards
- 6.31. **Impact on Landscape** – The existing site was previously used for an area of social housing known as Burcombe Tower, which was in a poor state of disrepair and was demolished. The site became vacant brownfield land/scrubland, bound by a number of overgrown hedge areas, with sporadically planted mature trees. Currently the site is used as the Keir Homes site office compound. A number of the trees will be retained as part of the proposals. The site is generally level with no changes proposed for changes to the topography of the site.
- 6.32. The general landscape scheme for the Lyndhurst Masterplan was to treat the POS in an integrated way to link with the private realm in a seamless yet wholly integral way. The layout of the overall scheme was developed to ensure primary elevations of the proposed dwellings front the public realm, creating active frontages and creating natural surveillance.

- 6.33. The proposed POS are recreational in nature, intended for both home owners and general public for areas of recreation, play meeting and gathering. A number of mature trees are retain to try and create a mature setting, whilst being supported by a range of new planting on main routes and in more visually critical areas.
- 6.34. The proposed properties offer a variety of boundary treatments which allow for individuality and a more visually interesting streetscape. The proposed dwellings frontages have a variety of hedging, shrub mixes and hard landscaping features such as rick walls, close board fencing, estate railings, acoustic fencing etc.
- 6.35.** No objections subject to the imposition of conditions relating to hard and soft landscaping, boundary treatments and management. It is therefore the opinion of the Local Planning Authority that the proposals will result in landscape improvements to the area and will generally result in improvements to the visual amenity of the site and surrounding locale.
- 6.36. **Impact on Flood Risk and Drainage** – The site lies within EA Flood Zone 1, therefore not at risk of flooding. The applicant submitted a number of drainage and flooding assessments as part of the application. Information relating to sewer records/capacity, drainage strategy, Qbar Estimation Calculation, SUDS Assessment and External Levels for assessment.
- 6.37. The permission will be subject to the submission of information/Imposition of conditions regarding proposed mitigation measures for surface water flooding both on- and off-site should be provided. Severn Trent raised no objection subject to the imposition of conditions relating to drainage
- 6.38. **Impact on Highway Safety** – The development would comprise a mix of 2 and 2.5 storey dwellings, both detached and semi-detached accessed off the existing Old Bell Road and the proposed cul-de-sac layout. The vehicular accesses and highways would have footpaths located on both sides of the internal circulation road in the majority of cases. It is considered that the proposed arrangement would achieve acceptable levels of pedestrian accessibility and permeability and would be reflective of the arrangements in neighbouring residential areas.
- 6.39. Transportation Development has been consulted on the planning application. A number of issues have been raised with regards to the proposals, however it is considered acceptable to cover these through the imposition of conditions. There are no objections to the general internal road layout or numbers of units. The residential development of the site is accepted in principle and the proposed vehicular and pedestrian links proposed to be achieved from existing streets would have a positive impact in respect of the integration of the development with the existing residential communities.

7. Conclusion

- 7.1. It is considered that, given the current condition of the site and the benefits that the proposed redevelopment could deliver in terms of visual improvement, regeneration, provision of housing and increased public open space, whilst making the most effective use of land, the satisfactory development of the site can be achieved with the provision of conditions being attached to any grant of planning permission.
- 7.2. The application proposals seek to deliver a comprehensive redevelopment of a vacant site which forms the 4th phase of the Masterplan development. The proposals are in accordance with adopted planning policy and would have an acceptable impact on residential and visual amenity. Acceptable arrangements are proposed with regards to access and parking, public open space and landscaping is proposed to be delivered as part of the scheme. The proposals would be unlikely to have an adverse impact on flood risk and drainage throughout the site and surrounding area.

8. Recommendation

- 8.1. Approve, subject to the imposition of the following conditions.

8.2. [Link to Documents](#)

-
- 1 Requires that the materials used match the main building
 - 2 Requires the scheme to be in accordance with the listed approved plans
 - 3 Requires the prior submission of a construction method statement/management plan
 - 4 Requires the submission of hard and/or soft landscape details
 - 5 Requires the submission of boundary treatment details
 - 6 Requires the submission of a landscape management plan
 - 7 Requires the submission of cycle storage details
 - 8 Secures noise and vibration levels for habitable rooms
 - 9 Requires the prior submission of a contamination remediation scheme
 - 10 Requires the submission of a contaminated land verification report
 - 11 Requires the submission a Noise Insulation Scheme to establish residential acoustic protection (Chester Road)
 - 12 Requires the submission a Noise Insulation Scheme to establish residential acoustic
-

protection(Sutton Road)

- 13 Submission of Employment Access Plan
 - 14 Requires the submission of details to prevent mud on the highway
 - 15 Requires the prior submission of details of bird/bat boxes
 - 16 Landscape species
 - 17 Avoid Bird Nesting Season
 - 18 Root Protection Areas
 - 19 Foul and Surface Water Drainage
 - 20 Requires the prior submission of a drainage scheme
 - 21 Requires the prior submission of level details
 - 22 Requires the submission and completion of works for the S278/TRO Agreement
 - 23 Implement within 3 years (Full)
 - 24 Requires the submission of the siting/design of the access
 - 25 Requires pedestrian visibility splays to be provided
-

Case Officer: Gavin Forrest

Photo(s)



Fig 1 The primary site entrance from Sutton Road



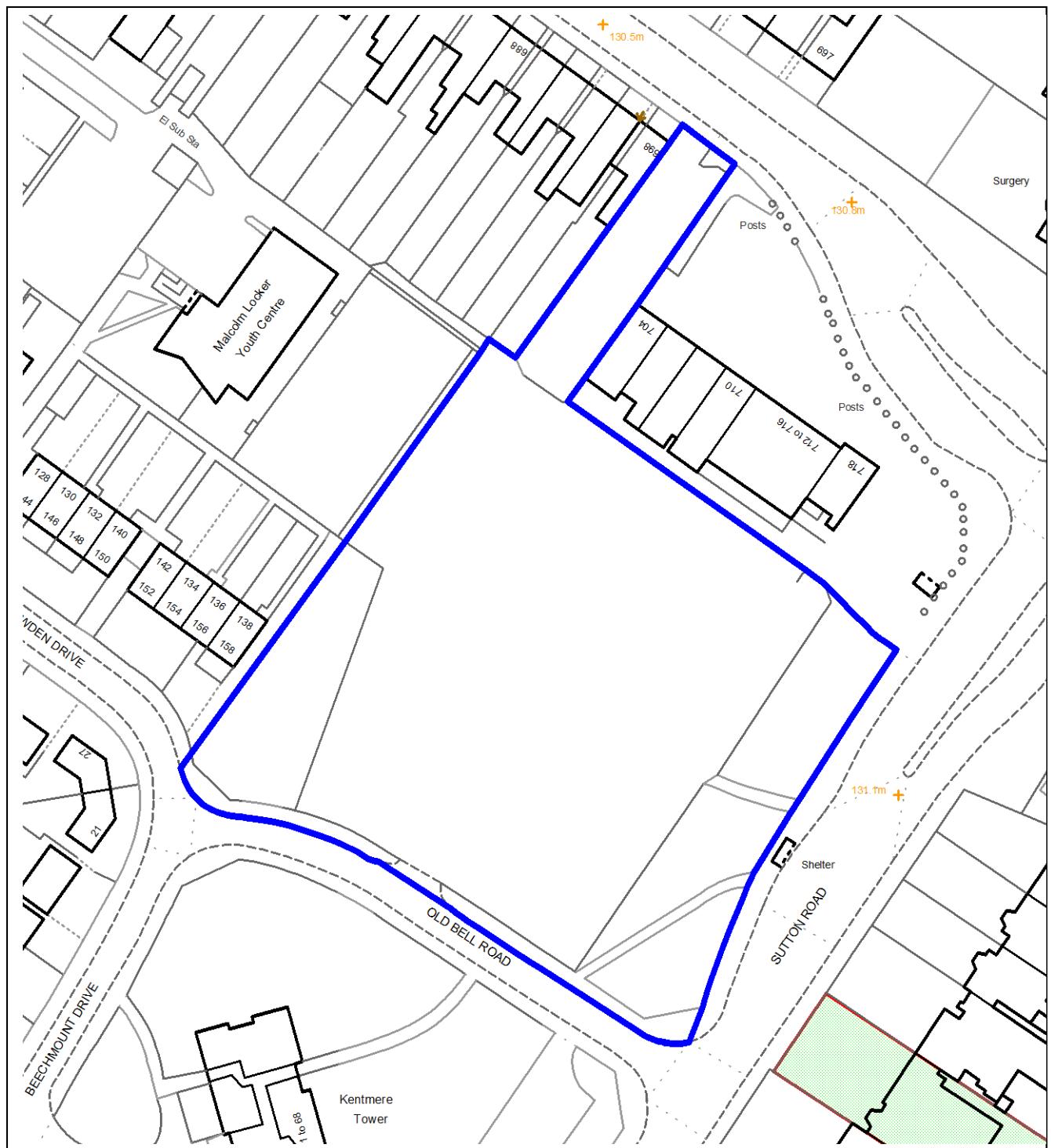
Fig 2 Secondary site entrance from Old Bell Road

Fig 3 Ariel view of the site



Location Plan

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Committee Date:	29/08/2019	Application Number:	2019/01038/PA
Accepted:	09/07/2019	Application Type:	Full Planning
Target Date:	03/09/2019		
Ward:	Heartlands		

Land off Alum Drive, (Land Rear Off 24-54 Alum Drive), Bordesley Green, Birmingham, B9 5PF

Erection of 4no. dwellinghouses (Use Class C3) with associated landscaping and parking.

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. The application seeks planning permission for the erection of 4no. two-bedroom one and a half storey dormer bungalows (Use Class C3) with associated landscaping and parking. The plans have been amended to show a revised layout of access, parking and turning areas to the rear of nos. 24 – 54 Alum Drive.
- 1.2. Plot 1 and 2 would be semi-detached whilst plot 3 and 4 would be detached dwellings. The proposed dwellings would be accessed via an existing and improved driveway located between nos. 34 - 38 and 40 - 44 Alum Drive, with Plot 1-3 being situated to the rear of nos. 24 - 36 Alum Drive and plot 4 situated to the rear of nos. 40 - 54 Alum Drive.
- 1.3. The dwellings would be constructed of red brick and dark roof tiles. The proposed dormer would be to the dwelling's frontage and there would be roof lights to the rear (serving bathrooms). Each dwelling would have a total floor area of 86.8 square metres (53.9 square metres on ground floor and 32.9 square metres on first floor) with external amenity space (ranging from approximately 50 square metres to approximately 95 square metres) to the rear and one vehicle parking space for each dwelling to the front.
- 1.4. There would be a refuse collection point being provided on the side of the access drive, approximately half way between the proposed dwellings and Alum Drive.
- 1.5. The application is reported to Planning Committee as the scheme has been put forward by Birmingham Municipal Housing Trust (BMHT).

[Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site comprises an unused triangular shaped parcel of land to the rear of the existing dwellings at nos. 24 - 54 Alum Drive. It was previously used for parking (including garages) for the flats and dwellings on Alum Drive. The garages

have been demolished a number of years ago and the land is now vacant and overgrown.

- 2.2. Access into the site is provided between nos. 34 - 38 and 40 - 44 Alum Drive which are flats, adjoining the application site. The access has an existing metal gate to the front which is set back from Alum Drive and connected to the dwellings to each side.
- 2.3. The wider area is predominantly residential in character. Alum Drive is a quiet cul-de-sac built around the 1970's and comprises residential dwellings and flats. At the end of the cul-de-sac is an existing turning head for vehicles. The application site backs onto rear gardens of dwellings located along Belchers Lane to the east and Green Croft to the north.

Location

3. Planning History

- 3.1. 10.02.1994: 1993/02733/PA – Erection of 7 flats and formation of parking area (Outline). Refused.

4. Consultation/PP Responses

- 4.1. Local Ward Members, Residents Association and neighbouring residents consulted. Site Notice posted. No comments received.
- 4.2. Transportation Development – No objections subject to conditions in relation to pavement boundary treatment details, lighting scheme and parking management plan.
- 4.3. Severn Trent – No objections.
- 4.4. Regulatory Services – No objections subject to conditions in relation a Contamination Remediation Scheme, Contaminated Land Verification Report, Noise Insulation and provision of electric vehicle charging points.
- 4.5. West Midlands Fire Service – No objections. Request for a minimum access width of 3.7 metres, minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes. Any dead end greater than 20 metres in length should have an appropriate turning facility for a pump appliance.
- 4.6. West Midlands Police – No objections. Raise general concerns with regard to security and anti-social behaviour with the existing site.

5. Policy Context

- 5.1. National Planning Policy Framework (2019); Birmingham Development Plan (2017); Unitary Development Plan (2005, Saved Policies); Places for Living SPG (2001); Car Parking Guidelines (2012); The 45 Degree Code (2006); and Technical Housing Standards – Nationally Described Space Standards (2015).

6. Planning Considerations

- 6.1. The application has been assessed against the objectives of the policies as set out above. The main issues for consideration in the determination of the application are as follows:
- 6.2. **Principle of development** – The application site is located within an existing built up area and is surrounded by existing residential development to all four sides. The site has previously been used as parking as part of the residential flats along Alum Drive, however, this use has ceased and the area is now fenced off and overgrown. The proposal would be consistent with the guidance set out within Policy TP27 (Sustainable Neighbourhoods) and TP 28 (The location of new housing) of the BDP and would reflect the character of the existing residential area. Therefore, it is considered that the principle of residential development would be acceptable on this site, subject to satisfying other matters, as discussed below.
- 6.3. **Residential Amenity** - The scheme seeks permission for 4no. one and a half storey two-bedroom dormer bungalows. The dormers would be located to the dwelling's frontage projecting towards the internal courtyard/ turning area with roof lights to the rear. Plot 1 and 2 are semi-detached, whilst plot 3 and 4 would be detached dwellings.
- 6.4. The proposal would allow for an adequate level of residential amenity and good quality residential living environment for future residents. Each dwelling would have a kitchen/dining/living area, shower room and one bedroom on the ground floor with a second bedroom, bathroom and storage areas on the first floor. The scheme complies with the guidance set out in Nationally Described Space Standards (2015). The dwellings would also have sufficient rear amenity space which is in accordance with the minimum guidance of 50 square metres for two-bedroom houses as set out in 'Places for Living SPG', ranging from approximately 50 square metres up to approximately 95 square metres (plot 3).
- 6.5. The dwellings are located at an angled position to the dwellings along Alum Drive and Belchers Lane to the rear and the separation distances to residential properties as set out in 'Places for Living' are largely complied with: the distance between the rear windows of nos. 26 - 30 Alum Drive and the side wall of plot 1 is approximately 12 metres which is marginally below the 12.5 metres set out in adopted design guidance for windowed elevations and opposing 1 and 2 storey flank walls. However, considering the character of the existing residential area, I am of the opinion this marginally lower separation distance is acceptable and would not undermine the character or appearance of the area. In terms of the distance to property boundaries, each dwelling would have a minimum 5 metre set back from proposed rear windows to nearest boundaries per storey. In addition, there would be a separation distance of 21 metres between the frontages of plot 3 and 4 which is appropriate for two storey dwellings. The minimum separation distance from Plot 3 and 4 towards properties along Belchers Lane is approximately 27 metres and therefore also sufficiently meets adopted guidance. It is noted that the separation distance between plot 1 and 2 and no. 15 Green Croft to the north would be 16 metres and therefore below the required 21 metres. However, it is acknowledged that plot 1 and 2 would have no first floor windows at the rear which could overlook the adjoining rear garden which is considered acceptable.
- 6.6. There are no habitable windows proposed within the side elevation of the dwellings. A condition would be imposed to ensure the ground floor shower room windows would be obscure glazed.

- 6.7. The scheme also complies with the 45 Degree Code in terms of nearest habitable windows and would not result in the loss of light, privacy or outlook for adjoining residential dwellings. Therefore, overall I consider the scheme is acceptable in terms of residential amenity for existing and future occupiers and is in accordance with Policy PG3 of the BDP and adopted guidance set out on 'Places for Living'.
- 6.8. Regulatory Services raise no objections to the application subject to conditions in relation to a contamination remediation scheme, contaminated land verification report, noise insulation scheme and vehicle charging point for electric vehicles. I consider the conditions for the contamination scheme and for the verification report to be acceptable and impose them accordingly. In terms of the noise insulation scheme, the site is located within a predominantly residential area, off an existing quiet cul-de-sac and therefore I consider that it is not necessary to attach the condition in this instance. In respect of the request for a condition for vehicle charging points, I am of the opinion that the proposed dwellings would present the opportunity to charge vehicles by mains with a suitable power converter and therefore, imposing the condition would be unreasonable, not satisfying the six tests for imposing planning conditions as set out in National Planning Practice Guidance (NPPG).
- 6.9. **Impact of Highway Safety** – The scheme is located within an existing residential area providing access to sustainable modes of transport and other residential amenities. Transportation Development initially raised concerns regarding the proposed development due to insufficient information provided. Revised plans have since been submitted with an amended access, parking and turning area design. Based on the amended scheme, Transportation Development raise no objections to the proposed development subject to conditions in relation to pavement boundary treatment details as a deterrent to any inconsiderate parking/ waiting along the access road, turning area and front gardens; a lighting scheme; and a parking management strategy. I concur with this view.
- 6.10. **Design and Visual Amenity** – The proposed design of the four dwellings with front dormers is considered to be acceptable. The materials used in the proposed development would be red brick and dark tiles of a type to be agreed at a later stage. The proposal incorporates vehicle parking to the front and rear amenity space and would be located around the turning head within the site which would result in an attractive residential development of high quality and sustainable design.
- 6.11. In terms of visual amenity, the dwellings would be located to the rear of existing dwellings along Alum Drive and would only be visible when viewed directly from the new access drive between nos. 34 - 38 and 40 - 44 Alum Drive. The site is currently overgrown and the provision of quality residential development would improve the visual impact and views from the public realm. It is therefore considered there would be no negative impact on the visual amenity from the proposed development on the existing streetscene and the scheme is in accordance with adopted policies in this respect.
- 6.12. **Other matters** – Severn Trent have been consulted on the application and consider the proposal would have minimal impact on the public sewerage system and raise no objections to the application.
- 6.13. A tree survey has been submitted with the application and the Council's Tree Officer has been consulted. Whilst he raises no objection to the proposal, it is requested

that a condition is attached to provide a Tree Protection Plan. I consider the proposed condition to be acceptable and attach it accordingly.

- 6.14. The applicant has provided an Ecological Appraisal as part of the submission. The Council's Ecologist raises no objections to the proposed scheme subject to a condition requiring the provision of bat and bird boxes which is imposed accordingly.
- 6.15. I note comments from West Midlands Fire Service in respect of the access drive and pump appliance. The comments are noted. The access drive is sufficient to allow for fire engines to access the site. In terms of the pump appliance, this is dealt with by separate legislation, such as building regulations.
- 6.16. West Midlands Police raise no objections to the application, but are concerned with general safety and anti-social behaviour within the existing site and also the wider area. The proposed development would be developed by BMHT and would incorporate 'Secured by Design' standards in designing out crime. In addition, the proposal would improve the conditions within the site and would result in a generally more active public realm which would assist in reducing matters that are of concern to the Police.

7. Conclusion

- 7.1. The scheme is recommended for approval as it complies with the objectives of the policies as set out above. There would be minimal impact on the residential amenity of future occupiers or adjoining residents and the scheme would not result in an unacceptable impact in terms of highway safety or visual amenity. Therefore, there are no sustainable grounds that would warrant refusal of the application.

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 sample materials
 - 3 Requires the prior submission of level details
 - 4 Requires the submission of hard and/or soft landscape details
 - 5 Requires the submission of hard surfacing materials
 - 6 Requires the boundary treatment to be implemented in accordance with details submitted
 - 7 Requires windows in side elevations to be obscure glazed
 - 8 Requires the prior submission of a contamination remediation scheme
 - 9 Requires the submission of a contaminated land verification report
-

-
- 10 Tree Protection Plan - Submission Required
 - 11 Requires the prior submission of details of bird/bat boxes
 - 12 Requires the submission of details of pavement boundary
 - 13 Requires the submission of a lighting scheme
 - 14 Requires the prior submission of refuse collection point details
 - 15 Requires the submission of a parking management strategy
 - 16 Removes PD rights for extensions and outbuildings
 - 17 Removes PD rights for new windows/dormers/rooflights
 - 18 Implement within 3 years (Full)
-

Case Officer: Laura Pohl

Photo(s)



Figure 1: View towards application site



Figure 2: View into application site

Location Plan



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Committee Date:	29/08/2019	Application Number:	2019/05338/PA
Accepted:	26/06/2019	Application Type:	Householder
Target Date:	30/08/2019		
Ward:	Bordesley Green		

93 Fourth Avenue, Bordesley Green, Birmingham, B9 5RG

Erection of single storey rear extension

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. The application seeks planning permission for the erection of a single storey rear extension at 93 Fourth Avenue. The application is reported to Planning Committee as the applicant is an employee with the Local Authority.
- 1.2. The proposed extension would provide for a larger kitchen and additional bathroom. It would have a mono-sloping roof with a ridge height of 3.8 metres, eaves height of 2.6 metres, width of 2.9 metres and length of 8.0 metres.

[Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site consists of a mid-terraced two storey Victorian dwelling with a traditional two-storey rear wing and single-storey extension. The wider area is predominantly residential in character with dwellings of similar style and age along the road.
- 2.2. To the rear of the dwelling is a garden area which fully comprises of hardstanding. There is a single-storey outbuilding at the rear end. The overall length of the rear garden is approximately 16.5 metres. The boundary treatment towards the adjoining dwelling at no. 95 Fourth Avenue comprises of an approximately 2.0 metre high grey brick wall. The boundary treatment towards no. 91 Fourth Avenue predominantly comprises of the side wall of the rear extension at no. 91 Fourth Avenue which is currently under construction (granted under 2018/06911/PA). There are various other single storey rear extensions visible within the local area.

[Site Location](#)

3. Planning History

- 3.1. 24.07.2019: 2019/05370/PA – Erection of 4.2 metre deep single storey rear extension. Maximum height 4 metres, eaves height 3 metres. No Prior Approval Required.

4. Consultation/PP Responses

- 4.1. Local Ward Councillors and Neighbouring Residents consulted. No comments received.

5. Policy Context

- 5.1. The following local policies are applicable:

- Birmingham Development Plan (2017)
- Birmingham Unitary Development Plan (saved policies) (2005)
- Places for Living (Adopted Supplementary Planning Guidance 2001)
- Extending your Home (2007)
- The 45 Degree Code (Adopted Supplementary Planning Guidance 1996)

- 5.2. The following national policy is applicable:

- NPPF – National Planning Policy Framework (2019)

6. Planning Considerations

- 6.1. The application has been assessed against the objectives of the policies as set out above. The main issues for consideration in the determination of the application are the impact of the proposal on the residential amenity of neighbouring properties, the scale, massing and design of the proposal and the impact on visual amenity and architectural appearance of the property and streetscene.

- 6.2. The existing rear wing already breaches the 45 Degree Code with no. 95 Fourth Avenue. However, the guidance document 'The 45 Degree Code' makes allowances for single storey extensions at the rear of the wing provided that sufficient amenity garden area remains. In this particular case, there is an existing outbuilding located within the rear garden, which the applicant has confirmed would be demolished prior to the occupation of the new extension. A condition is attached in this regard and subject to the demolition of the outbuilding, it is considered that adequate garden space would remain to the rear of the proposed extension and would not result in any further loss of light, outlook or privacy to the nearest habitable window of the neighbouring property.

- 6.3. The extension proposes windows within the side elevation towards no. 95 Fourth Avenue. It is acknowledged that the proposed development would fail to meet the required 5 metre separation distance for windowed elevation overlooking existing private amenity space as contained within 'Extending Your Home SPD' and Places for Living SPG'. However, I consider that due to the existing relationship and context between the adjoining properties and the presence of the approximately 2.0 metre high close-boarded fence along the boundary with no. 95 Fourth Avenue, the development would not compromise the amenity of the neighbouring dwelling any further.

- 6.4. The scale, mass and design of the proposal is considered to be acceptable. Whilst the proposal would project beyond the side of the existing rear wing by approximately 0.6 metres, it would not have a detrimental impact upon the architectural appearance of the property or the visual amenity of the surrounding area. In addition, there are several similar rear-wing extensions visible in the locality.

7. Conclusion

- 7.1. The application is recommended for approval as it complies with the objectives of the policies as set out above. There are no sustainable grounds that would warrant refusal of the application.

8. Recommendation

- 8.1. Approve, subject to conditions.

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

2 Requires that the materials used match the main building

3 Implement within 3 years (Full)

4 Requires the demolition of the existing outbuilding

Case Officer: Laura Pohl

Photo(s)

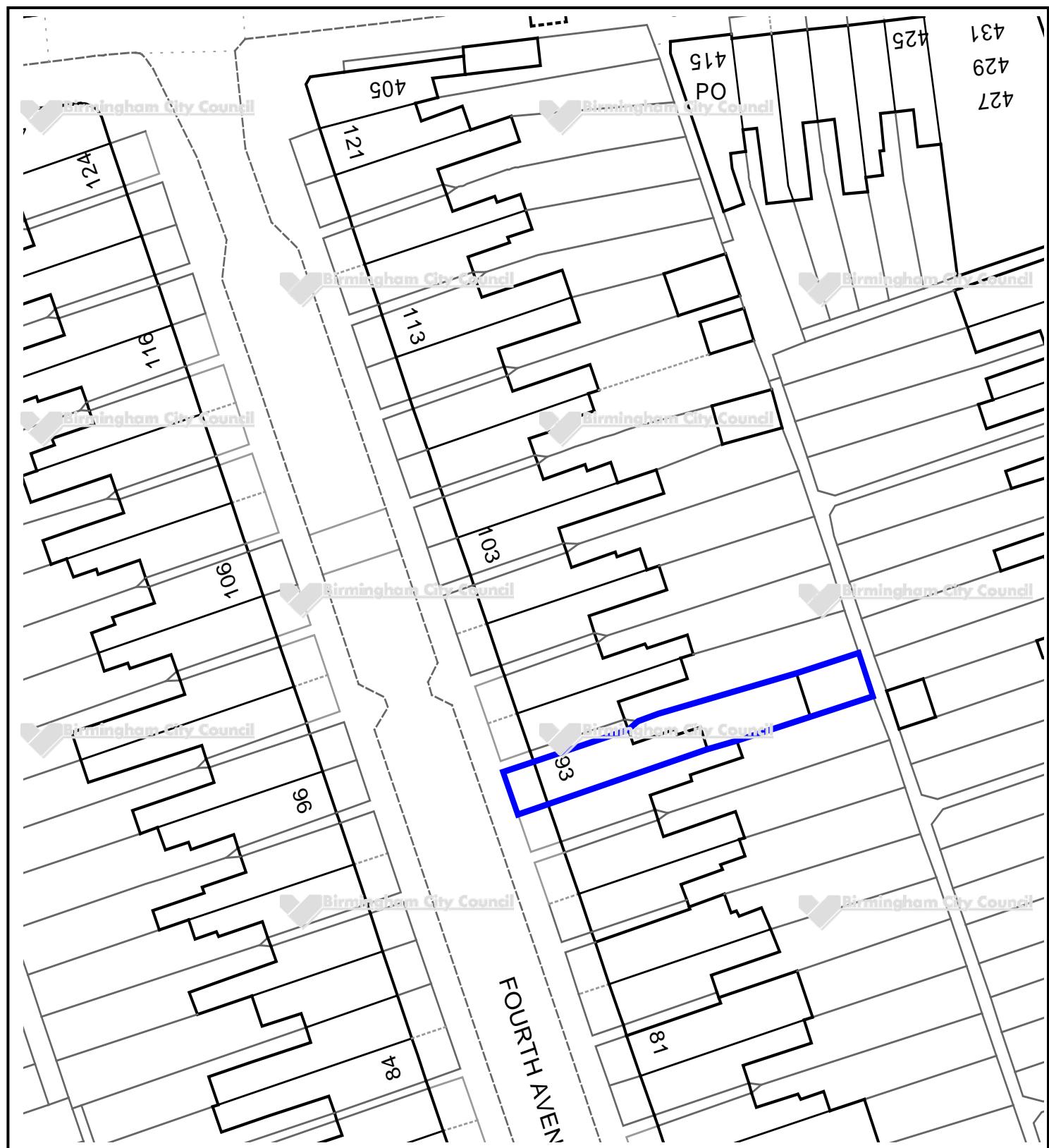


Figure 1: View towards rear of property



Figure 2: View from dwelling towards garden

Location Plan



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Birmingham City Council

Planning Committee

29 August 2019

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Conditions	16	2019/01933/PA 46 Selly Hill Road Selly Oak Birmingham B29 7DL Demolition of existing vehicle repairs premises and erection of 15 new cluster apartments to provide purpose built student accommodation comprising 54 bed spaces and associated facilities
Approve – Conditions	17	2019/03573/PA Turves Green Girls School Turves Green Birmingham B31 4BP Demolition of existing school in a phased manner and construction of a new 3 storey secondary school with associated access, landscape and enhanced sports provision works

Committee Date:	29/08/2019	Application Number:	2019/01933/PA
Accepted:	08/04/2019	Application Type:	Full Planning
Target Date:	02/08/2019		
Ward:	Bournbrook & Selly Park		

46 Selly Hill Road, Selly Oak, Birmingham, B29 7DL

Demolition of existing vehicle repairs premises and erection of 15 new cluster apartments to provide purpose built student accommodation comprising 54 bed spaces and associated facilities

Recommendation

Approve subject to Conditions

1. Report Back
- 1.1. Members will recall that this application was presented to Planning Committee on 1st August 2019. At that Committee, Members deferred the application, minded to refuse planning permission on the grounds of lack of parking provision, over-intensive development of the site and no demand for student accommodation.
- 1.2. Members are reminded that any reasons for refusal must be made in accordance with the Development Plan unless material considerations indicate otherwise. Failure to do this could result in an appeal and likely costs being awarded for unreasonable behaviour.
- 1.3. With regards to the issue of parking provision; no policies within the Birmingham Development Plan or Car parking Standards SPD set minimum parking standards for developments. Policy TP38 of the BDP focuses on the development of a sustainable, high quality, integrated transport system and specifically highlights that planning decisions should support and promote sustainable travel. In this case no car parking is proposed other than a single on-street designated disabled bay. No parking provision has been provided on the adjacent student accommodation (2017/04978/PA) or many other schemes of purposes built student accommodation that have been approved by the Planning Committee in recent years. The contracts which students sign to rent the individual units prohibit them from bringing cars to the site. The main time that cars would visit the site would be for drop off/pick up at the beginning and end of each term. However, a planning condition is recommended that requires the submission of a Management Plan. This would ensure that each student has an allocated time slot ensuring that arrivals/departures are spread evenly over several days or weeks.
- 1.4. Due to the proximity of the site from the University Of Birmingham and Selly Oak District Centre students do not need cars. Selly Oak Train Station and a number of bus services are also within easy walking distance providing excellent access to the

City Centre. In addition a cycle store is also to be provided and the details of this are proposed to be controlled via condition. In summary, this is considered to be a highly sustainable location in the heart of Selly Oak and the provision of parking where it is not required has the potential to encourage more students to bring cars to the site.

- 1.5. When assessed against the above relevant policy context, recent local planning decisions and the lettings contracts which students sign up to I consider that a refusal on the grounds of a lack of parking provision would not be defendable and inconsistent with other decisions made by the City Council. Should an appeal be lodged by the applicant I consider that a Planning Inspector would not support the City Council and would likely grant planning permission with a likely award of costs due to unreasonable behaviour. This is because the City Council has no policy basis on which to refuse permission and no evidence that a lack of parking would lead to significant issues. It is noted that there is no objection from Transportation.
- 1.6. In relation to the reason related to the need for student accommodation; the applicant has submitted a Student Needs Assessment. Using 2018 data from the Higher Education Statistics Agency (HESA) which identifies that the University of Birmingham (UoB) has a total of 28,900 full time students. Including both existing and proposed campus and off-campus purpose built accommodation serving the University of Birmingham there are 11,042 bed spaces leaving 17,858 students (61.7%) to find an alternative form of accommodation. This is a substantial and unarguable shortfall. As required by Policy TP33 the applicant has demonstrated a significant need for further student accommodation.
- 1.7. Based on this assessment; I consider that this reason for refusal would not survive scrutiny by a Planning Inspector at an appeal and would leave the City Council exposed for a costs claim by the applicant, which I consider would also succeed. We have no evidence that suggests the need for student accommodation has been met for Selly Oak.
- 1.8. The final proposed reason for refusal relates to the over-intensive development of the site. The site consists currently of a single storey building that is set back in part from the road with an area of hard standing provided at the front. The building extends the full width of the site and up to the rear boundary. The replacement building is set towards the front of the site and is three storey high with a two storey wing at the rear. A shared amenity space of 412sqm is also provided at the rear.
- 1.9. There is not a substantial difference in footprint between the existing and proposed building with just a 12.8% increase proposed. In addition the building proposed is of an identical scale to that of the adjacent block of student accommodation which also has a 3 storey frontage with a 2 storey rear wing. No evidence or explanation was given by Members as to why the scheme is over-intensive and what criteria or policy is being applied to assess that. The proposal complies with Policy PG3 of the BDP demonstrating high quality design and it fits in with the streetscape.
- 1.10. On the basis of the above, I do not consider that a reason for refusal on the grounds of over-development could be defended at appeal.

1.11. In conclusion, I do not believe that any of the proposed reasons for refusal put forward by members can be articulated into defensible reasons for refusal that would have realistic chance of success at appeal. Most pertinently, there is a risk that the applicant may make a costs claim which I consider would have a good chance of success as the Council's behaviour could be considered to be unreasonable. On that basis, I am not able to present any reasons for refusal to the Committee. I consider that your Committee should re-consider the application in light of this advice and the original report and recommendation. I consider that the original recommendation to approve subject to conditions remains the correct recommendation.

2. Proposal

- 1.1. This application is for the demolition of an existing vehicle repair business, and redevelopment of the site with a purpose-built student accommodation building comprising of 54 bedspaces. The scheme proposes a three storey main block and two storey rear wing, accommodating fifteen 'cluster units'.
- 1.2. The proposed building would be sited 0.5m from the highway. It would measure 43.8m in width and generally has a depth of 10.6m however where the rear wing is positioned the depth extends to 25m. The proposed three storey element would measure 9m in height, whilst the proposed two storey rear element would measure 5.8m high. The proposed student accommodation building would provide 1679sqm of internal floorspace.
- 1.3. The proposed building would be of a contemporary design, with a flat roof. The building would be constructed of red brick with sections of aluminium cladding and also the use of textured bricks in certain areas.
- 1.4. Internally, the proposed accommodation would comprise of fifteen clusters accessed from either of the two entrances on the front elevation. Each cluster would accommodate an internal corridor providing access to between three and five double bedrooms and a shared diner/kitchen/lounge. Bedrooms would be provided with an en-suite shower room and storage space, and achieve room sizes of between 14.9sqm - 24.9sqm (inclusive of en-suite). Study areas would be located by the windows. The shared diner/kitchen/lounge areas would range between 20.7sqm and 24.16sqm.
- 1.5. The landscaped communal amenity space for residents' to the rear would measure approximately 412sqm.
- 1.6. An integral bin store and cycle store would be incorporated on the side elevation of the rear wing of the building at ground floor level.
- 1.7. No parking would be provided on site.
- 1.8. This application is supported by a Planning Statement, Student Needs Assessment, Design and Access Statement, Noise Survey, Site Investigation Report, Travel Plan, Sustainable Drainage Assessment, and Arboricultural Report.
- 1.9. The proposed development is liable for a CIL contribution of £133,807.
- 1.10. The site area is 0.13ha in size.
- 1.11. [Link to Documents](#)

2. [Site & Surroundings](#)
 - 2.1. The application site comprises of an irregular shaped single storey building that extends across the full width of the site with an area of hardstanding at the front used for parking. The building is part render and part red brick with metal sheeting on the pitched roof. The site is used as a vehicle repair business. There are two vehicular accesses from Selly Hill Road into the site. Palisade fencing and metal gates define the site boundary to Selly Hill Road.
 - 2.2. Immediately adjoining the site to the south is a block of purpose built student accommodation which is nearing completion. Immediately adjoining the site to the west is a steep wooded embankment leading down to Unity Place - a row of Victorian terraced houses which have their front elevations/front gardens facing the site, and are located on land that is approximately 4m lower than the application site. Immediately adjoining the site to the north is a former drinking establishment known as Soxs Sports and Social Club. However this use has ceased and planning permission has since been granted for residential development under reference 2017/08369/PA. Located opposite the site, on the other side of Selly Hill Road, are two storey houses.
 - 2.3. The application site is located in a predominantly residential part of Selly Oak, comprising of two storey Victorian terraced houses largely occupied by students.
 - 2.4. Parking is unrestricted and on-street along Selly Hill Road. Selly Oak District Centre is located a five minute walk to the north.
- 2.5. [Site Location Plan](#)
3. [Planning History](#)
 - 3.1. None relevant
4. [Consultation/PP Responses](#)
 - 4.1. Transportation Development – No objection subject to conditions requiring S278 agreement, Construction Management Plan, cycle storage, student management plan and travel plan and S106 contribution of £18,012 towards parking and traffic monitoring.
 - 4.2. Regulatory Services – No objection if adjacent social club is no longer in use.
 - 4.3. West Midlands Police – No objection – Subject to conditions that all interior bedroom doors and the communal front door is to PAS 24 standard and window restrictors fitted.
 - 4.4. Severn Trent Water – No objection subject to condition requiring drainage details.
 - 4.5. Lead Local Flood Authority (LLFA) – No objection subject to conditions requiring submission of revised sustainable drainage assessment and sustainable drainage operation and maintenance plan.
 - 4.6. Adjacent occupiers, Councillors, M.P. and residents associations notified and site/press notices posted. One letter of objection received raising the following concerns:

- Increased noise and disturbance;
 - Increased demand for parking spaces; and
 - Already too many students in the area
- 4.7 An objection has been received by the Community Partnership for Selly Oak (CP4SO). The following concerns have been raised:
- Increase in population density;
 - Increase in building coverage across the site;
 - Increased pressure on public services;
 - Increased traffic and greater demand for parking;
 - Student population will further out number resident population
- 4.8 An objection has been received by Steve McCabe MP raising the following concerns:
- No need for further purpose built student accommodation;
 - Off-street parking is needed; and
 - Loss of local business and 3 jobs

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
 - 45 Degree Code
 - Wider Selly Oak 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: loss of industrial land; the principle of student accommodation on this site; the siting, scale and appearance of the proposed building; living conditions for prospective occupiers; impact on parking and highway safety; noise impact; impact on neighbouring residential amenity; and impact on trees and landscape;
- 6.2. *Loss of Industrial Land*
- 6.3. The application site is not designated for any particular use in the BDP and is not within one of the Core Employment Areas identified by the BDP. Policy TP20 ‘Protection of employment land’ is therefore relevant to the site. This policy seeks to protect employment land which is not within a Regional Investment Site or Core Employment Area. However, the policy also acknowledges that there may be occasions where employment land has become obsolete and can no longer make a contribution to the portfolio of employment land. The policy indicates that change of use proposals from employment land to other uses will be permitted where it can be demonstrated that either:

The site is considered a non-conforming use; or

The site is no longer attractive for employment development having been actively marketed, normally for a minimum of two years, at a price which accords with other property of a similar type in the area. Where it is argued that redevelopment for employment purposes would be commercially unviable, a viability assessment may also be required which should include investigations into the potential for public sector funding to overcome any site constraints.

- 6.4. The Loss of Industrial Land to Alternative Uses SPD provides more detail on the information required with planning applications and defines a non-conforming site as: “*Non-conforming sites will mostly consist of small (generally less than one acre) isolated industrial sites within predominantly residential areas, although larger sites may come forward from time to time*”. The application site is 0.13 hectares in size, and was previously located adjacent to another small industrial unit, No. 50 Selly Hill Road. Now that employment use has been replaced by student accommodation there are no other industrial uses in this otherwise residential area. As such, I am satisfied that the site can be justified as a non-conforming use and that the loss of industrial land at this location can be supported.
- 6.5. *Principle of Student Accommodation*
- 6.6. The National Planning Policy Framework (NPPF) advises that there is a presumption in favour of sustainable development and that for decision making this means approving development proposals that accord with the development plan without delay. Paragraph 117 encourages the use of as much previously developed (brownfield land) as possible.
- 6.7. The Birmingham Development Plan (BDP), at Policy TP33, has a set of criteria for off-campus development which includes; a demonstrated need for development; a good location in relation to the educational establishment, local facilities and public transport; that the development would not have an adverse impact on the local neighbourhood or residential amenity; the scale, massing and architecture of the development is appropriate for the location; and that the design and layout of the accommodation would create a positive living experience.
- 6.8. The application site does not have any land use designation within the Wider Selly Oak SPD, and is located outside of the defined District Centre. The Wider Selly Oak SPD acknowledges the attractiveness of Selly Oak for student accommodation and identifies some (larger) sites for potential purpose-built provision. However, there is no policy preventing purpose built student accommodation being developed on other windfall sites within the Selly Oak Area, subject to compliance with the criteria set out at Policy TP33 of the BDP, as re-iterated in the Wider Selly Oak SPD – in particular for accommodation to be well related to the educational establishment that it serves.
- 6.9. The application is supported by a Student Needs Accommodation Survey. The Report, using 2018 data from the Higher Education Statistics Agency (HESA) identifies that the University of Birmingham (UoB) has a total of 28,900 full time students. Including both existing and proposed campus and off-campus purpose built accommodation serving the University of Birmingham there are 11,042 bed spaces leaving 17,858 students (61.7%) to find an alternative form of accommodation.
- 6.10. The Survey highlights that there has been a 19% increase in the number of students between 2008 and 2018. Much of this growth is due to the increase in the number of international students. This group has a high tendency to choose purpose-built

accommodation, including for reasons of security, location, facilities and a managed environment where bills and maintenance are included in overall charges.

- 6.11. I note local objectors' concerns regarding a purported over-supply of student accommodation (and associated impacts in creating an unbalanced community). However, I am satisfied that, existing and currently consented developments for student accommodation fall short in terms of providing sufficient residential accommodation to meet the identified need for student accommodation to serve the University of Birmingham. Even if all the current permitted schemes come forward, a significant undersupply of purpose built student accommodation in the areas serving the University of Birmingham will remain. The increasing trend in full-time students at the University, and in particular overseas students, means there is a demonstrated demand for this type of purpose built accommodation. Bournbrook will always likely be a popular location for students to live in because of its close proximity to the University.
- 6.12. Whilst this site is not immediately adjacent to the University campus, it is an 8 minute walk from the edge of the campus, and also easily accessible by cycling or public transport. In addition, it has a similar relationship (in terms of distance) to other recently approved student schemes, such as the Birmingham Battery site. As such, I consider the application site is in a suitable location to provide for purpose built student accommodation, being a brownfield site in close proximity to the University and local services/amenities, including Selly Oak District Centre and would, consequently, achieve sustainable benefits. Current planning policy does not restrict the provision of student accommodation at this site and therefore I consider such development would be acceptable in principle, and the need for additional student accommodation has been demonstrated in accordance with Policy TP33 of the Birmingham Development Plan.
- 6.13. *Siting, Scale and Appearance*
- 6.14. Policy PG3 of the BDP explains that "*All new development will be expected to demonstrate high design quality, contributing to a strong sense of place.*" It goes on to explain that new development should: reinforce or create a positive sense of place and local distinctiveness; create safe environments that design out crime and make provision for people with disabilities; provide attractive environments that encourage people to move around by cycling and walking; ensure that private external spaces, streets and public spaces are attractive, functional, inclusive and able to be managed for the long term; take opportunities to make sustainable design integral to development; and make best use of existing buildings and efficient use of land.
- 6.15. Paragraph 124 of the NPPF states that "*The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities*". Saved Policies 3.14-3.14D in the Birmingham UDP, Places for Living SPG and Places for All SPG also give significant weight to achieving high quality design which recognises local character and distinctiveness.
- 6.16. The existing car repair building on the application site is of no architectural merit. It is a single storey building which is mix of brick and render and spans the full width of the site and has corrugated metal sheeting on the pitched roof. As such, its removal would be welcomed, as it currently appears as an incongruous feature in the streetscene.

- 6.17. Following amendments the proposed development presents a 3 storey frontage with a 2 storey rear wing at the northern end of the development which mirrors the recently constructed scheme to the south.
- 6.18. The proposed building is set further forward than the existing building on site but maintains a similar building to the adjacent block of accommodation.
- 6.19. Properties along Selly Hill Road are generally two storeys in height although many have a third storey provided within the loft space. Whilst the proposed development would front the street with a three storey flat roofed design it would not exceed the height of the adjacent block of accommodation. The rear wing of the development is reduced in height to two storeys which helps reduce the overall bulk of the development.
- 6.20. The use of red brick with sections of aluminium cladding gives the rhythm of a series of individual properties similar to a row of terraced houses where there would be different brick colours or render providing distinction between individual properties.
- 6.21. The proposed development would be sympathetic to the local vernacular of surrounding Victorian houses, through utilising vertical windows and red facing brickwork. With a large number of windows on the frontage including much larger windows to kitchen/lounge areas the proposed development has been designed to provide surveillance/activity to the street.
- 6.22. In light of the above, I am satisfied that the proposal meets policy requirements on providing good design and the siting, scale and appearance of the proposed development would be appropriate and sympathetic to the surrounding area, and an improvement on the incongruous industrial building that is currently located on the application site.
- 6.23. *Living Conditions*
- 6.24. The Council's Specific Needs Residential Uses SPG (1992) recommends that a single bedroom within purpose built student accommodation should measure a minimum of 6.5sqm in size. Each proposed cluster flat bedroom would have an internal floorspace of between 14.9sqm - 24.9sqm (inclusive of en-suite). The communal areas within the clusters, each being between 20.7sqm and 24.16sqm are relatively generous, with furniture layouts provided to demonstrate the accommodation of kitchen, dining and lounge facilities. I concur with my City Design Officer that the overall internal layout is logical and works well. Two front doors are sensibly located on the front elevation and circulation space is fairly generous.
- 6.25. A communal garden area (approximately 412sqm) is proposed to the rear of the block. This area is considered sufficient to provide a suitable setting for the building and opportunities for occupiers to take advantage of the outdoor space.
- 6.26. In light of the above, I am satisfied that the proposal meets policy requirements in terms of creating a positive living experience for future occupiers.
- 6.27. *Parking and Highway Safety*
- 6.28. Policy TP38 of the BDP states that "*The development of a sustainable, high quality, integrated transport system, where the most sustainable mode choices also offer the most convenient means of travel, will be supported.*" One of the criteria listed in

order to deliver a sustainable transport network is ensuring that that land use planning decisions support and promote sustainable travel. Policy TP44 of BDP is concerned with traffic and congestion management. It seeks to ensure amongst other things that the planning and location of new development supports the delivery of a sustainable transport network and development agenda.

- 6.29. The NPPF highlights that decisions should take account of whether opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure; Safe and suitable access to the site can be achieved for all people; and Improvements can be undertaken within the transport network that cost effectively limits the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.30. 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 cycle storage and no off-street car parking.
- 6.31. The site is located within a five minute walking distance of Selly Oak District Centre and the local facilities that exist here. There are bus stops located along the Bristol Road which have very frequent services into the City Centre. Selly Oak Rail Station is located approximately 570m distant from the site, and again provides frequent rail links to the City Centre. I am therefore satisfied that the site benefits from good public transport links, and is located within easy walking/cycling distance of the University of Birmingham and local facilities at Selly Oak District Centre.
- 6.32. Transportation Development have raised no objection to the proposal noting that the development is car free, but incorporates secure cycle storage. However, they note that a disabled parking space should be provided within the public highway to enhance accessibility which can be delivered through the completion of a S278 agreement.
- 6.33. A Travel Plan will be required to make residents fully aware of the non-car opportunities of travel, this matter can be addressed via condition. Furthermore, it is understood that the lease agreement would prevent students from parking along local roads and within a certain distance of the site. A Student Management Plan will also be required to set out procedures for drop-off/pick up at the start/end of each term to ensure that this is carried out on a phased basis.
- 6.34. A S106 contribution has been requested for potential parking and traffic monitoring and/or minor highway works and maintenance thereof and/or traffic regulation orders and/or local highway improvement measures in Selly Hill Road, Harrow Road, Coronation Road, Dawlish Road, St Edwards Road and Rookery Road. On the basis that the development is car free it is considered that such a contribution is not required to make the development acceptable in planning terms and the request would not meet the CIL tests. Whilst there is a high level on street parking in the Bournbrook area S106 contributions should not be utilised to address existing issues.
- 6.35. *Noise*
- 6.36. Paragraph 180 of the NPPF states that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result

of new development, and that decisions should aim to mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.

- 6.37. Concerns were initially raised by Regulatory Services regarding the drinking establishment located to the south of the site. However, the venue closed 2 years ago and there is a planning consent for residential development of the site. There are therefore no noisy uses surrounding the site. Regulatory Services therefore raise no objection to the scheme.
- 6.38. *Amenity of Existing Residential Occupiers*
- 6.39. The closest development to the proposal is the adjacent block of student accommodation. However, neither the proposed development nor the adjacent block contains habitable windows in their side elevations meaning no loss of privacy would occur. The blocks of student accommodation are of the same depth meaning there is no breach of the 45 degree code.
- 6.40. In respect of the proposed development and its relationship with properties on Unity Place to the west of the site, I note that the application site is located at a ground level which is 4m higher than the terraced properties in Unity Place. The steep embankment between the two is covered by a number of trees. Many of the Unity Place properties are unusual in that their front elevation and front gardens face eastwards towards the application site and front on to a footway, rather than a road. The most likely properties to be affected are No's 6 to 10 Unity Place.
- 6.41. The Council's Places for Living SPG recommends a separation distance of 21m between windowed elevations in new two storey development and windows in existing dwellings, and the separation distance increases to 27.5m where this relates to new three storey development. It states that the separation distance should be increased by 2m for every 1m rise in ground level between new and existing. It also states that this standard will be more strictly applied at the rear rather than the front.
- 6.42. Taking into account the aforementioned ground level difference, the recommended separation distance to Unity Place windows would be 35.5m for windows in the three storey element and 29m for windows in the two storey element. The proposed development would only achieve a separation distance of 25m for windows in the three storey element. Whilst this falls far short of the guidance, the guidance is clear that the standard should be more strictly applied in a rear-rear situation, rather than a front-rear situation, as is the case here. I also note that the wooded embankment (which does contain some evergreen species) would continue to provide some screening between the application site and Unity Place to mitigate overlooking. Having visited the site and experienced the adjacent block from Unity and Hope Place it is considered the ground level difference and angle of view means that some of the three storey element is not visible. It is also important to remember that the existing building on the application site is set against the rear embankment meaning that the proposal is provides a greater level of separation than the existing building and therefore appears less dominant.
- 6.43. No. 11 Unity Place has a different relationship with proposed development in that it is the blank side elevation of the property that faces the projecting 2 storey rear wing. The rear wing of the proposal includes no windows on the rear elevation ensuring no overlooking of the private garden.

- 6.44. Places for Living SPG also recommends a separation distance of 5m per storey where new development with main windows overlooking existing private space is proposed. However, in this unusual instance the rear windows of the development look towards the front gardens of No's 6 to 10 Unity Place which is not considered private space and therefore the above mentioned standards would not apply.
- 6.45. Taking into account that a similar relationship was accepted on the adjacent development, I am satisfied with the relationship between the proposed development and Unity Place is acceptable. On balance, I do not consider the amenity of these occupiers would be harmed as a result of overlooking or overbearingness to such an extent that the application could be successfully refused.
- 6.46. Whilst the front to front separation between with the opposite houses on Selly Hill Road is only 17m, I consider this to be acceptable, as the proposed development block would follow an established building line, and as set out above Places for Living SPG allows more flexibility with a front to front relationship.
- 6.47. I am therefore satisfied that the proposed development would not result in material loss of light, outlook or privacy to existing residential occupiers.
- 6.48. *Trees and Landscaping*
- 6.49. Policy TP7 of the BDP seeks to conserve and enhance Birmingham's woodland resource and states that all new development schemes should allow for new tree planting.
- 6.50. The majority of the site is predominantly hard surfaced although there are 7 mature trees along the western boundary in the embankment. These consist of 5 sycamore trees and 2 leyland cypress trees. In total 2 trees are being removed, 1 sycamore and 1 cypress tree. The Council's Tree Officer raises no objection identifying that there is the opportunities for replacement planting which would lead to an enhancement in tree cover overall.
- 6.51. My Landscape Officer has raised no objection to the proposed development and I concur with his recommendation to attach a boundary treatment condition to any consent.
- 6.52. *Other Issues*
- 6.53. The City's Ecologist has raised no objection to the proposed development. She notes that the existing buildings at the site at present offer negligible opportunities for wildlife. She supports the planting plan proposed which will deliver habitat improvements. A condition requiring bat and bird boxes is also requested to deliver further enhancements.
- 6.54. The development would be liable for Community Infrastructure Levy (CIL), which I calculate to be in the region of £133,807.

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 highly sustainable location within walking distance of the University of Birmingham campus. The siting, scale and appearance of the proposed development would be

acceptable and would sit comfortably in the streetscene. There would be no adverse impact on the amenity of neighbouring residential occupiers and the development would provide an acceptable living environment for future occupiers. The proposal would support the function of the University of Birmingham as a key provider of employment, culture, and learning in the City. Therefore I consider the proposal would constitute sustainable development and I recommend that planning permission is granted.

8. Recommendation

8.1. Approval subject to conditions.

-
- 1 Requires the scheme to be in accordance with the listed approved plans
 - 2 Requires the submission of sample materials
 - 3 Requires the submission of a Student Management Plan
 - 4 Requires the submission of a residential travel plan
 - 5 Redundant crossings reinstated with full height kerbs
 - 6 Requires the submission and completion of works for the S278/TRO Agreement
 - 7 Requires the prior submission of level details
 - 8 Requires the submission of hard and/or soft landscape details
 - 9 Requires the submission of boundary treatment details
 - 10 Requires the prior submission of a sustainable drainage scheme
 - 11 Requires the submission prior to occupation of the properties of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan
 - 12 Requires the prior submission of details of bird/bat boxes
 - 13 Implement within 3 years (Full)
-

Case Officer: Andrew Fulford

Photo(s)

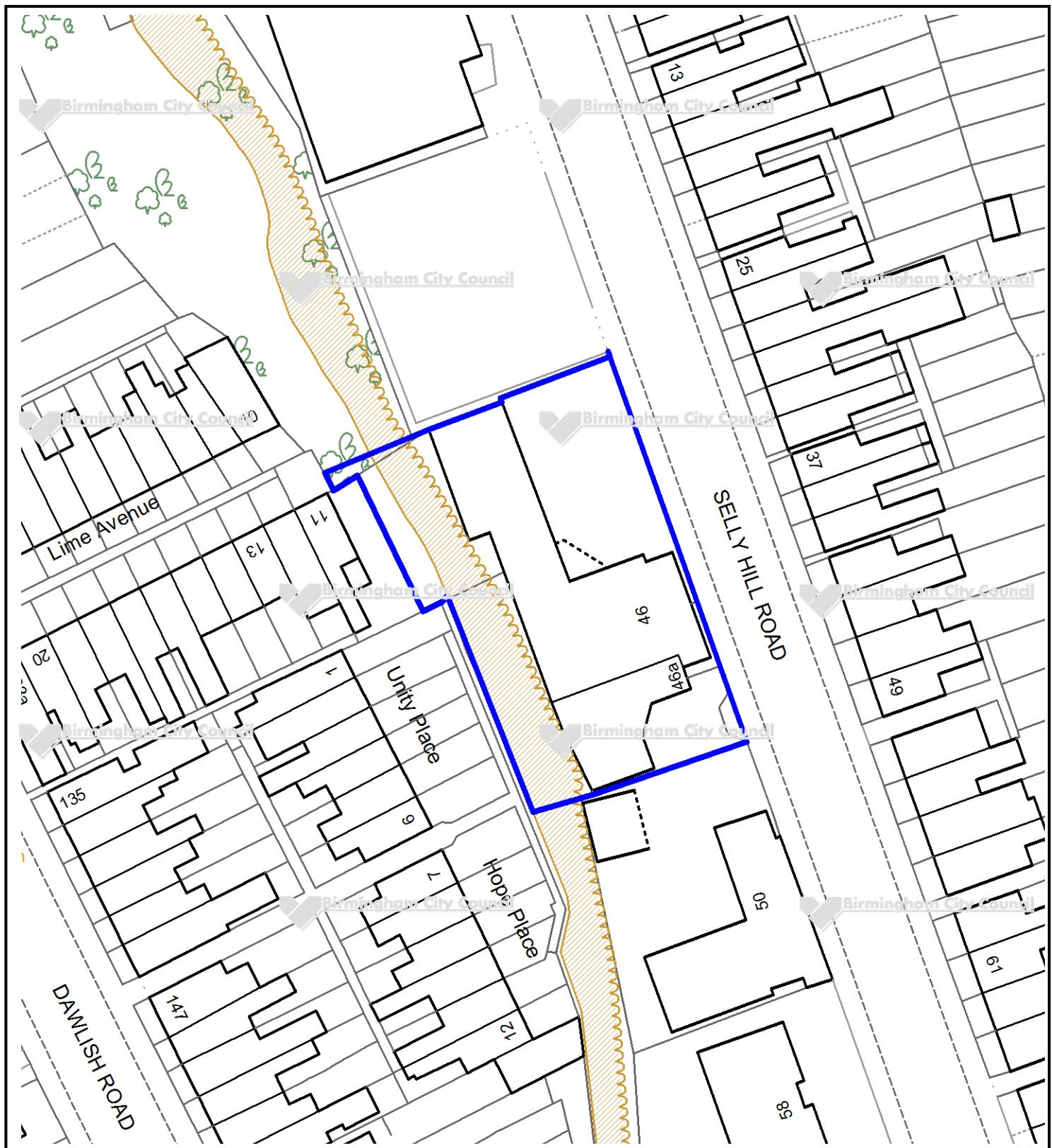


Photo 1: Front elevation of application site on Selly Hill Road



Photo 2: Relationship with adjacent block of accommodation at 50 Selly Hill road

Location Plan



Committee Date:	29/08/2019	Application Number:	2019/03573/PA
Accepted:	29/04/2019	Application Type:	Full Planning
Target Date:	26/09/2019		
Ward:	Longbridge & West Heath		

Turves Green Girls School, Turves Green, Birmingham, B31 4BP

Demolition of existing school in a phased manner and construction of a new 3 storey secondary school with associated access, landscape and enhanced sports provision works

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. Planning permission is sought for the demolition of the existing school in a phased manner and the construction of a new three storey secondary school with associated access, landscaping and enhanced sports provision works. The school would have a gross internal floor area of 6330sq.m over 3 floors. Ground floor 2948sq.m, first floor 1632sq.m, second floor 1741sq.m and the remaining floor space forms the top of the stair core/lift shaft on the roof.
- 1.2. The proposed site layout would see the new school building, a visitor car park of 8 spaces including 2 for blue badge holders, delivery access and cycle parking with 5 hoops, a staff car park of 42 spaces including 3 blue badge spaces and 3 van spaces; a MUGA measuring 60m x 30m, a grass football pitch and grass football and rugby pitch surrounded by a grass athletics track. A habitat ecological area would also be created to the rear of the site.
- 1.3. The proposed secondary school would comprise:
 - Ground floor - an indoor sports hall, a dining hall and kitchen, a school hall, toilets, library/learning resource centre, 15 storage rooms/areas, 4 large teaching areas along with the majority of the school offices and administration areas.
 - First floor - 11 classroom spaces, 5 storage areas, toilets and 9 small learning resource areas.
 - Second floor - 19 classrooms, plant room, toilets, 5 storage areas, 2 staff areas and 2 small learning resource rooms.
- 1.4. The proposed internal arrangement would provide a legible street frontage to the school with secure entrance; internal social areas with natural surveillance from staff areas with halls located so that community use can be provided out of school hours and internal sports facilities and changing rooms located close to the rear sports fields. The north wing proposes a cluster of Design and Technology, Food Tech and Graphics. 3 stair cores are proposed, one located at each end of the north and south wings along with a central core. On the first floor, the ICT spaces would be located around the central core with the music room and SEN (special educational needs)

facilities located in the south wing. Science laboratories would be located in the north wing.

- 1.5. The existing school has 750 pupils. The proposed development would not increase this number.
- 1.6. The proposed development would be undertaken in 2 main phases. Phase 1 would see the demolition of West Block with the main school building being retained whilst Phase 2 would see the new school being built (on the site of West Block) followed by the demolition of the main school block.
- 1.7. The proposed school building would be primarily 'L' shaped with the main body of the school fronting Turves Green and the leg of the 'L' running along the boundary with the adjacent primary school. The school would utilise a mix of brick, render and brick cladding. The main brick would be red with a buff brick plinth which would extend to top of ground floor window level. Above the plinth, a cream through colour render is proposed. Brick cladding would be utilised above the ground floor.
- 1.8. The proposed school would measure approximately 77m in length fronting Turves Green with a depth of 19m. Given that the building would be primarily 'L' shaped, the 'L' element running alongside the boundary with the adjacent primary school would be 67m in length and between 24m and 40m in depth (due to the indoor sports hall). The overall height of the proposed school would be 12.5m extending to 14m where the lift core sits above the proposed roof line.
- 1.9. 100 car parking spaces currently exist on the school site. The proposed development would see these replaced with 46 car parking spaces, 2 van spaces and 4 blue badge spaces following completion of the demolition and new build. 84 cycle spaces are also proposed.
- 1.10. The development would result in the loss of 11 trees including a Category 'A' English Oak, 3 Category 'B' trees comprising Ash and English Oak and 7 Category 'C' trees comprising Korean Fir, Ash, Black Poplar, Apple, Bird Cherry and Lawson Cypress. Three Category 'C' hedges would also be removed.
- 1.11. The application is supported by a Design and Access Statement; Geo-Environmental Report; Flood Risk Assessment and Drainage Strategy; Arboricultural Assessment; Preliminary Ecological Appraisal, Bat Roost Assessment and Bat Survey; Transport Assessment, Demolition Method Statement and a Demolition risk Assessment.
- 1.12. Site area: 2.69Ha.
- 1.13. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site relates to Turves Green Girls School, located on Turves Green in Longbridge. The school is one of three schools located off Turves Green. It is located immediately next door to Turves Green Primary School and Turves Green Boys School, a recent new build 3 storey replacement school, which is located further to the south. One of the main school buildings is located at the west of the site, facing Turves Green, whilst the other is in the centre of the site. The east of the site comprises playing fields and the temporary classrooms are located on an

existing hard surface sports court. Access to the rear of the site is gained from a path on the northern boundary of the site.

- 2.2. Existing ground levels slope downwards from Turves Green road, at the west of the site, towards Turves Green Brook, at the east of the site. The existing MUGA and areas adjacent to the existing buildings have a lesser slope to facilitate car parking and access. The difference in land levels across the site ranges up to 8m.
- 2.3. The wider area is predominately residential in nature. Properties border the site on the north and east side, Turves Green Primary School lies to the south and there are dwellings and a public house to the west on the opposite side of Turves Green.
- 2.4. [Site Location Map](#)

3. [Planning History](#)

- 3.1. 16 July 2019. 2019/03011/PA – Prior Approval Needed and Granted for the proposed demolition of existing teaching blocks, buildings and caretaker's house allocated west of the existing main school building.
- 3.2. 1 July 2019. 2019/02481/PA. – Temporary planning permission granted until 30 June 2021 for the installation of 4 temporary classrooms and hall educational units.

4. [Consultation/PP Responses](#)

- 4.1. Local residents, Ward Councillors, MP and resident associations notified. Site and press notice posted. One letter of objection received from a resident in Moorpark Road objecting on the basis that the building would be three stories in height and therefore create a loss of light and privacy along with noise and disturbance from construction work.
- 4.2. West Midlands Fire Service – no objection.
- 4.3. Transportation – no objection subject to conditions relating to the submission of a demolition management plan, a s278 Agreement covering the Zebra crossing and existing pedestrian guard railing to be relocated, bollards placed to stop vehicles parking on the footways and pedestrian safety and extension to footway crossings; submission of a School Travel Plan and secure cycle storage details.
- 4.4. Environment Agency – have no comments to make as outside statutory remit.
- 4.5. West Midlands Police – no objection.
- 4.6. Severn Trent Water – no objection subject to a drainage condition.
- 4.7. Regulatory Services – no objection subject to safeguarding conditions relating to lighting, contaminated land, noise levels for plant and machinery and extraction and odour control details.
- 4.8. Lead Local Flood Authority – no objection subject to sustainable drainage conditions.
- 4.9. Sport England - In general terms, the proposed playing field provision represents an improvement to the lack of grass playing field currently, and is therefore generally

supported. Subject to including conditions relating to the provision of the sports pitches that could help address established playing pitch deficiencies, the proposal Sport England supports this application in principle.

5. Policy Context

- 5.1. Birmingham BDP, Saved Policies of the Birmingham UDP, NPPF, NPPG, Places for All SPD, Car Parking Guidelines SPD.

6. Planning Considerations

Principle

- 6.1. Policy TP36 of the BDP covers education and states that "*proposals for the upgrading and expansion of existing schools and development of new schools in locations where additional provision is required will be supported*". The policy goes on to state that support is subject to meeting four criteria whereby new educational facilities should
- "have safe access by cycle and walking as well as by car and incorporate a school travel plan;
 - Have safe drop-off and pick-up provision;
 - Provide outdoor facilities for sport and recreation; and
 - Avoid conflict with adjoining uses."
- 6.2. Paragraph 94 of the NPPF states that "*it is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:*"
a) *give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and*
b) *work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.*"
- 6.3. The existing school is a secondary school with students between the ages of 11 and 16 and a catchment area of Northfield, Longbridge and Kings Norton. The school has 750 pupils and 96 staff. This is not proposed to change following the proposed development.
- 6.4. The proposed demolition and rebuild of the school is required as the Local Education Authority has determined that the existing school buildings are no longer serviceable having had excessive money spent on the roof and heating in order to keep the school open. The secondary school is already located on the application site in two main blocks. The proposal would see all of the school located within one, three storey building located on a significantly lesser proportion of the site than existing. In doing so, the school has the ability to improve its outdoor sports provision and provide community use of the facilities proposed. The proposed development would not significantly alter drop-off and pick-up provision and would have safe access for cycle, walking and car with pupil numbers remaining at existing levels. On this basis, I consider that the proposed development accords with the BDP and NPPF policy relating to educational facilities and as such, is considered acceptable in principle.

Design, Scale and Impact on Residential Amenity

- 6.5. Policy PG3 of the BDP seeks to create a positive sense of place with design that responds to site conditions, local context, creates safe environments, provides attractive environments; make sustainable design integral, and supports the creation of sustainable neighbourhoods. Furthermore, Policy 3.14, of the UDP (saved Policies), states that a high standard of design is essential to the continued improvement of Birmingham as a desirable place to live, work and visit. Paragraph 124 of the NPPF states that "*Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.*" Places for All (SPD) sets out design principles to promote good design and highlights the importance of design in achieving places that are successful and sustainable in social, economic and environmental terms. The design principles contained within the policy states that development should reinforce and build on local characteristics that are considered positive and expresses that care should be taken not to detrimentally affect positive townscape and landscape.
- 6.6. The existing school is two storeys in height with the surrounding housing also being two storeys. The proposed new school would primarily be three storeys in an 'L' shaped arrangement. The wing forming the 'L' would be located adjacent to the primary school rather than adjacent to the residential properties located around the site boundary. Adjacent to the school boundary, the school building would be lower in height than the main school as the proposed indoor sports hall would be located along this boundary. I consider that the proposed siting of the school building is in an acceptable and appropriate location fronting the main highway. In terms of scale, massing and height, I consider that whilst the mass would be greater than existing, the building would occupy significantly less of the site than existing opening other opportunities for the school site including outdoor sports provision. As such, I consider that the scale and mass are appropriate in its local context.
- 6.7. The architectural approach proposed is of a contemporary style with a warm and neutral palette of colours selected. The proposed school building would have a legible street frontage as the entrance is secure and under full control with good visibility from the street. The design of the building is considered acceptable and clearly identifies the building as having an educational use.
- 6.8. My City Design Officer has raised concerns regarding the proposed mix of brick colours and considers that the proposed buff brick is not acceptable and a more traditional English red brick would be more appropriate as the surrounding residential properties use a traditional red brick. Whilst I appreciate the comments made by my City Design Officer, the mix of bricks has been used on new school buildings across the City, including where the prominent material is red brick. I consider that its previous use on educational buildings and that in this instance, alongside the use of cream render, the buff brick assists the design in reducing the mass of the building and provides relief to the main elevation, and as such, is considered acceptable.
- 6.9. With regards to impact on residential amenity, loss of privacy and overlooking; the school internal layout has been designed to minimise this impact as much as possible. I note the objection from a resident in Moorpark Road. The proposed school building would be approximately 14m from the boundary with 115 Turves Green and 15.7m to the boundary with 122 Moorpark Road. A 21m separation distance would be retained to the side of nearest house at 115 Turves Green and approximately 30m would be retained to nearest rear facing elevation at 122 Moorpark Road. These would comply with the separation distance guidelines

provided with Places for Living SPG. With regards to overlooking, and aside from separation distances, the elevation facing these residential properties relate to the location of the stair core and the majority of the windows on this elevation relate to the stair core and one classroom room on each floor, for which this would not be the main window. In order to ensure that no loss of privacy occurs, I consider it appropriate that these windows are fitted with obscure glazing and a condition is recommended below to secure this.

Highway and Transportation Issues

- 6.10. The application is supported by a Transport Assessment which identifies that the school has two existing vehicular access points, one to the northwest of the site (the main access) and the other to the visitor car park, approximately 30m and 110m to the south of Moorpark Road respectively. The main access is used for staff car parking, drop-off, school mini-bus parking, cycle parking and servicing/delivery access. This access is also narrow, at 3.51m, and is of insufficient width for two vehicles to pass. At present, the site has parking for approximately 100 cars which exceeds the Car Parking Standards SPD. The site is well served by public transport with the 47, 48, 19 and 801 bus routes within walking distance and accessing Frankley, Northfield, Maypole, Longbridge, Birmingham City Centre, West Bromwich and Yardley Wood. Northfield train station is also within a 1km walk of the application site.
- 6.11. The application proposes a reduction in the number of parking spaces provided on site following a parking survey conducted in order to assess the actual requirements of the site. The survey found that 36 vehicles parked in the main car park, 13 in the subsidiary car park and 9 in the visitor car park, which was average for the main car park and high for the visitor car park due to an external meeting being held within the school. Based on the survey work undertaken, the proposed number of spaces at 46 in the main car park and 6 in the visitor car park would be sufficient to meet the identified demand and would be in accordance with the Car Parking Standards SPD.
- 6.12. In regards to access, the proposed development would utilise the existing vehicular access points with minor changes including:
 - Extending the existing dropped kerb at the main access point and widening the main access road to 5.76m to facilitate two way vehicle movements; and
 - Extending the existing dropped kerb for the visitor car park and providing a secondary access point with dropped kerb to the north, to allow a one way system through the car park with an entrance and exit point.
- 6.13. Transportation raise no objection to the proposed development, including the reduction in car parking subject to safeguarding conditions relating to a demolition Management Plan, S278 agreement to relocate the zebra crossing, cycle storage and a school travel plan. They advise that the vehicular access point to the visitor's car park will include separate access and egress points, with a one-way flow in operation in the visitors' car park to manage the internal circulation. A sufficient turning circle would also be provided to allow the safe access and egress for servicing, delivery and emergency vehicles. They also advise that the applicant has brought the car & cycle parking spaces in line with current guidance.
- 6.14. I concur with the view of Transportation and the relevant safeguarding conditions are recommended below. I do not however consider it necessary to recommend a demolition management plan condition. The submission included one as part of its supporting information and this was approved as part of the prior approval for

demolition granted permission earlier this year. As such, the document is included in the approved plans condition.

Drainage and Flood Risk

- 6.15. Policy TP6 of the BDP covers management of flood risk and water resources and identifies that development proposals should demonstrate that the disposal of surface water from the site would not exacerbate existing flooding and that exceedance flows will be managed. A Flood Risk Assessment and Drainage Strategy accompanied the application. This identifies that the site is located in Flood Zone 1, which is an acceptable location for a school under the sequential test requirements for flooding. The site is also not at risk for river or surface water flooding.
- 6.16. The proposed drainage strategy would utilise and re-use the existing northern and MUGA outfalls with a discharge rate of 5 litres per second. In regards to sustainable drainage, it has been determined that the viable option remains as permeable paving in the access road and car parking areas along with sub-surface tanks.
- 6.17. The Environment Agency have advised that they have no comment to make as the proposal is outside of their remit; Severn Trent Water have raised no objection subject to a drainage condition and the LLFA also raise no objections subject to surface water drainage conditions. I concur with this approach and the relevant conditions are recommended below.

Ecology

- 6.18. The application is supported by a Bat Roost Assessment, Bat Survey and a Preliminary Ecological Appraisal. Policy TP8, of the BDP, states that "*development which directly or indirectly causes harm to...species which are legally protected, in decline or rare within Birmingham or which are identified as national or local priorities will only be permitted if it has been clearly demonstrated that; there is a strategic need that outweighs the need to safeguard, the damage is minimised and mitigation put in place, or where appropriate compensation is secured*".
- 6.19. The Bat Roost Assessment originally submitted identified that a number of the buildings and trees proposed for demolition had the potential to be bat roosts. Subsequently, a detailed bat survey was undertaken in May and June 2019. Three bat species were recorded during the dusk and dawn emergence surveys: Common Pipistrelle, Noctule and Soprano Pipistrelle. However, no bats emerged or entered any of the buildings on site proposed for demolition. The bats utilised the tree lined boundaries and adjacent gardens for commuting and foraging activity. Tree T2, which is to be retained as part of the proposed development has been identified as having high potential to support roosting bats. The City Ecologist identified that this area should be protected from significant light spill and the applicant has confirmed that this area would remain unlit.
- 6.20. The supporting Preliminary Ecological Appraisal identifies that the current site is identified as being dominated by school buildings and associated hardstanding. Several areas of amenity grassland surrounds the existing buildings, while a large open field with patches of scrub and vegetation dominates the eastern section of the site. No protected species (apart from the bats identified above) were recorded on site.

- 6.21. The City Ecologist has raised no objections to the proposed development. No bats recorded on site would be affected as a result of the demolition and the tree identified as having the potential as a bat roost is proposed to be retained. I concur with this view and a number of ecological safeguarding conditions are recommended below.

Trees and Landscaping

- 6.22. The application is accompanied by an Arboricultural Assessment including a tree survey. 18 individual trees, 9 groups and 3 hedges were surveyed. The development would result in the loss of 11 trees including a Category 'A' English Oak, 3 Category 'B' trees comprising Ash and English Oak and 7 Category 'C' trees comprising Korean Fir, Ash, Black Poplar, Apple, Bird Cherry and Lawson Cypress. Three Category 'C' hedges would also be removed. The majority of the Category 'A' trees and groups would be retained.
- 6.23. The general replacement landscaping plan is submitted in support of the application. This identifies a mix of trees would be planted within the site to compensate for the loss identified above. The tree replacements would include Hornbeam, Silver Birch, Rowan, Himalayan Birch, Lime, English Oak, Hawthorn, Apple, Pear and Plum. New hedging, shrub, grass and wildflower meadows are proposed as part of the overall site landscaping.
- 6.24. My Arboricultural Officer has reviewed the assessment and the development proposals and raises no objections to the loss of the trees identified as the proposed replacements would adequately compensate for the trees proposed for removal. My Landscape Officer also raises no objections to the proposed general site landscaping. Both have requested safeguarding conditions relating to the submission of a more detailed landscaping scheme.
- 6.25. I consider that the loss of the trees is a necessary requirement to ensure the long term future of education provision on the application site. The proposed replacements alongside the requirement for further details secured by condition would ensure that adequate landscaping and tree replacements are provided on site.

Other Issues

- 6.26. Regulatory Services whilst having raised no objections to the proposal also highlighted that the application is not accompanied by a noise assessment. As the numbers of pupils and staff remain as existing; it was not considered necessary. However, I acknowledge that the proposal also includes the requirement for community use of the facilities which would include evening use (which could also occur now within the current school without control) as such, I consider that safeguarding conditions relating to the external sports facilities are required and these are recommended below.
- 6.27. Regulatory Services also requested an assessment in relation to air quality. This was also not considered as being required as neither pupil nor staff numbers are changing as a result of the proposed works.
- 6.28. The proposed development does not attract a CIL contribution.

7. Conclusion

- 7.1. The proposed development would accord with all relevant BDP Policies in relation to design; trees, ecology and landscaping; drainage and highway issues.
- 7.2. I note that the NPPF includes the presumption in favour of sustainable development and this is identified as having three stems of economic, social and environmental. As the proposal would continue to provide economic and social benefits; would provide new modern teaching facilities, would provide local employment during construction and does not have an environmental impact that could be regarded as significant; I consider the proposal to be sustainable development and on this basis, should be approved.

8. Recommendation

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

-
- 1 Requires the scheme to be in accordance with the listed approved plans
 - 2 Requires the prior submission of a contamination remediation scheme
 - 3 Requires the submission of a contaminated land verification report
 - 4 Requires the prior submission of a sustainable drainage scheme
 - 5 Requires the prior submission of a drainage scheme
 - 6 Requires the submission prior to occupation of the properties of a Sustainable Drainage Operation and Maintenance Plan
 - 7 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
 - 8 Requires the submission of extraction and odour control details
 - 9 Limits the noise levels for Plant and Machinery
 - 10 Requires the submission details obscure glazing for specific areas of the approved building
 - 11 Requires the submission of hard and/or soft landscape details
 - 12 Requires the submission of a lighting scheme
 - 13 Requires the prior submission of a construction method statement/management plan
 - 14 Requires the submission of sample materials
 - 15 Requires submission of a playing field assessment
 - 16 Requires submission of a playing field maintenance programme
 - 17 Requires submission of internal specification for sports hall
 - 18 Requires submission of MUGA details
-

-
- 19 Requires submission of a community use agreement
 - 20 Restricts usage of outdoor sports facilities to Monday to Saturday 8am to 10pm, Sundays 8am to 6pm.
 - 21 Requires the submission of a commercial travel plan
 - 22 Requires the submission of cycle storage details
 - 23 Requires the submission and completion of works for the S278/TRO Agreement
 - 24 Arboricultural Method Statement - Submission Required
 - 25 Implement within 3 years (Full)
-

Case Officer: Pam Brennan

Photo(s)



Photograph 1: Front elevation of existing school

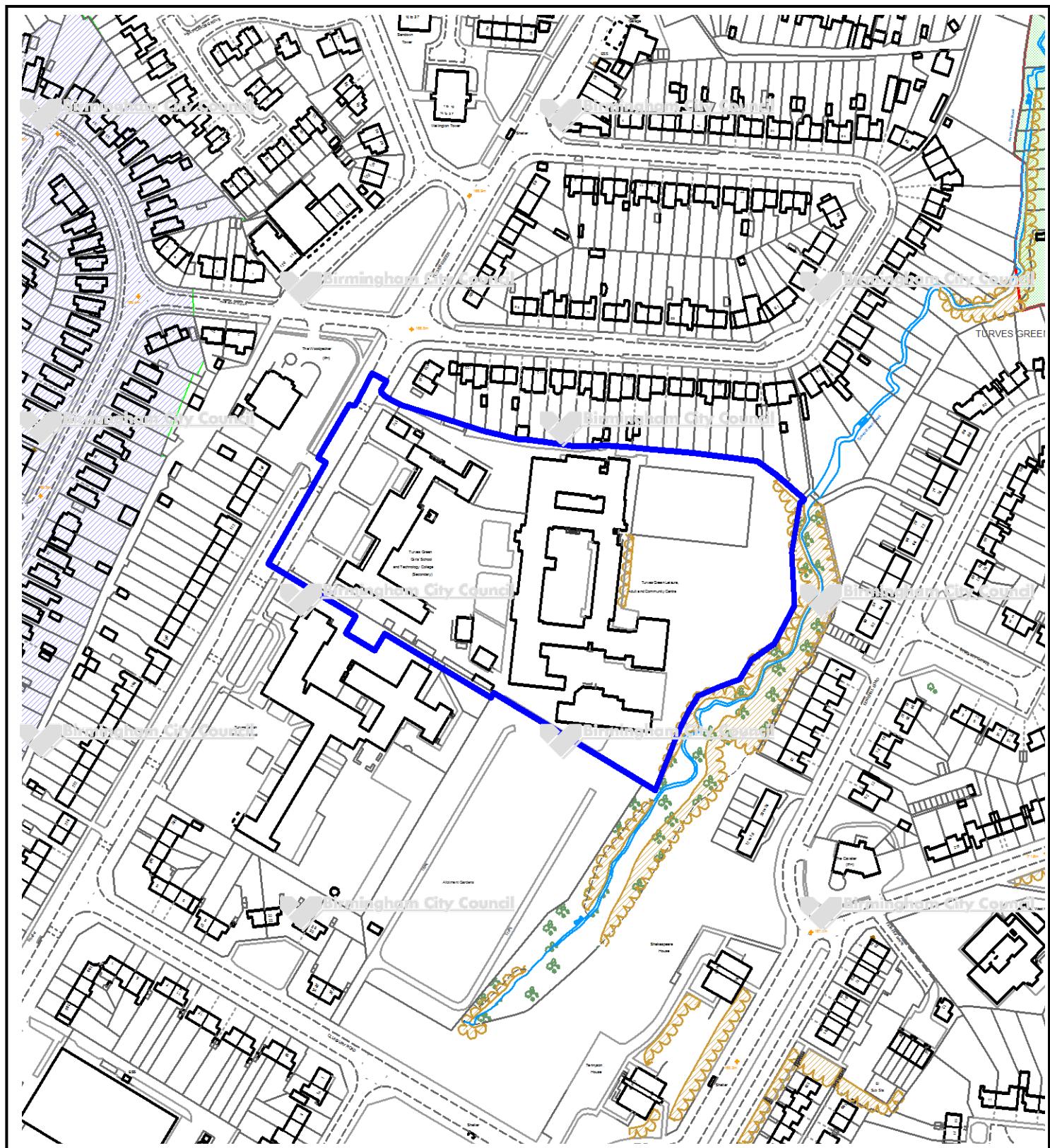


Photograph 2: Rear of existing school.



Photograph 3: Existing sports provision and adjacent housing

Location Plan



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Birmingham City Council

Planning Committee

29 August 2019

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	18	2019/03757/PA 24 Roughley Drive Sutton Coldfield Birmingham B75 6PN Erection of single storey rear extension

Committee Date:	29/08/2019	Application Number:	2019/03757/PA
Accepted:	21/05/2019	Application Type:	Householder
Target Date:	29/08/2019		
Ward:	Sutton Roughley		

24 Roughley Drive, Sutton Coldfield, Birmingham, B75 6PN

Erection of single storey rear extension

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. Consent is sought for the erection of a single storey rear kitchen extension.
- 1.2. The proposed extension would form part of the 6m deep extended rear dining and lounge extension which is currently being built under permitted development under the Government's Larger Home Extensions Scheme (2019/00180/PA).
- 1.3. The proposed single storey rear kitchen extension would be 2.3m in width; 6m in depth; 3.1m maximum height and 2.6m lowest height.
- 1.4. The extension would be brick built with a tiled pitched roof and all materials to match existing dwelling.

1.5. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site consists of a semi-detached dwelling with a hipped roof design, two storey forward feature and forward porch. There is a hardstanding front tandem driveway which leads to the detached rear garage adjacent the boundary with No. 22 Roughley drive. The rear garage is to be demolished as part of the proposed works.
- 2.2. There is a long rear garden which is predominately grassed. The boundary treatment consists of 1.8m wooden fencing which encompasses the entire rear curtilage of the site.
- 2.3. The neighbouring dwelling No. 22 Roughley Drive is a mirror image of the application dwelling which also has a tandem driveway adjacent the application site. This neighbouring dwelling has a covered carport to the side, single storey rear extension and a predominately glazed rear conservatory.
- 2.4. The application site is located in a residential area comprising of similar style and type dwellings.

Site location

3. Planning History

- 3.1. 08/03/2004 - 2004/00267/PA - Erection of conservatory to rear – Approved-Conditions.
- 3.2. 05/02/2019 - 2019/00180/PA - Erection of 6.0 metres deep single storey rear extension. Maximum height 4.0 metres, eaves height 3.0 metres - accepted as not needing prior approval from the Council.

4. Consultation/PP Responses

- 4.1. Adjoining residents, and local ward councillors notified – 6 individual objections have been received from local residents; and 1 general comment from a local resident regarding party wall issues. Objections raised to the proposed single storey side extension on the grounds of:-
 - Side extension would be out of character with neighbouring properties
 - Extension would lead to access issues to neighbour's shared driveway
 - Impact on highway and parking safety
 - Set a bad precedent 'terracing impact'
 - Loss of light
- 4.2. Adjoining residents, and local ward councillors were re-notified for an additional 14 days on the amended plans which omitted the single storey side extension. 4 responses received from local residents who do not object to the amended plan provided that a condition is attached that no single storey side extension can be built at the application site.
- 4.3. Transportation Development – concerns raised to the proposed single storey side extension which would lead to access issues and impact on street parking and pedestrian safety.

5. Policy Context

- 5.1. The following local policies are applicable:
 - Birmingham Unitary Development Plan 2005 (saved policies 3.14-3.14D & Chapter 8).
 - Birmingham Development Plan (2017).
 - Places For Living 2001.
 - Extending Your Home 2007.
 - 45 Degree Code SPD.
- 5.2. The following national policies are applicable:
 - National Planning Policy Framework.

6. Planning Considerations

- 6.1. This application has been assessed against the objectives of the policies as set out above.

- 6.2. Amended plans have been submitted which have omitted the proposed single storey side extension adjacent No. 22 Roughley Drive. This application is for the assessment of the single storey rear kitchen extension only.
- 6.3. The proposal complies with the 45 Degree Code and with distance separation guidelines contained within 'Places for Living' and 'Extending Your Home'. There would be no adverse impact upon the amenities of the adjacent occupiers by way of loss of light or loss of privacy.
- 6.4. The scale, mass and design of the proposed single storey rear kitchen extension is acceptable. The proposal would not detract from the architectural appearance of the property and would be in accordance with the principles contained within 'Extending Your Home' Design Guide. The proposed extension which would replace the existing rear garage and would be of similar footprint as the garage and the same depth (6m) as the permitted development rear dining/lounge extension. Overall, the proposed extension has no significant impact on the character of the existing dwelling or the visual amenity of the local area.
- 6.5. Notwithstanding the objections received by local residents; the amended plans received have now omitted the proposed single storey side extension which I consider overcomes the concerns raised by local residents and Transportation Development. It would be inappropriate and unreasonable to attach a condition to restrict further development at the application site on this application.

7. Conclusion

- 7.1. This application is recommended for approval as the proposed development complies with the objectives of the policies that have been set out above.

8. Recommendation

- 8.1. Approval subject to the following conditions:

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

Case Officer: Ricky Chima

Photo(s)



Photo 1 – Rear Elevation



Photo 2 – Front Elevation

Location Plan



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Report back following Site Visit - 22nd August 2019

Committee Date:	18/07/2019	Application Number:	2018/10315/PA
Accepted:	11/04/2019	Application Type:	Householder
Target Date:	19/07/2019		
Ward:	Kingstanding		

61 Kingstanding Road, Kingstanding, Birmingham, B44 8BA

Erection of single storey side and rear extension to existing bungalow including increase in roof height to create first floor extension

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. Consent is sought for construction of a single storey side and rear extension to an existing bungalow including an increase in roof height to create first floor accommodation with the roofspace.
- 1.2. The side element of the extension would replace the existing garage and would project further to the rear by about 3m. The rear element of the extension would be to the whole width of the dwelling and would form a new kitchen and ground floor bedroom.
- 1.3. The height of the house would be increased; the total height of the house would be 2.8m to eaves and 5.4m to the roof ridge.
- 1.4. The design of the roof would be changed from hipped to gable to accommodate the first floor living space. This would form two bedrooms, with a shower room. There would be two roof lights located on the northern slope, with windows also inserted in the front and also rear gable roof.
- 1.5. All elements of the proposal would be finished in materials matching the existing.

1.6. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site is located on the eastern side of Kingstanding Road, which consists of bungalows in mixed design and appearance.
- 2.2. The application site includes a two-bedroom bungalow, with a hipped roof and the side garage with a lean-to roof. The bungalow is measured about 2.8m high to eaves and 4.5m to the pitch of the roof. To the front of the property there is paved off-street parking. The property is finished in brick in white render with brown clay interlocking roof tiles. To the rear there is a footprint of a single storey rear extension, which has been recently demolished.
- 2.3. To the north there is No. 63, which is located on about 0.5m higher ground level than the application property. That property has a gable roof design with a roof light located on the south-eastern slope. There are two windows with obscure glazing on

the side wall facing the northern wall of the application property, providing some natural light to the bathroom and en-suit. The rear building line of that property is currently projecting further than the application rear building line. The property is screened behind a 1.8m high close-board boundary fencing from the application site. However, the fence appears higher from the application site due to the difference in land levels.

2.4. No. 59 is the nearest property to the south and is similar in appearance to the application property. The neighbouring property benefits from a rear extension with a flat roof.

2.5. The nearest properties to north-east are Nos. 34, 42 and 44 Crossway Lane.

2.6. [Site and Surroundings](#)

3. [Planning History](#)

3.1. 27532000 - garage & footpath crossing – approved on 22 June 1967

4. [Consultation/PP Responses](#)

4.1. Local ward councillors and the occupiers of neighbouring properties have been consulted.

4.2. A number of letters (including several from the same address) from 6 properties objecting to the scheme have been received, raising concerns on the following grounds:

- The natural light would be lost into the family bathroom and bedroom en-suit windows (situated in the northern façade) to No. 63 Kingstanding Road as the result of increased height of the application property; the current situation allows a small amount of light to service these rooms;
- The originally proposed roof lights on the back end of the new roof and the amended plans showing a window on the rear roof gable would result in a loss of privacy to Nos. 63 Kingstanding Road and 32, 42 and 44 Crossway Lane;
- The submitted front elevation plan is misleading as it shows that Nos. 63, 61 and 59 Kingstanding Road are all on the same level; this is not the case as No. 63 is already 0.5m higher than No. 61, meaning that the proposed bungalow would be larger in scale than the neighbouring bungalows;
- The plans set a terrible precedent that would lead to destruction of building character and area aesthetics as the established building line would be destroyed.
- The development would be overbearing, out of scale and out of character in terms of its appearance.
- The development will turn the building into a house.
- The development will lead to loss of views from nearby properties.
- Doors detailed to front and rear gable roof.
- The development would lead to overlooking gardens of properties nearby.
- The original plans showed an outbuilding in the rear garden; more clarity is required regarding its use and finishing materials.
- Out of date location plan submitted by the applicant is not accurate.
- Block plans are not correct.
- The levels shown for the properties are not correct they show them on the same level.

- Question the honesty of the applicant.
- Submitted information lacks clarity, professionalism and credibility.
- Require a site visit by Planning Committee.
- The property is developed for multi occupation and commercial purposes.
- Question the end use of the windows to the gable walls, given their size – will they have balconies?

5. Policy Context

5.1 The following development plan policies and documents relevant this decision:

Development Local Plan policies:

- Birmingham Development Plan (2017)
- UDP 2005 (saved policies 3.14-3.14D & Chapter 8)

Supplementary Planning Document (SPD)

- Places for Living (2001)
- Extending your Home (2007)
- 45 Degree Code

5.2. The other material planning considerations relevant to this decision:

- National Planning Policy Framework (the NPPF) (revised in February 2019).

6. Planning Considerations

6.1. Having given careful consideration to the application and supporting information received, the relevant development plan policies and documents and the other material consideration referred to above, the key issues are considered to be:

- Scale and design
- Impact on neighbouring amenities
- Other matters

Scale and design

6.2. The scale and design of the proposal has been assessed against the requirements set out in the SPD 'Extending your Home'.

6.3. The local residents are concerned that the proposals would lead to destruction of the existing building character and area aesthetics as the established building line would be destroyed.

6.4. The total height of the bungalow would be increased, resulting in a larger dwelling than the existing. Considering that it is located on lower ground level than the neighbouring No. 61, the resultant bungalow would not be significantly larger in scale than the adjacent bungalows. It would not exceed the height of No. 63.

6.5. The design of the roof would be altered from hipped to gable to accommodate the first floor living space. Although it would not be in keeping with the character of the existing bungalow, it would match the roof design of the neighbouring bungalow No. 63 and other bungalows within the vicinity of the streetscene. On this basis, no adverse impact on the streetscene is anticipated. With regards to the building line, the side extension would not step out from this existing line.

- 6.6. Although the development would result in a larger dwelling it would not detract from the visual amenity of the surrounding area that could support a reason for refusal. A condition is recommended to ensure that the development is finished in materials that would match those which appear in the existing house.

Impact on neighbouring amenities

- 6.7. The impact on neighbouring amenities has been assessed against the numerical guidelines set out in 'Places For Living', 'Extending Your Home' and '45 Degree Code'.
- 6.8. There are two windows with obscure glazing on the side (south) wall of No. 63, facing the northern wall of the application property, providing some natural light to a bathroom and family bedroom en-suit. One of the grounds of objections received from the local residents is a loss of natural light into these rooms as a result of the increased height of that bungalow. They argue that currently the closeness of the buildings and the guttering allows a small amount of light to service these rooms. In response, I note that a bathroom and en-suit is not a habitable room and consequently, no loss of light and outlook impact from a planning perspective is identified that could sustain a reason for refusal.
- 6.9. The extension would not breach the 45 Degree Code to any windows on the front or rear elevations to any habitable rooms to Nos. 59 and 63 Kingstanding Road. The land level difference between Nos. 61 and 63 is acknowledged; with No. 63 on a 0.5m higher ground level than No. 61. I do not consider this would appear visually detrimental and updated drawings showing the proposal in its correct contextual relationship with neighbouring properties has been provided to demonstrate this.
- 6.10. A concern has been raised with regards to loss of privacy and outlook as the result of the proposed roof lights. These roof lights would face on to the roof slope to Nos. 63 Kingstanding Road. The proposed roof light to the shower room would be in close proximity to the existing roof light at no. 63. However, subject to safeguarding conditions relating to obscure glazing and opening mechanism to the shower room rooflight, I raise no issue for loss of privacy/outlook from the proposed roof lights.
- 6.11. In response to the concerns raised by the neighbours, the applicant has amended the plans to remove some of the roof lights on the rear section of the roof slope and introduced a window on the rear roof gable, with one opening. Subject to a condition removing permitted development rights for the installation of any additional windows on the extension, the proposal is considered to be acceptable and will not result in any undue amenity concerns for existing neighbouring residents by way of overlooking, visual intrusion or being overbearing.
- 6.12. Given the distance separation of the rear bedroom window within the roofspace of the extended building to neighbouring gardens and properties, which exceeds minimum distance separation guidelines, contained within the SPD 'Places for Living' and the orientation and distance of nearby dwellings, no overlooking issue is identified. The distance from the rear bedroom window within the roofspace to the rear boundary is in excess of 40m, whilst the distance to the rear garden boundary and rear elevation containing windows to habitable rooms of 34 Crossway Lane is in excess of 15m and 25m respectively, at an oblique angle.

Other matters

- 6.13. A concern has been raised with regards to the accuracy of the submitted plan. It should be noted that the Officer's observation is based on the amended plans submitted by the agent for the application, the Council's up-to-date location plan and site visits.
- 6.14. With regards to the original plans showing an outbuilding in the rear garden, this element of the proposals has been removed from this application.

7. Conclusion

- 7.1. This application is recommended for approval as proposal complied with the objectives of the policies that have been set out above.

8. Recommendation

- 8.1. Approve with Conditions.

-
- 1 Requires the scheme to be in accordance with the listed approved plans
 - 2 Requires that the materials used match the main building
 - 3 Removes PD rights for new windows
 - 4 Requires the submission of details of the new rooflight to the shower room within the roof space
 - 5 Implement within 3 years (Full)
-

Case Officer: Alfia Cox

Photo(s)

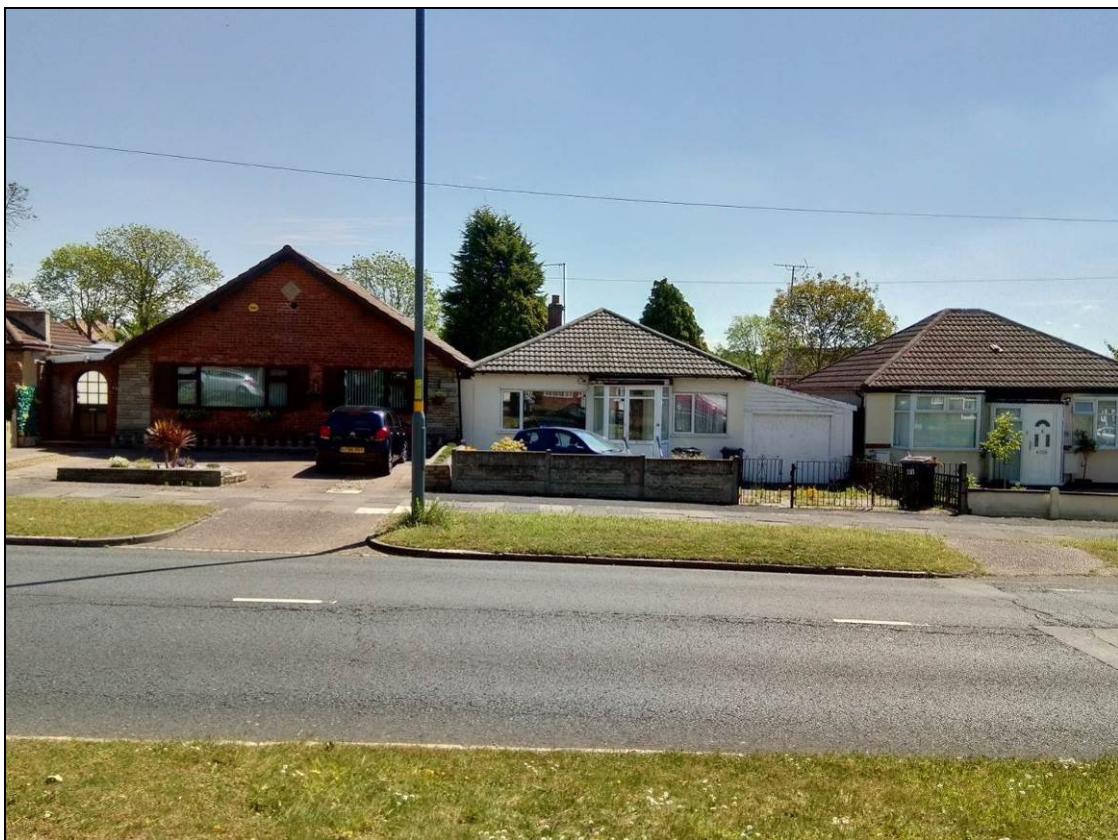


Photo 1: view of the application site in the streetscene context

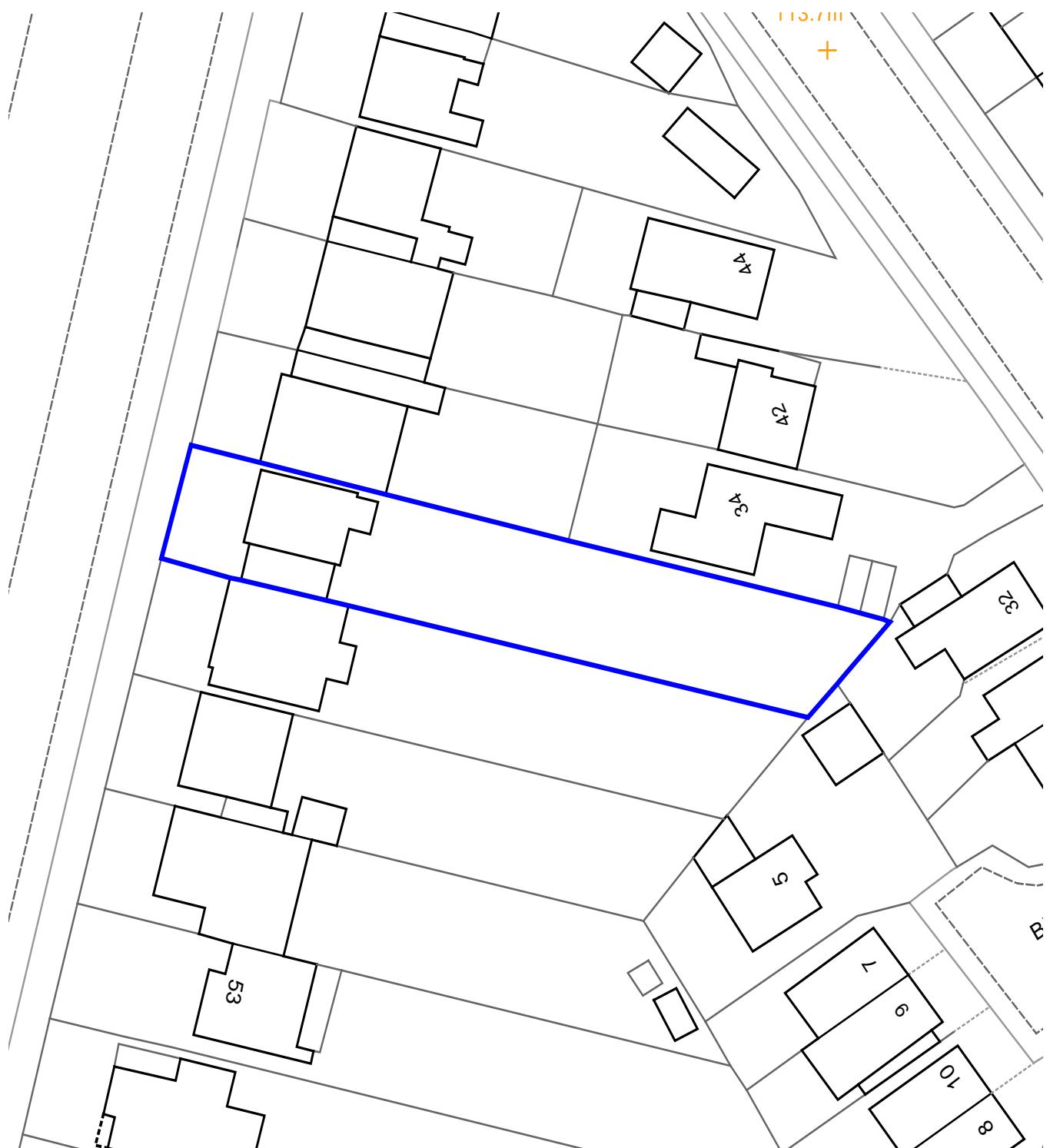


Photo 2: view of the rear of the application site



Photo 3: View of the application site from the rear garden of 42 Crossway Lane

Location Plan



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Birmingham City Council
Planning Committee 29 August 2019

Appeal Decisions Received from the Planning Inspectorate in July 2019

CATEGORY	ADDRESS	USE	DECISION	TYPE	PROCEDURE
Enforcement	Woodside Farm, Duttons Lane, Sutton Coldfield	Unauthorised construction of new access road within the curtilage of Woodside Farm used to access business 'Tom Poole Cars'. 2014/1297/ENF	Allowed (see note 1 attached)	ENF	Hearing
Enforcement	11A, Driffold, Sutton Coldfield	Erection of front boundary wall. 2018/1132/ENF	Dismissed	ENF	Written Representations
Enforcement	183 Gristhorpe Road, Selly Oak	Without planning permission, the material change of use of the premises from a dwellinghouse (Use Class C3) to temporary accommodation (Sui Generis) 2017/0675/ENF	Dismissed	ENF	Written Representations
Enforcement	185 Gristhorpe Road, Selly Oak	Without planning permission, the material change of use of the premises from a dwellinghouse (Use Class C3) to temporary accommodation (Sui Generis) 2017/0955/ENF	Dismissed	ENF	Written Representations
Enforcement	187 Gristhorpe Road, Selly Oak	Without planning permission, the material change of use of the premises from a dwellinghouse (Use Class C3) to temporary accommodation (Sui Generis) 2017/0956/ENF	Dismissed	ENF	Written Representations
Householder	55 St Agathas Road, Ward End	Erection of first floor to front and single storey rear extensions and dormer windows with installation of Juliet balcony to rear. 2018/07730/PA	Dismissed	Delegated	Written Representations
Householder	77 Beechmore Road, Sheldon	Retention of orangery to the rear. 2018/07798/PA	Allowed (see note 2 attached)	Delegated	Written Representations

Birmingham City Council
Planning Committee 29 August 2019

Appeal Decisions Received from the Planning Inspectorate in July 2019

CATEGORY	ADDRESS	USE	DECISION	TYPE	PROCEDURE
Householder	4 Lime Avenue, Dawlish Road, Selly Oak	Installation of dormer window to front. 2018/10214/PA	Dismissed	Delegated	Written Representations
Advertisement	Land at the corner of Queens Road and Aston Hall Road, Aston	Display of 1 single sided internally illuminated 96 sheet digital display screen. 2018/10138/PA	Dismissed	Delegated	Written Representations
Advertisement	848 Chester Road, Erdington	Display of 1 no. non- illuminated sign board attached to front boundary wall. 2019/00931/PA	Dismissed	Delegated	Written Representations
A3 / A5	68 York Road, Erdington,	Retention and continued use of a change of use from showroom to hot food takeaway (Use Class A5) and enclosed outdoor seating area. 2018/06024/PA	Dismissed	Delegated	Written Representations
Residential	87 Bracebridge Street, Aston	Retrospective application for the change of use of site to 12 no. 1 bed flats (Use Class C3) and ancillary storage rooms. 2018/06657/PA	Dismissed	Delegated	Written Representations
Residential	Land next to 80 Ellen Street, Hockley	Retrospective planning permission for erection of 1 dwelling house. 2018/08556/PA	Dismissed	Delegated	Written Representations
Residential	Land adjacent 168 School Road, Hall Green	Demolition of existing garage and erection of one dwelling house with associated landscaping and parking. 2018/05986/PA	Dismissed	Delegated	Written Representations

Birmingham City Council
Planning Committee 29 August 2019

Appeal Decisions Received from the Planning Inspectorate in July 2019

CATEGORY	ADDRESS	USE	DECISION	TYPE	PROCEDURE
Residential	179 Shenley Fields Road, Weoley Castle	Change of use from single residential dwelling house into two flats (Use class C3) and external alterations. 2018/08529/PA	Dismissed	Delegated	Written Representations
Residential	Former North Worcestershire Golf Club Land off Frankley Beeches Road/Hanging Lane/Elan Road/Josiah Road/Tessall Lane Northfield	Outline planning application with all matters reserved except access for the demolition of the club house and the development of up to 950 dwellings, public open space, primary school, multi use community hub, new access points and associated infrastructure. 2017/02724/PA	Allowed (see note 3 attached)	Committee	Inquiry
Residential	Land on corner of Felstone Road & Howley Avenue, Kingstanding	Outline application for the erection of 1 dwelling house with all matters reserved for future consideration except access. 2018/07332/PA	Dismissed (see note 4 attached)	Delegated	Written Representations
Other	108 College Road, Oscott	Application to determine the details for condition number 2 (sample materials), 4 (hard/soft landscaping details), 5 (hard surfacing) 6 (boundary treatment details) and 9 (siting/design of access) attached to planning approval 2018/05579/PA. 2019/00593/PA	Dismissed (see note 5 attached)	Delegated	Written Representations
Other	670 Washwood Heath Road, Land rear of, Washwood Heath	Erection of 1 no. industrial unit for the use as motor repair and servicing garage (Use Class B2). 2018/07623/PA	Dismissed	Delegated	written Representations

**Birmingham City Council
Planning Committee 29 August 2019**

Appeal Decisions Received from the Planning Inspectorate in July 2019

<u>CATEGORY</u>	<u>ADDRESS</u>	<u>USE</u>	<u>DECISION</u>	<u>TYPE</u>	<u>PROCEDURE</u>
Other	486 City Road, Harborne	Change of use to 7 bedroom HMO (Sui Generis), Installation of footway crossing and window to rear elevation. 2018/09222/PA	Allowed (see note 6 attached)	Delegated	Written Representations

Total - 20 Decisions: 16 Dismissed (80%), 4 Allowed

Cumulative total from 1 April 2019 - 85 Decisions: 72 Dismissed (85%), 13 Allowed

Notes relating to appeal decisions received in July 2019

Note 1 (Woodside Farm)

Enforcement Notice issued because the construction of the new access road and the widening of the existing entrance constitutes inappropriate development in the Green Belt.

Appeal allowed because the Inspector considered that the development does not harm the openness of the Green Belt, nor does it have a harmful impact upon the character and appearance of the area and therefore the development is not inappropriate.

The appellant's application for costs was refused.

Note 2 (77 Beechmore Road)

Application refused because the proposed extension does not comply with the 45 Degree Code for House Extensions and would lead to a loss of outlook and light to 75 Beechmore Road.

Appeal allowed because the Inspector considered that despite the conflict with the Council's policies and guidance, the proposal does not have an unacceptably harmful effect on the living conditions of the occupants of number 75.

Note 3 (North Worcestershire Golf Course)

Application refused because:

- 1) The application site was specifically not allocated for new housing in the recently-adopted local plan. The principle of development is unacceptable and the material considerations have failed to indicate otherwise. As such, the proposed housing represents unsustainable development
- 2) The Master Plan fails to pay sufficient regard to the identified site constraints of ecology, trees and important landscape features or the local context. As such the Master Plan, and proposed development zones, fail to properly provide a suitable balance between development areas and open space, and fail to properly consider connectivity, context (especially in regard to density) and internal layout.

Appeal allowed because the Secretary of State considered that the appeal scheme is in accordance with relevant Council Policies and the development plan overall and granted planning permission, subject to conditions, for the revised proposal of up to 800 dwellings.

The appellant's application for a partial award of costs was allowed, but the Council's application was refused.

Note 4 (Felstone Road / Howley Avenue)

The appellant's application for costs was refused

Note 5 (108 College Road)

The appellant's application for costs was refused

Note 6 (486 City Road)

Application refused because the conversion of this property to a 7 bed HMO (Sui Generis) would occur in an area which already contains a high number of premises in non-single family housing uses and the cumulative effect would have an adverse impact on the residential character and appearance of the area as well as not contribute to a balanced community and sustainable neighbourhood.

Appeal allowed because the property is already a lawful 6 person HMO and the modest intensification of the residential use through the introduction of an additional bedroom is unlikely to lead to any discernible change in the nature or level of residential use of the appeal property.