

Birmingham City Council

Planning Committee

23 February 2023

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Conditions	6	<p>2022/08046/PA</p> <p>2-10 Bournbrook Road Bournbrook Birmingham B29 7BH</p> <p>Demolition of 2-4 Bournbrook Road, redevelopment of 6-10 Bournbrook Road, and the erection of new building parts to create a 69 bedroom purpose built student accommodation totalling 43 studio bedrooms, 26 cluster bedrooms in 4 clusters, communal facilities, external amenity areas, bicycle storage, landscaping and associated works.</p>
Approve – Conditions	7	<p>2022/06777/PA</p> <p>Former 'The Trees' Public House site Bristol Road Edgbaston Birmingham B5 7TT</p> <p>Erection of four linked blocks of 17, 11, 10 and 8 storeys for student accommodation (Sui Generis) (620 bedspaces) (17,055sqm) arranged around a private courtyard, with new landscaping and disabled parking spaces.</p>

Committee Date:	23/02/2023	Application Number:	2022/08046/PA
Accepted:	02/11/2022	Application Type:	Full Planning
Target Date:	24/02/2023		
Ward:	Bournbrook & Selly Park		

2-10 Bournbrook Road, Bournbrook, Birmingham, B29 7BH

Demolition of 2-4 Bournbrook Road, redevelopment of 6-10 Bournbrook Road, and the erection of new building parts to create a 69 bedroom purpose built student accommodation totalling 43 studio bedrooms, 26 cluster bedrooms in 4 clusters, communal facilities, external amenity areas, bicycle storage, landscaping and associated works

Applicant:	Madison Construction Ltd
	1110 Elliot Court Business Park, Herald Ave, Coventry, CV5 6UB
Agent:	D5 Architects LLP
	71-77 Coventry Street, Digbeth, Birmingham, B5 5NH

Recommendation

Approve subject to Conditions

1. Proposal:

- 1.1 Permission is sought to provide a scheme of purpose built student accommodation comprising 69 bedrooms. The development proposes the demolition of 2-4 Bournbrook Road and the redevelopment of No's 6-10. The proposal is effectively 'L shaped' with the introduction of a frontage along Arley Road. The new build elements have a flat roof and vary between 3 and 4 storeys in height and would be constructed in red brick. The main entrance to the development is located on the corner of Bournbrook Road and Arley Road where a curved feature is proposed to link the 2 wings of the development.



Image 1: Proposed street facing elevations when viewed from Bristol Road

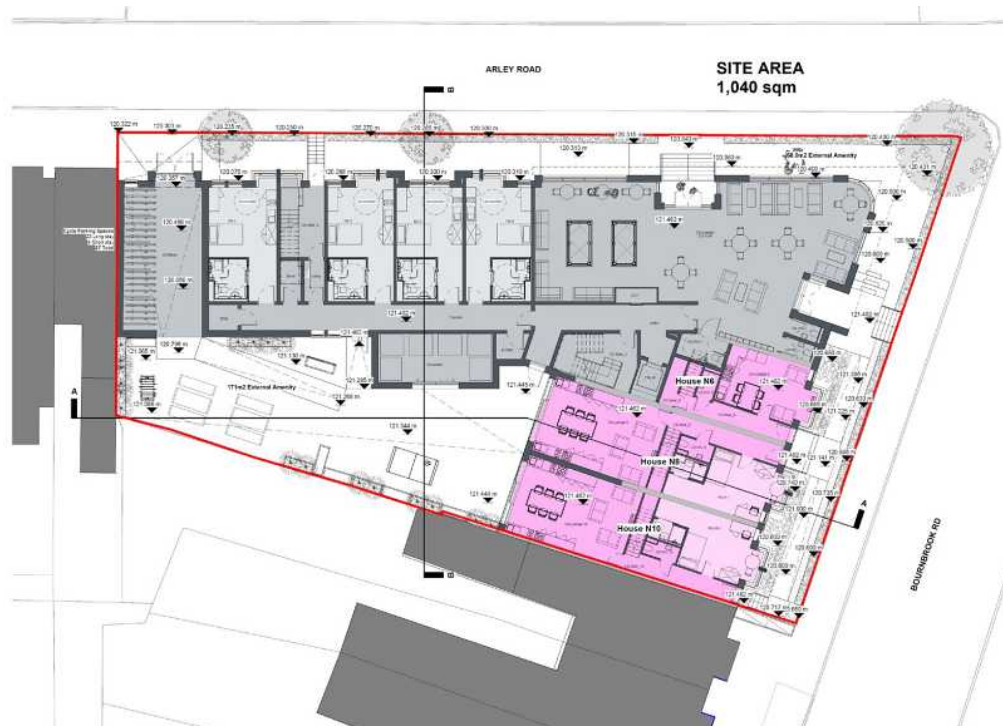


Image 2: Proposed site layout

- 1.2 The development comprises a mix of accommodation types with 43 studios and 26 cluster rooms. The studios are between 18 and 27sqm in size. There are 4 clusters in total which vary in size between 4 and 9 ensuite bedrooms. The cluster bedrooms vary between 13 and 19sqm. Each cluster has an open plan kitchen lounge area measuring between 18 and 36sqm in size.
- 1.3 The ground floor incorporates a communal lounge measuring 133sqm in size.
- 1.4 Approximately 170sqm of external amenity space is located in the south western corner of the site. No car parking has been provided but cycle storage is proposed in the rear courtyard with 27 spaces incorporated.
- 1.5 A Design and Access Statement, Transport Statement, Planning Statement, Noise Assessment, Flood Risk Assessment, Student Need Assessment, Flood Risk Assessment and Drainage Assessment and an Energy and Sustainable Construction Statement have been submitted in support of this application.
- 1.6 The total site area is 1,040sqm.
- 1.7 [Link to Documents](#)

2. **Site & Surroundings:**

- 2.1 The application site consists of 5 terraced houses which are typical of the Bournbrook area. The site is located on the corner of Bournbrook and Arley Road and is directly opposite the main gates of the University of Birmingham, which are grade II listed. Selly Park Conservation Area is also in close proximity to the site, with the boundary on the opposite side of Bournbrook Road. Selly Oak District Centre is located 200m to the west of the application site. The area predominantly consists of residential properties which are primarily in use as HMO's. All surrounding development is 2 storeys high, the majority of which are terraced properties. It is acknowledged that some of the terraced properties do have

accommodation within the loft space. The site is adjacent to the Bourn Brook with the entire site within flood zone 3.

2.2 [Site Location Plan](#)

3. **Planning History:**

3.1 2 Bournbrook Road:

3.2 2022/01317/PA - Erection of single storey rear extension and alterations to front elevation. Approved on 11/04/2022.

3.3 4 Bournbrook Road:

3.4 2022/02974/PA - Erection of single storey rear extension, installation of rooflights to front and alterations to front entrance. Approved on 06/04/2022.

3.5 6 Bournbrook Road:

3.6 2021/08373/PA - Erection of single storey rear extension and installation of rooflights to front. Approved on 13/01/2022.

3.7 8 Bournbrook Road:

3.8 2022/00707/PA - Erection of single storey rear extension, installation of a rooflight and alterations to front. Approved on 22/04/2022.

4. **Consultation Responses:**

4.1 Lead Local Flood Authority – No objection subject to conditions requiring the submission of a sustainable drainage scheme and a sustainable drainage assessment and operation and maintenance plan.

4.2. Severn Trent – No objection subject to condition requiring drainage scheme

4.3. Police – No objection subject to conditions requiring the provision of CCTV, lighting scheme, secure access control system, boundary treatments and student management plan.

4.4. West Midlands Fire Service – No objection

4.6. Regulatory Services – No objection subject to implementation in accordance with noise and contamination reports and submission of extraction and ventilation details.

4.7. Transportation – No objection subject to submission of construction management plan and implementation of student management plan.

4.8 Environment Agency – No objection subject to condition requiring implementation of FRA.

5. **Third Party Responses:**

5.1 Local occupiers, Ward Councillors, MP and resident associations were notified. Two site notices and a press notice have been displayed, with 52 letters of objection received. The following concerns have been raised:

- Demolition already commenced;
- Designated disabled parking needed;
- Over-development of site;

- Harmful to the character of the area;
- Harm to adjacent Conservation Area;
- Impact on views of the University Clock Tower;
- Green roof should be utilised;
- Too noisy for proposed occupiers;
- Additional tree planting needed;
- Scheme should incorporate features for swifts;
- Soft landscaping needs to be maintained in perpetuity;
- Increased litter, crime and anti-social behaviour
- Increased flood risk;
- Sets precedent for the loss of further terraced housing;
- No need for further student accommodation;
- Lack of parking; and
- Increased traffic and congestion.

5.2 An objection has been raised by the Community Partnership for Selly Oak (CP4SO) raising the following matters:

- Loss of terraced houses;
- Change to the appearance of Bournbrook Road;
- Potential family homes would be removed;
- Harm to the character of the Conservation Area;
- Could set precedent for HMOs to be converted to PBSA;
- Increased student density in Bournbrook;
- Development fails to integrate into its surroundings;
- Impact on views of the University Clock Tower;
- Car parking is needed;

5.3 An objection has been received from the Selly Park Property Owners Association raising the following concerns:

- Loss of traditional terraced homes;
- Harm to the character of the area;
- Sets precedent for the loss of further traditional terraced properties;
- Poor relationship with adjacent terraced houses;
- Poor quality architecture;
- Harm to the character of the Conservation Area;
- Obscures views of Clock Tower;
- Will create additional traffic problems;
- Increased demand for parking spaces;
- Increased noise and air pollution; and
- Increased risk of flooding

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

6.1 National Planning Policy Framework:

Chapter 2 – Achieving Sustainable Development

Chapter 5 – Delivering a sufficient supply of homes

Chapter 8 – Promoting Healthy & safe Communities

Chapter 9 – Promoting Sustainable Transport

Chapter 11 – making effective Use of Land

Chapter 12 – Achieving Well Designed Places

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

Chapter 15 – Conserving and Enhancing the Natural Environment

6.2 Birmingham Development Plan 2017:

PG3 - Placemaking
GA9 – Selly Oak and South Edgbaston
TP3 – Sustainable Construction
TP4 – Low and Zero Carbon Energy Generation
TP6 – Management of Flood Risk and Water Resources
TP12 – Historic Environment
TP33 – Student Accommodation

6.3 Development Management DPD:

DM2 – Amenity
DM4 - Landscaping and trees
DM6 - Noise and vibration
DM14 - Transport access and safety
DM15 - Parking and servicing

6.4 Supplementary Planning Documents & Guidance:

Birmingham Design Guide SPG
Wider Selly Oak SPD
Birmingham Parking SPD

7. Planning Considerations:

- 7.1 I consider the key planning issues to be considered are: housing land supply; the principle of the student accommodation; impact on family housing; the design and scale of the proposed development; the impact on residential amenity, the impacts on traffic and highway safety; the impact on ecology; flooding and drainage; and landscape and trees.
- 7.2 Housing Land Supply
- 7.3 The Birmingham Development Plan which was adopted more than five years ago the Local Housing Need figure must be applied when calculating the five year housing land supply. The Council's estimate of deliverable sites is 28,144 dwellings for 2022-2027 (including windfall allowance). The Local Housing Need (LHN) target over the same period is 37,464 dwellings (including a 5% buffer). This equates to a 3.99 years supply and represents a shortfall against the LHN requirement.
- 7.4. As a result, the Council cannot demonstrate a five year housing land supply which means that the presumption in favour of development applies in accordance with Para 11d of the NPPF. The consequences of this are that the 'tilted balance' will be engaged for decision taking. This means that the assessment shifts from a neutral balance where the consideration is whether the harm outweighs the benefits to a tilted balance, where the harm would have to significantly and demonstrably outweigh the benefits justify the refusal of residential development. This assessment will take place in the concluding section of this report where substantial weight will be placed on the delivery of a net additional 48 dwellings.
- 7.5 The Principle of Student Accommodation
- 7.6 The National Planning Policy Framework seeks to ensure the provision of sustainable development, of good quality, in appropriate locations and sets out principles for developing sustainable communities. It promotes high quality design and a good standard of amenity for all existing and future occupants of land and buildings. It encourages the effective use of land by utilising brownfield sites and

focusing development in locations that are sustainable and can make the fullest use of public transport, walking and cycling. The NPPF also seeks to boost housing supply and provide a wide choice of accommodation to meet a range of needs including students. The aim is to create sustainable, inclusive and mixed communities.

- 7.7 Policy TP33 (Student Accommodation) sets out a number of criteria that need to be met before off campus provision will be considered favourably. Criteria include that there is a demonstrated need for the accommodation, the site is well located, there is no unacceptable amenity impact, the scale, massing and design is acceptable and the scheme provides an acceptable living environment for students.
- 7.8 The application has been supported by a Student Needs Assessment which has been reviewed by the Planning Policy Team. This highlights that the student population at the University has continued to grow which has been driven by an increase in full time students, specifically international students. The report goes onto consider the supply and demand for purpose built accommodation. It identifies that there are a total of 12,007 bed spaces from existing and proposed university owned and partner accommodation, as well as privately owned PBSA. The report highlights that there is shortfall of 10,193 bed spaces even when including all pipeline development. The Council's own evidence entitled Student Accommodation Supply and Demand (July 2022) also identifies a significant shortfall in the Selly Oak/Edgbaston area which is considered to be between 13,736 and 14,736. The *PBSA: Supply and Demand Update* paper has very recently been published (January 2023) and this forecasts an even greater shortfall for the Selly Oak/Edgbaston area of up to 15,360 bedspaces. This means that many students have no choice but to rely on HMO's for accommodation. Planning Policy accept that a need for further PBSA has been demonstrated in this instance.
- 7.9 The scheme could not be better located, being directly opposite the main entrance to the University and could therefore provide an appropriate location for the provision of PBSA.
- 7.10 Impact on Family Housing Provision
- 7.11 Policy TP35 seeks to prevent the loss of good quality housing which is in need. The Council's own evidence highlights that there is greatest need for family housing across the City. In this case all 5 properties are in lawful use as HMO's and given the close proximity to the University it is highly unlikely that the properties would ever revert to their former use. It is therefore considered that the proposal does not result in a loss of family housing.
- 7.12 Design
- 7.13 Policy PG3 of the BDP explains that "All new development will be expected to demonstrate high design quality, contributing to a strong sense of place." It goes on to explain that new development should: reinforce or create a positive sense of place and local distinctiveness; create safe environments that design out crime and make provision for people with disabilities; provide attractive environments that encourage people to move around by cycling and walking; ensure that private external spaces, streets and public spaces are attractive, functional, inclusive and able to be managed for the long term; take opportunities to make sustainable design integral to development; and make best use of existing buildings and efficient use of land.
- 7.14 The proposal requires the demolition of 2 traditional terraced properties. Whilst these Victorian terraces are attractive when viewed from the street, they are not unique with many similar examples on this, and surrounding streets. Furthermore, they fall

outside of the Conservation Area and do not receive any statutory protection. The demolition of the terraces cannot therefore be resisted in this instance.

- 7.15 The surrounding area consists mainly of 2 storey terraced properties that front onto streets. The proposed development maintains the building line along Bournbrook Road and introduces a new frontage onto Arley Road where there is currently just a boundary fence associated with No. 2 Bournbrook Road. The inclusion of development on this frontage is considered to a positive addition creating active frontages on both elevations.
- 7.16 Four storey development is proposed on the corner of Bournbrook and Arley Road although the top storey is set back to reduce its prominence. On this corner plot the proposed scale is considered to be acceptable when considering similar examples along the Bristol Road in the wider Selly Oak area such as Athenas Studios, Bournbrook Court and Uni House Studios. The wings drop down to 3 storeys in height in an attempt marry with the adjoining terraced properties.
- 7.17 The corner of Arley Road and Bournbrook Road is addressed positively with a distinctive curve. This is also the location for the main entrance which is considered particularly legible with the use of a projecting corner canopy. The development broadly follows the floor to ceiling heights of adjacent properties and the rhythm of repeating bays ensures that the proposal relates to the grain and plot widths of adjoining terraces.
- 7.18 The City Design Officer considers that this is a contemporary design that has evolved from the Victorian housing context which creates a positive sense of place and adds to local distinctiveness. In summary, by virtue of its siting, scale, massing and design the proposal maintains the character and appearance of the area.
- 7.19 Impact on Heritage Assets
- 7.20 The site is located in close proximity of the boundary to Selly Park Conservation Area. Further designated heritage assets are located within the University of Birmingham campus. They include the Gatehouse, Gate, wall and piers (grade II listed), Great Hall and Quadrant Range (grade II*), Clock Tower (grade II*) and University House (grade II).
- 7.21 The Conservation Officer has reviewed the submitted Heritage Statement and agrees that the proposal does not have any adverse impact on the setting of the any nearby listed buildings. I note that objectors have raised concerns over the loss of views of the Clock Tower comparing the impact to the views of the Inspector in his appeal decision on the Selly Oak Triangle site (2020/01795/PA). In this decision the Inspector felt that views of the clock tower (and other important views) were blocked from numerous locations. The Selly Oak Triangle scheme was a development of substantial massing that was a maximum of 12 storeys high. By comparison this scheme is much smaller at a maximum of 4 storeys which is not much taller than surrounding terraced properties. In this instance the Conservation Officer is satisfied that the increase in height of the built form within the site would not remove views entirely and the vast majority of the upper elements and the clockfaces would remain visible. Due to the rising topography to the south and the alignment of the street pattern, there would be no alteration to views of the tower from areas south of the junction with Croydon Road. The Conservation Officer concludes that the very minor change to the incidental views would not alter the overall experience and appreciation of the asset from within the vicinity of the site and consequently will not result in harm to the asset via a change in setting.

- 7.22 The Conservation Officer does however raise some concerns over the impact on the setting of the proposal on Selly Park Conservation Area which is directly adjacent to the site. Specifically, the traditional style, form and age of the terraces to be demolished complement the character and appearance, and the historic development of the Conservation Area and in this sense they are considered to contribute positively to its setting. Although the Conservation Officer considers the loss to be minor in the context of the whole Conservation Area, she believes the demolition of the terraces would constitute a loss of buildings which are considered to contribute positively to the setting of the conservation area which would cause some harm.
- 7.23 The Conservation Officer also believes scale the new building would alter the traditional scale of Bournbrook Road and appear uncharacteristic in the setting of the Conservation Area where it inter-faces with the properties within the designated boundary.
- 7.24 In the conclusion the Conservation Officer states that the proposals would cause a very low degree of 'less than substantial harm' to the significance of the setting of the Selly Park Conservation Area through demolition and development in its setting. In accordance with paragraph 202 of the NPFF, where less than substantial harm to a designated heritage asset has been identified, this harm should be weighed against the public benefits of the proposal.
- 7.25 There are considered to be a number of public benefits arising from the proposals. Which are summarised below:
- 7.26 Boost to Housing Land Supply
- 7.27 The proposals result in the provision of 43 studios and 4 clusters. This is a notable increase to which significant weight must be attached in light of the Council's shortfall in supply.
- 7.28 Increase in amount of Student Accommodation
- 7.29 The provision of high quality PBSA in close proximity of the University will aid the future expansion plans of the University of Birmingham as further provision is required in the Selly oak area. Moderate weight is attached to this benefit.
- 7.30 Better Quality Accommodation
- 7.31 The proposal results in the loss of older, poorer quality HMO accommodation. The replacement accommodation is purpose built for its needs will be more energy efficient providing a better living environment for the proposed occupiers. Moderate weight is attached to this benefit.
- 7.32 Economic Benefits
- 7.33 The proposal creates jobs through both the construction phase and the ongoing management of the site. Moderate weight can be attached to this benefit.
- 7.34 Environmental Benefits
- 7.35 The development will achieve BREEAM 'very good', generate energy from renewable sources and consequently exceed Building Regulations requirements by 53%. The proposal would also achieve a 97% reduction in flows into the Severn Trent Sewer and the Bourn Brook when compared to the current situation. Significant weight can be attached to this benefit.

- 7.36 In summary, it can be seen that the proposal would deliver a wide range of economic, social and environmental positives which benefit the wider public in the City and beyond. Combined, significant weight can be attached to these public benefits which clearly outweigh the very low level of 'less than substantial harm' identified by the Conservation Officer.
- 7.37 On balance, its considered that the proposals accord with Policy PG3 and TP12 of the BDP and the NPPF.
- 7.38 Residential Amenity
- 7.39 Birmingham Design Guide SPD sets out a number of numerical standards which help to ensure that acceptable amenity standards are provided for the occupiers of new dwellings and retained for the occupiers of adjacent properties.
- 7.40 The closest dwellings to the proposed development are No. 12 Bournbrook Road and No. 1 Arley Road. The flank elevation of No. 12 would be attached to the development however at ground floor level No. 12 extends further at the rear ensuring no breach of the 45 degree code. Whilst the first floor of the proposed development does extend 1m further than the first floor of No. 12 the code is not breached. The development would also be attached to the side elevation of No. 1 Arley Road. This property contains no side facing windows and has been heavily extended at the rear meaning that there are no issues in terms of a loss of light.
- 7.41 The scheme has been designed so that the corridor is located along the rear of the Arley Road wing meaning that all windows on the rear can be obscurely glazed to prevent overlooking into the rear garden of No. 12 Bournbrook Road
- 7.42 An area of shared outdoor amenity space is provided for the occupiers of the 69 units which totals approximately 171sqm and the development is within easy walking distance of the plentiful open spaces within the University Campus. The level of provision is therefore considered to be acceptable.
- 7.43 The studio accommodation is between 18 and 27sqm in size which is considered to be acceptable. Furthermore, 4 spacious accessible studios have been provided on the ground floor. To provide a greater mix of accommodation types clusters have also been incorporated into the scheme. Cluster bedrooms vary between 13 and 19sqm in size which is considered acceptable. The communal kitchen lounge areas vary between 18 and 36sqm. They are considered to be an appropriate size for the number of occupants.
- 7.44 Communal space is provided for the students in the form of a communal lounge measuring 121sqm. On balance, this level of provision is acceptable for 69 students.
- 7.45 Concerns have been raised of the potential for increased levels of crime and anti-social behaviour. West Midlands Police raised no objection to the scheme subject to conditions requiring a scheme of CCTV and a secure access. There is no evidence to suggest that the introduction of 69 students into the area within purpose built secure accommodation would increase crime or levels of anti-social behaviour.
- 7.46 In summary, the proposal has no undue amenity impact on the occupiers of adjacent properties and provides an acceptable living environment for the proposed occupiers.
- 7.47 Traffic and Highway Safety

- 7.48 Policy TP38 of the BDP states that “The development of a sustainable, high quality, integrated transport system, where the most sustainable mode choices also offer the most convenient means of travel, will be supported.” One of the criteria listed in order to deliver a sustainable transport network is ensuring that that land use planning decisions support and promote sustainable travel. Policy TP44 of BDP is concerned with traffic and congestion management. It seeks to ensure amongst other things that the planning and location of new development supports the delivery of a sustainable transport network and development agenda.
- 7.49 The site is in a sustainable location adjacent to Selly Oak District Centre and is in close proximity to bus routes that provide direct access to the City Centre. In addition, the site is 900m from Selly Oak Train Station. Provision has been made for cycle storage but no car parking has been provided.
- 7.50 The Birmingham Parking SPD require a maximum of 1 car parking space per 10 students and therefore a maximum of 3 spaces could be provided. However, the site is in a highly sustainable location and the Transportation Officer accepts that provision is not required in this location. To minimise disruption conditions requiring the submission of a construction management plan and travel plan is recommended. A student management plan has already been agreed which will effectively manage student drop off and pick ups on Arley Road at the beginning and end of each term.
- 7.51 27 cycle spaces have provided in a single location at the rear of the site. This level of provision meets the minimum requirements of the SPD.
- 7.52 Transportation have raised no objection to the scheme subject to conditions and consequently it is considered that the proposal will not have an adverse impact on the highway network.
- 7.53 Ecology
- 7.54 The Council has a duty to consider the impact of any proposal on protected species. The Preliminary Ecological Appraisal concluded that the risk of harm to bats and nesting birds is low. The Council’s Ecologist concurs with this view. With the imposition of an appropriate ecological enhancement condition the Ecologist considers that enhancements can be delivered on the site.
- 7.55 Drainage & Flooding
- 7.56 Policy TP6 of the BDP requires applicants to submit a Sustainable Drainage Assessment and Operation and Maintenance Plan with all major applications. Proposals must demonstrate that the disposal of surface water does not increase flooding elsewhere. Surface water should also be managed in accordance with the drainage hierarchy set out within TP6.
- 7.57 The site is located is Flood Zone 3 where there is a high risk of flooding from the Bourn Brook, although the site is outside of the functional floodplain. Consequently the applicant has submitted a Flood Risk Assessment and a Sequential Test. The Environment Agency have raised no objection subject to the implementation of the scheme in accordance with the submitted FRA. The Sequential Test does not identify any more appropriate sites that could accommodate the development. As the development would be aimed at meeting the needs of students at the adjacent University it is only sites within the Bournbrook area that could be reasonably considered and there are no vacant sites of this size that could accommodate the scheme meaning that the sequential test is passed. Furthermore, it is important to remember that this is a brownfield site that is already in residential use and therefore the proposed use is no more sensitive.

- 7.58 The LLFA initially objected to the proposed drainage strategy as they consider that a discharge rate of 2l/s is too high in an area of flood risk. However, an amended scheme has now been submitted reducing the rate to 1l/s which is in line with what the LLFA recommended. The scheme now incorporates attenuation tanks and a blue roof which allows the retention of storm water on site and the finished ground floor level would be raised to 600mm above the design flood water level. The FRA also states that an Emergency Flood Plan will be put in place. The scheme achieves 97% reduction in flows into the Severn Trent Sewer and Bournbrook when compared to the current situation. The scheme clearly delivers a substantial betterment both on the site and downstream and consequently the LLFA raise no objection to the amended drainage scheme subject to conditions.
- 7.59 Landscape and Trees
- 7.60 Only one tree is located within the site boundary. Tree Officer is of the view that is of low quality and consequently raises no objection to its loss. A detailed landscape scheme could be secured via condition to ensure additional planting.
- 7.61 Sustainability
- 7.62 A Sustainable Construction Statement and Energy Statement has been submitted with the application. The submitted statements demonstrate that a range of renewable technologies have been considered and the proposal incorporates air source heat pumps and 50 panel solar array. The development will achieve an overall improvement in regulated emissions of 53% over Building Regulations requirements.
- 7.63 The statement also sets out how the building can only meet the BREEAM 'very good' standard rather than 'excellent'. It is explained that due to the current stage of the project, several credits are now precluded from being achieved which are required to be undertaken at concept design stages. The Planning Policy Officer has accepted the reasoning behind achieving the 'very good' rating in this instance which will be secured via condition. The requirements of TP3 and TP4 have therefore been met.
- 7.64 Other Matters
- 7.65 As a scheme of PBSA CIL is charged at rate of £85.04 per sqm metre and results in a payment of £198,328.15.
- 7.66 Planning Balance
- 7.67 Significant weight must be attached to the provision of additional accommodation which will help boost supply by a notable amount. In this case no harm has been identified other than a very low level of less than substantial harm to the Conservation Area. It is therefore considered that the increase in supply clearly outweighs the limited harm identified.

8. **Conclusion**

- 8.1 I consider the development of this site for purpose built student accommodation is acceptable in a highly sustainable location within easy 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.

9. **Recommendation:**

9.1 Approval subject to conditions

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- | | |
|----|--|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Implement within 3 years (Full) |
| 3 | Requires the submission of sample materials |
| 4 | Requires the submission of extraction and odour control details |
| 5 | Limits the noise levels for Plant and Machinery |
| 6 | Implementation of Recommendations of Noise Survey |
| 7 | Requires the submission of a CCTV scheme |
| 8 | Requires the submission of hard and/or soft landscape details |
| 9 | Requires the submission of boundary treatment details |
| 10 | Requires the submission of a landscape management plan |
| 11 | Requires the submission of hard surfacing materials |
| 12 | Requires the submission of a lighting scheme |
| 13 | Requires the prior submission of level details |
| 14 | To ensure energy and sustainability measures are delivered in accordance with statement |
| 15 | To ensure that the development achieves BREEAM rating level |
| 16 | Requires the prior submission of a sustainable drainage scheme |
| 17 | Requires the submission prior to occupation of the properties of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan |
| 18 | Requires the implementation of the Flood Risk Assessment |
| 19 | Requires the submission of a scheme for ecological/biodiversity/enhancement measures |
| 20 | Requires the prior submission of a construction method statement/management plan |
| 21 | Implementation of Student Management Plan |
| 22 | Requires the submission of unexpected contamination details if found |
-

Case Officer: Andrew Fulford

Photo(s)

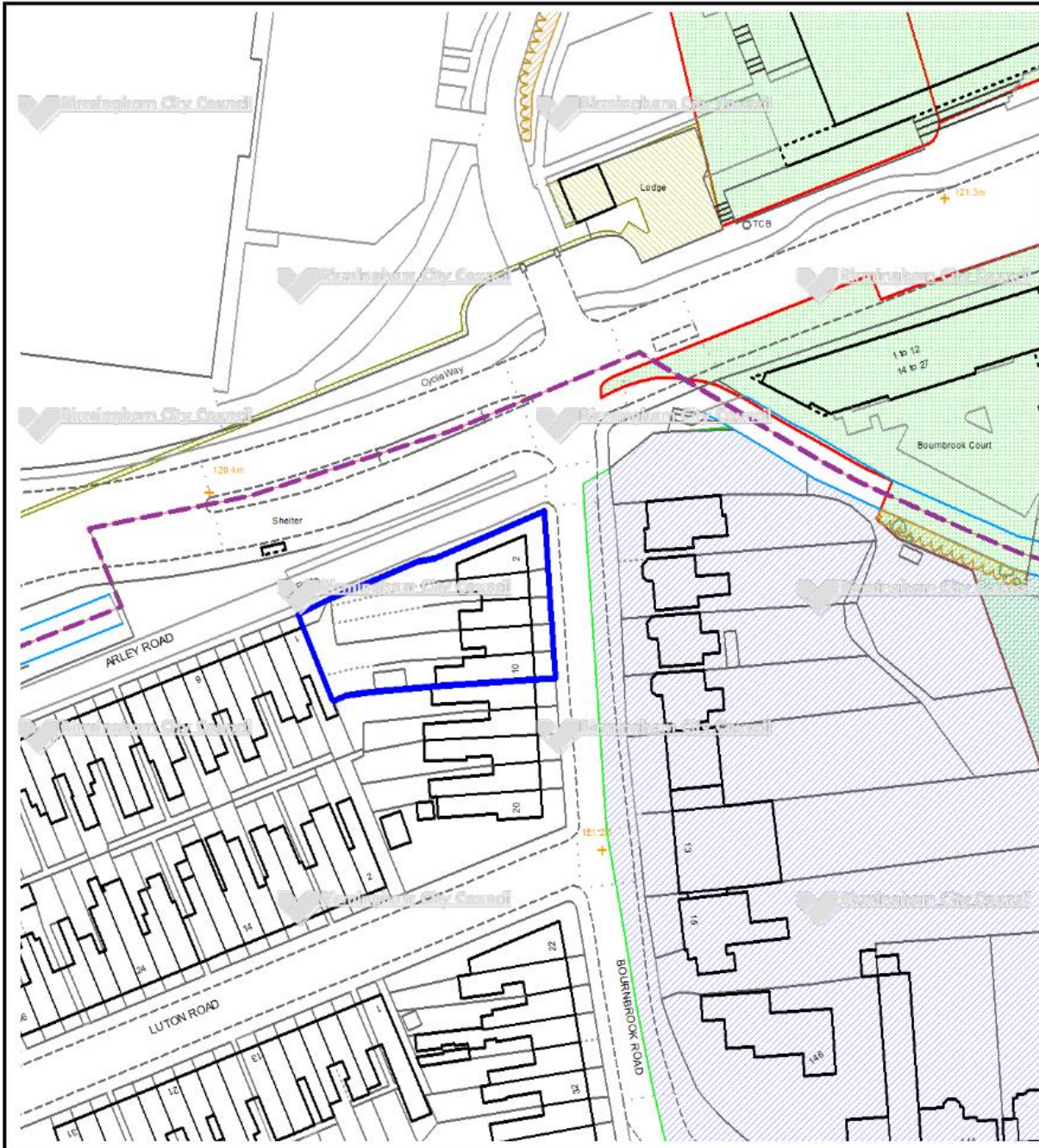


Photo 1: View south towards the application site from Bristol Road



Image 2: View from Bournbrook Road looking west towards application site

Location Plan



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Committee Date:	23/02/2023	Application Number:	2022/06777/PA
Accepted:	20/10/2022	Application Type:	Full Planning
Target Date:	24/02/2023		
Ward:	Edgbaston		

Former 'The Trees' Public House site, Bristol Road, Edgbaston, Birmingham, B5 7TT

Erection of four linked blocks of 17, 11, 10 and 8 storeys for student accommodation (Sui Generis) (620 bedspaces) (17,055sqm) arranged around a private courtyard, with new landscaping and disabled parking spaces.

Applicant:	Fusion Birmingham Devco
	C/o Agent
Agent:	Lichfields
	Cornerblock, 2 Cornwall Street, Birmingham, B3 2DX

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. This is an application for Purpose-Built Student Accommodation (PBSA). The proposed 17-storey tower would sit close to the front of the site facing east onto Bristol Road with a cluster of blocks of 8, 10 and 11 storeys to its south and west. The tower and blocks would be arranged around a central courtyard which would be landscaped to provide outdoor amenity space for the students.
- 1.2. To the rear of the site a driveway off Spring Road would provide access to 5 disabled parking spaces, detached substation and plant room, and refuse and cycle stores integral to the ground floor.



Figure 1: Proposed Site Plan

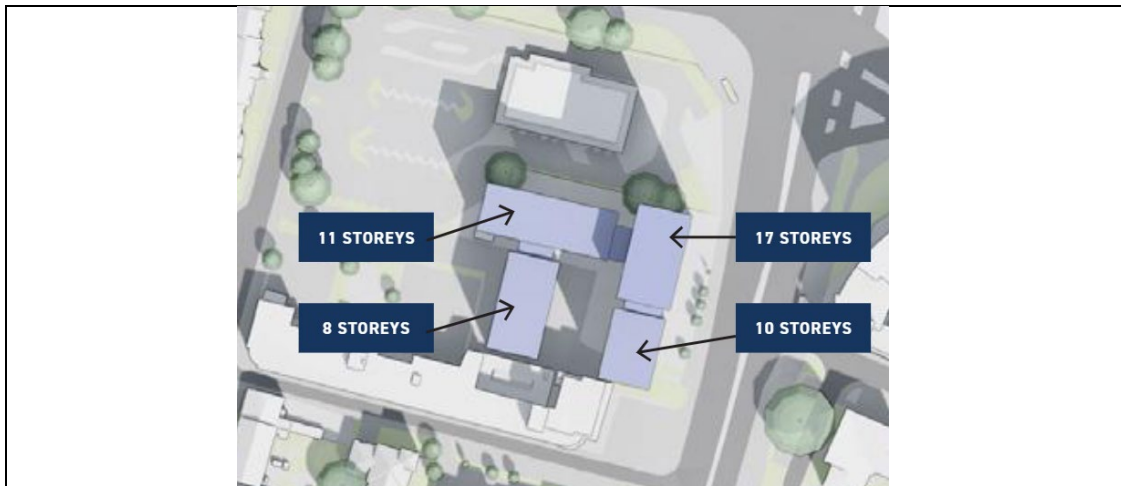


Figure 2: Block plan showing number of storeys

- 1.3. Externally, a red brick finish is proposed with pre-cast concrete banding and detailing, and bronze coloured metal cladding for spandrel panels and the shadow gaps separating the wings:

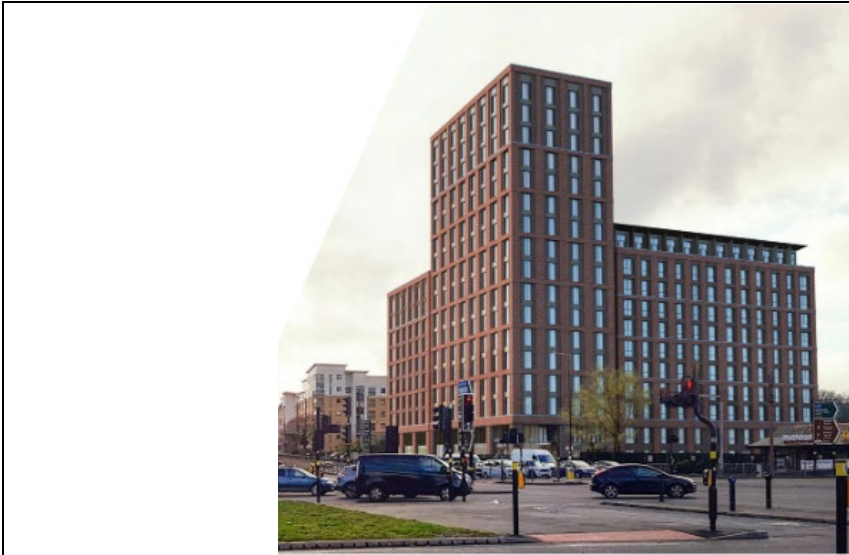


Figure 3: View from Bristol Street looking south



Figure 4: Proposed east (Bristol Rd) and north (Lee Bank Middleway) elevations

1.4. Internal accommodation:

Ground floor – split into upper and lower levels: main entrance to reception and staff office; communal space for students for study and social activities; cinema, games, karaoke rooms; laundry, lounge and private dining rooms; gym and basketball court; plant rooms, refuse store and cycle store. In addition, some student accommodation rooms.

Mezzanine: Open plan social study space and various types of student bedrooms/flats.

All other floors would comprise student accommodation of the following types:

- Cluster apartments (12.5sqm per bedroom) grouped in 3-4 rooms with shared kitchen/living space. 28 units. 103 bedspaces equivalent to 16% of total.
- Social studios (15sqm) providing individual kitchen facilities within each room. 31 units. 140 bedspaces equivalent to 23% of total.
- Twodios (15sqm) allowing two students to share a private kitchen while having separate bedroom and bathroom facilities. 35 units. 70 bedspaces equivalent to 11% of total.
- Studios (18sqm) including individual cooking facilities in a larger room with seating. 260 units. 260 bedspaces equivalent to 42% of total.
- One bed apartments (22sqm+) offering separate kitchen facilities along with a sitting/TV area. 47 units. 47 bedspaces equivalent to 8% of total.

1.5. Outdoor amenity space within the central courtyard: approx. 347sqm.

1.6. Proposed tree removals: 4 trees (1 x B category and 3 x C category. 4 groups, all of mixed species and category C.

1.7. Supporting documents:

Planning Statement	Design and Access Statement
Statement of Community Involvement	Bedspace Report
Noise Impact Assessment	Air Quality Assessment
Odour Impact Assessment	Construction Method Statement
Daylight and Sunlight Report	Energy Statement
Phase 1 Desk Study (Geo-environmental)	Ecological Walkover Survey
Arboricultural Assessment and Tree Survey Plan	Resident Management Plan
Transport Assessment	Travel Plan Statement
Landscape Design Statement & Plan	Wind Microclimate Assessment
Archaeological Desk Based Assessment	BREEAM Pre-assessment Report
Flood Risk and Drainage Assessment	Fire Statement
Townscape and Visual Appraisal and Heritage Statement	
Archaeology Letter of Reliance	

1.8. [Link to Documents](#)

2. **Site & Surroundings**

2.1. The site is located at the north end of Bristol Road (A38) close to the junction with Lee Bank Middleway (A4540 ring road). It was formerly occupied by The Trees PH

(built mid-20th century) but following demolition of the pub c.2005 it now comprises a large area of hardstanding enclosed by close-board fencing. Several trees are interspersed along the boundaries but generally the site has a fairly open appearance. There is a rise in ground level of approx. 1-1.5m across the site in a westerly direction. More widely, the site sits on the edge of the River Rea valley with the ground rising from the river to the east and reaching its highest point at Five Ways to the west.



Figure 5: Application site in context when viewed from the northeast

2.2. Size of site: 0.36ha

2.3. On the north side of the ring road is the city centre and to the south the area is predominantly residential. This major road junction is already marked by buildings of some height: Belgrave View (student accommodation) is 18 storeys, Park Central Phase 11 features a 10 storey apartment block, and a 15 storey residential development has been approved on the site of the former St Luke's Church.

2.4. Immediately adjoining the site to the north is a McDonalds restaurant/drive-through takeaway and to the south an asylum seeker hostel of 4-6 storeys with retail units at ground floor set behind a small Council-owned car park. Beyond the hostel, Spring Road leads into the Edgbaston Conservation Area which covers a large swathe of land to the southwest of the application site. The Lee Crescent and Ryland Road Conservation Areas are located to the west and there are a large number of Listed Buildings within these historic residential areas.

2.5. [Site location](#)

3. **Planning History**

3.1. 28/04/2022 - 2020/09703/PA – Former The Trees PH – Planning permission refused for the rection of 26-storey tower and cluster of blocks up to 11 storeys (total 18,061sqm) for student accommodation (sui generis) (657 bedspaces) with associated landscaping and external works, for the following reasons:

- 1) By virtue of its location, position and scale the proposed development would fail to preserve the setting of: Nos. 17, 18 & 19 Spring Road; No.24, No.25 and No.26 Spring Road; and Nos. 27 and 28 Spring Road, as required by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, through a diminished ability to appreciate their significance, thereby causing harm to this significance through development in their

setting. The level of harm is a moderate level of less than substantial harm and would not be outweighed by the public benefits which would result from the development. The proposal therefore conflicts with policies PG3 and TP12 of the Birmingham Development Plan and the guidance contained in Chapter 16 of the National Planning Policy Framework.

- 2) By virtue of its location, position and scale the proposed development would fail to preserve the setting of: Nos. 16 & 17, Nos. 18 & 19, No.20, Nos. 21, 22 & 23, No.24 and No.25 Wellington Road; Woodfield, No.73 Wellington Road; and No. 74, Nos. 76 & 77, No.78 and No.79 Wellington Road as required by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, through a diminished ability to appreciate their significance, thereby causing harm to this significance through development in their setting. The level of harm is at the lower end of less than substantial harm and would not be outweighed by the public benefits which would result from the development. The proposal therefore conflicts with policies PG3 and TP12 of the Birmingham Development Plan and the guidance contained in Chapter 16 of the National Planning Policy Framework.
- 3) By virtue of scale the proposed development would cause harm to the significance of the setting of the Edgbaston Conservation Area through development in its setting. The level of harm to the Conservation Area as a whole is at the lower level of less than substantial harm and would not be outweighed by the public benefits which would result from the development. The proposal therefore conflicts with policies PG3 and TP12 of the Birmingham Development Plan and the guidance contained in Chapter 16 of the National Planning Policy Framework.

- 3.2. 11/12/2019 – 2019/05285/PA - 1-5 Stone Road – Planning permission granted with conditions for the erection of an additional storey to provide ancillary communal floor space, new shopfronts to ground floor retail units and other external remodelling.

4. **Consultation Responses**

- 4.1. Transportation Development: No objection subject to the following conditions:

- Construction Traffic Management Plan to be submitted and approved prior to commencement.
- Travel Plan to be approved prior to occupation.
- Cycle parking and disabled car parking spaces to be in place prior to occupation.
- Provision of boundary treatment along Bristol Road frontage

- 4.11. Regulatory Services: Adverse impacts are expected in relation to noise and odour but can be appropriately mitigated for using sealed windows and subject to mitigation schemes. The following conditions are proposed:

- Contamination remediation scheme
- Contaminated land verification report
- Construction Method Statement
- Noise insulation requirements

- 4.12. Contaminated Land: The Phase 1 desk study report produced by IDOM reference DS-21207-18-294 REVC dated November 2022 concludes there is low to moderate risk of contamination of the site and recommends further intrusive Phase 2 site investigation to consider asbestos, soil and groundwater pollution and ground gas and this is accepted.

- 4.13. Air Quality and Odour: The assessments and conclusions of the Air Quality Assessment (AQA-21207-18-292 REV C AUGUST 2022) are acceptable.

- 4.14. The construction method statement addresses the key issues although the operational hours proposed are an 07.30 start which is earlier than our normal accepted construction hours of 08.00. I am content not to require any additional construction method statement.
- 4.15. In respect of odour from the adjacent McDonalds restaurant, there are two issues to be considered:
- The first is the impact of the building on existing receptors in terms of changes to odour dispersion. The assessment shows a marginal increase at one receptor location due to the development however the building itself will not lead to any significant changes in odour impacts at existing receptors.
 - The second is the impact on new receptors at the development. The model suggests adverse impacts up to and including the third floor.
- 4.16. *Noise:* Attended noise monitoring has been undertaken to assess night-time noise and assessments have been made at the Bristol Road façade of the proposed development. An adverse impact is expected at night from activity at McDonalds. Following amendments, sealed windows are now proposed which would address the adverse noise impact.
- 4.17. Principal City Designer: No objection subject to conditions concerning:
- Materials
 - Scale panel of typical bay of the tower
 - Details of windows, doors, entrance, parapet and rainwater goods
 - Landscaping
 - Boundary treatment
 - M&E and ventilation strategy
 - Lighting strategy
 - Security strategy
- 4.18. Summary of comments: The proposal has now found a scale and form that can develop out the layout for this site that overcomes the constraints that became problematic under application 2020/09703/PA. Whilst lower in height, this revised application not only takes the development out of sensitive views, but responds more appropriately to this site, which is neither a landmark or a gateway. The architecture is strong, confident and modest and along with the landscaping creates a place that meets the aspirations of the new Birmingham Design Guide SPD.
- 4.19. Principal Conservation Officer: The proposed development would cause less than substantial harm to the significance of Nos. 17, 18 and 19 Spring Road to a low degree, and therefore, the application will therefore need to meet the tests of Paragraph 202 of the NPPF. If it does not meet the tests, the following reason for refusal is offered:
- “By virtue of its location, position and scale the proposed development would fail to preserve the setting of Nos. 17, 18 & 19 Spring Road as required by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, through a diminished ability to appreciate, understand and experience their suburban context and significance of such, thereby causing harm to this significance through development in their setting. The level of harm is minor and placed at the low end of less than substantial harm in framework terms.”

4.20. Principal Ecologist: No objection subject to the following conditions

- Bat and bird boxes (and extended to include invertebrate features)
- Extensive/ Biodiversity (including Bio-solar) roofing

4.21. While the site has been vacant for a little while now the habitats on site haven't altered much since the original survey (as confirmed by an updated walk over survey). Japanese knotweed was still noted on site but was on a treatment programme. The site has a relatively low biodiversity value at present and its potential to support protected species is limited. The scattered trees/scrub on site have intrinsic value only, not really being of suitable sizes for significant bird nesting and offering no bat roost potential.

4.22. The opportunities for mitigation and ecological enhancement could be more significant than proposed. Soft landscaping within the courtyard and the tree line to Bristol Road and rear entrance drive, while beneficial, is likely to be heavily disturbed and of negligible value for many species. The inclusion of at least some areas of extensive biodiversity roofing would be significantly more beneficial.

4.23. There are a number of extensive areas of flat roofing are likely to be used for solar photovoltaics, as per the Energy Statement. Nevertheless, there is still scope to consider some sections of biodiverse roofing and/or bio-solar roof arrangements. This would give some additional biodiversity value, particularly for pollinator species associated with the types of brownfield habitats found on site at present.

4.24. Principal Arboriculturist: No objection subject to the following conditions:

- Arboricultural method statement and tree protection plan
- Landscaping scheme

4.25. Previously there was a need to remove trees from the offsite location (the adjoining McDonalds grounds) but the revised plans no longer require such extensive works to the trees to result in their loss. There may still be some minor facilitation works to be considered and sensitive working practices around the theoretical root protection zones. As a wall exists between the trees and the site, the "expected" root protection area may be curtailed somewhat by the foundations of the wall. This may mean less-to-no rooting or that roots are found at a deeper level than if they had been open grown.

4.26. The landscape plan indicates a number of trees to be planted both within the site and, subject to approval/S278 agreement, within the highway fronting Bristol Road. As per the Birmingham Design Guide SPD and policy DM4 of the Development Management DPD, we need to ensure that adequate replacement planting is achieved and to do that we need to know detail of soil volumes to be provided either in soft landscape or particularly through constructed trees pits.

4.27. Lead Local Flood Authority: Initial objection withdrawn following submission of additional information which makes a commitment to incorporate the following infrastructure within the detailed drainage strategy:

- Infiltration testing will be undertaken.
- The discharge of surface water is proposed in two separate locations:
Bristol Road to a surface water sewer at a maximum discharge rate of 1 l/s
Spring Road to a surface water sewer at a maximum discharge of 3l/s

4.28. It is also expected that rainwater gardens and other sustainable drainage features could be incorporated. While the drainage strategy provided lacks the full detail

normally expected, enough evidence has been provided to demonstrate that one could be developed. On this basis Birmingham LLFA withdraws its objection subject to the following conditions:

- Prior submission of a sustainable drainage scheme
- Prior submission of a sustainable drainage operation and maintenance plan

4.29. Severn Trent Water: No objection subject to the following condition:

- Submission of drainage plans for the disposal of foul and surface water flows.

4.30. It is noted that surface water is proposed to be discharged to the public surface water sewer at a rate of 3.4litres/second. This should be restricted to 3l/s.

4.31. West Midlands Police: Queries raised concerning proposed bollards, access control. Recommendations concerning proposed lighting scheme, standard of doors and compliance with Secured by Design standards.

4.32. Health and Safety Executive (fire safety): Some concern regarding means of escape, travel distances, protected lobbies and corridor length. Design alterations are needed to provide an acceptable layout.

4.33. Historic England: Advice is provided when engagement can add most value. In this case no advice is offered; the views of BCC's specialist conservation and archaeological advisors should be sought.

4.34. Birmingham Civic Society: Support the application. Site is vacant brownfield land at a prominent gateway location. Suitable location for PBSA being between UoB and city centre. Frequent bus services along Bristol Rd and Middleway and a cycle lane on Bristol Rd. Accords with Birmingham Design Guide in respect of the location of a tall building and revised height is similar to nearby tall buildings.

5. **Third Party Responses**

5.1. The application has been publicised through the posting of site and press notices and the sending of individual notifications to the local MP, Councillors, Residents' Associations and the occupiers of nearby properties. In addition, the applicant held a drop-in style consultation event and, at the request of elected representatives, a public meeting was held, attended by the case officer.

5.2. Representations have been received raising the following objections:

Preet Kaur Gill MP: Strongly objects for the following reasons:

- Height of first tower is slightly reduced but the size and scale of the development remains substantially different to the wider area and would have an adverse effect.
- Failure to preserve the setting of Nos. 17, 18 & 19 Spring Road; No.24, No.25 and No.26 Spring Road; and Nos. 27 and 28 Spring Road; Nos. 16 & 17, Nos. 18 & 19, No.20, Nos. 21, 22 & 23, No.24 and No.25 Wellington Road; Woodfield, No.73 Wellington Road; and No. 74, Nos. 76 & 77, No.78 and No.79 Wellington Road.
- NPPF states, heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
- By virtue of scale, the latest proposed development would cause harm to the

- significance of the setting of the Edgbaston Conservation Area through development in its setting.
- Failure to comply with policies PG3 and TP12 of the Birmingham Development Plan and the guidance contained in Chapter 16 of the National Planning Policy Framework.
- While student accommodation is required in Birmingham, having spoken directly to UoB and BCU, they have told me that the type and in particular, location, of this accommodation means that it would not be used by the students for either university.
- Public consultation (drop-in sessions after the formal consultation period ends) is not acceptable.

Councillor Deirdre Alden (Edgbaston): Strongly objects for the following reasons:

- Height is still too tall within the lower residential setting and will dominate the surrounding area.
- Detrimental impact on houses in Spring Road some of which are listed.
- Wider detrimental impact on Edgbaston Conservation Area as it will be seen from some distance away.
- The benefit of PBSA does not outweigh the detriment to the residential family neighbourhood and will alter the balance on this small estate of family houses.
- Parking provision is only proposed for disabled residents/visitors. Students will have cars and will cause parking and highway safety problems on surrounding residential roads.
- Edgbaston ward already has about 5,000 student bedspaces and there is no proven need for another 620.
- UoB consistently argue that students want to be close to the campus and this site is not near to the campus.

Councillor Matt Bennett (Edgbaston): Concurs with Cllr Alden's comments.

Calthorpe Residents' Society: Objects on the following grounds:

- Notwithstanding reductions, the massed bulk will have the same detrimental effect on the environment as the previous proposal.
- The proposal lacks parking but students will own cars, no matter what rules are set, and they will be scattered over the adjacent residential streets.
- The courtyard space with access for a food van to park may attract undesirable elements and cause noise, litter, odour etc.
- The 'amenity court' will be small, dark and bleak.
- There is no need for this development as other PBSA development are under construction and at application stage.
- The development would not fulfil Council aspirations for this road junction as it is not on the corner.

15 individual responses received objecting on the following grounds:

- No need for more PBSA; there is enough already; there is no demand from the universities; and there has been a change in demand due to Covid, Brexit and the universities establishing campuses abroad.
- Insufficient parking proposed; difficulties with moving in/moving out period. Negative impact on highway safety.
- Lack of privacy.
- Development would sit in front of the building line.
- Development would be too densely populated and add to the density of the surrounding area. Overcrowding.

- Site should be used for family housing and affordable housing.
- Development would cause problems for residents during the construction period.
- Exacerbation of existing parking problems,
- Development would generate rubbish and litter and attract vermin.
- Loss of light to existing homes; loss of privacy; over-shadowing.
- Pressure on infrastructure, e.g. health centres, public transport.
- Previous objections have been ignored.
- Should invite applications from businesses instead.
- Exacerbation of existing air quality/pollution issues.
- Site has been vacant for years without causing any problems.
- Development would appear out of place due to the height.
- Tower blocks have been demolished and replaced with lower rise development.
- Development would still impose on heritage assets due to scale and brutalist architecture. Proposed mass would be out of keeping with the character of existing development. Would be 4 towers instead of 3 previously proposed. Would not integrate into the historic context.
- No heritage benefits or wider public benefits; this would be a private endeavour.
- Impact on mental health and wellbeing on prospective and existing residents, and on vulnerable residents at the hostel.
- Development would exacerbate the existing crime hotspot.
- Inadequate outdoor space proposed; residents would overrun the nearby park.
- Fire safety
- No affiliation to a specific university
- Inadequate consultation with residents.
- Number of bedspaces proposed is not significantly different to previously refused scheme.
- The itinerant nature of residents would be detrimental to community cohesion.
- Concern about potential changes of use, especially if demand from students falls away.

6. Relevant National & Local Policy Context

6.1. National Planning Policy Framework

The following paragraphs are particularly, but not exclusively, relevant to the proposal:

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

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

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

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

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

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

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

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

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

Chapter 16: Conserving and enhancing the historic environment – paras. 189, 194, 195, 197, 199, 202, 206

6.2. Birmingham Development Plan 2017

PG1 Overall levels of growth

PG3 Place making

TP1 Reducing the City's carbon footprint

- TP2 Adapting to climate change
- TP3 Sustainable construction
- TP4 Low and zero carbon energy generation
- TP6 Management of flood risk and water resources
- TP7 Green infrastructure network
- TP8 Biodiversity and Geodiversity
- TP9 Open space, playing fields and allotments
- TP12 Historic environment
- TP26 Local employment
- TP27 Sustainable neighbourhoods
- TP28 The location of new housing
- TP29 The housing trajectory
- TP30 The type, size and density of new housing
- TP33 Student accommodation
- TP37 Health
- TP38 A sustainable transport network
- TP39 Walking
- TP40 Cycling
- TP44 Traffic and congestion management
- TP45 Accessibility standards for new development
- TP46 Digital communications

6.3. Development Management DPD

- DM1 Air quality
- DM2 Amenity
- DM3 Land affected by contamination, instability and hazardous substances
- DM4 Landscaping and trees
- DM6 Noise and vibration
- DM10 Standards for residential development
- DM12 Residential conversions and Specialist accommodation
- DM14 Transport access and safety
- DM15 Parking and servicing

6.4. Supplementary Planning Documents & Guidance

- Student Accommodation Supply and Demand (January 2023)
- Birmingham Parking SPD 2021
- Birmingham Design Guide 2022
- Edgbaston Conservation Area Character Appraisal

7. Planning Considerations

Background

- 7.1. This is a revised application following a similar proposal which was refused by your Committee on 28th April 2022 (2020/09703/PA). That application is the subject of an appeal and a public inquiry is scheduled to open on 28th March 2023 and run for four days. The Inspector's decision is due by 24th May 2024. The application was refused solely on the grounds of the heritage impact – that less than substantial harm would have been caused to designated heritage assets and that harm would not have been outweighed by the public benefits offered by the proposed development.
- 7.2. Following refusal of the initial planning application, the applicant sought guidance from officers and was advised to consider a significant reduction in the height of the 26-storey

tower in order to try and minimise the impact of the scheme on nearby heritage assets.

7.3. The key considerations for assessment in this resubmission are:

- a) the principle of the development;
- b) the impact on heritage assets;
- c) the sustainability credentials of the development;
- d) the impact on landscaping and biodiversity;
- e) the impact on drainage; and
- f) CIL/Planning Obligations.

Principle of development

7.4. BDP policy TP33 sets out the criteria for assessment of off-campus PBSA which relate to need; location; impact on the local neighbourhood and residential amenity; scale, massing and architecture; and the resulting living environment.

Need for the development

7.5. A Bedspace Report (dated August 2022) submitted with the application and a subsequent Briefing Note (January 2023) takes a focussed approach to assessing need, based on the Selly Oak/Edgbaston area within which it is located. Given the location, the applicant considers the development ideally suited to serve UoB, but acknowledges it might be occupied by students studying at any of the following other campuses:

Ulster University (Birmingham campus – Hill Street, city centre)
University College Birmingham (Summer Row, city centre)
Birmingham City University – South (Westbourne Road, Edgbaston)

7.6. In addition, there is no indication that it would not be possible to choose to live at this site and to travel to the city centre campuses of Aston University and BCU, although this is likely to be considered less convenient.

7.7. The applicant's Bedspace Report (para 3.15) analyses future bedspace demand using a 'past trends' approach and estimates there could be an increased requirement of between 4,541-6,341 bedspaces by 2025/26 generated by the five main universities. This broadly correlates with the potential future demand projected in the Council's July 2022 and January 2023 *PBSA: Supply and Demand* papers.

7.8. The applicant's Briefing Note (para. 2.7) points to an undersupply of between 201 and 14,736 bedspaces in the Selly Oak/Edgbaston area when considering supply against potential future demand, which it says the proposal would help to address. This is based on the Council's *PBSA: Supply and Demand* paper published in July 2022 and a consideration of potential future demand, existing and committed supply of PBSA, current applications (at 14/2/22) and HMOs:

Table 12: Supply and demand scenarios

Scenario	Supply vs Demand Analysis	Selly Oak	City Centre	Bartley Green	City-wide
1	Existing demand (HESA 2020/21)	22,650	15,880	385	38,915
	Existing supply + committed* supply	10,671	17,079	306	28,056
	Shortfall/ surplus	11,976 shortfall	1,196 surplus	78 shortfall	10,858 shortfall
2	Potential future demand	24,407-25,407	19,139	516	44,062 – 45,062
	Existing supply + committed supply	10,671	17,079	306	28,056
	Shortfall/ surplus	13,736 - 14,736 shortfall	2,060 shortfall	210 shortfall	16,006 – 17,006 shortfall
3	Potential future demand	24,407-25,407	19,139	516	44,062 – 45,062
	Existing + Committed supply* + current applications**	11,142	19,443	306	30,890
	Shortfall/ surplus	13,265 - 14,265 shortfall	304 surplus	210 shortfall	13,172 – 14,172 shortfall
4	Potential future demand	24,407-25,407	19,139	516	44,062 – 45,062
	Students living in HMOs	13,064	7,605	260	20,929
	Existing + Committed supply* + Current applications** + HMOs	24,206	27,048	556	51,819
	Shortfall/ surplus	201 – 1,201 shortfall	7,909 surplus	50 surplus	7,757 – 8,757 surplus

* Committed supply = under construction + PP not yet started

** Current

applications

at

14

February

2022

Figure 6: Table 12 from Student Accommodation Supply and Demand paper July 2022

- 7.9. The *PBSA: Supply and Demand Update* paper has very recently been published (January 2023) and this forecasts an even greater shortfall for the Selly Oak/Edgbaston area of between 891 and 15,360 bedspaces, in the same scenarios – see Figure 7 overleaf.
- 7.10. The Council's *PBSA: Supply and Demand Update* (January 2023) provides factual information on the supply of student accommodation in the city based on data from the Council's Land Monitoring System BLADES. The current demand for student accommodation is based on Higher Education Statistics Agency (HESA) data which records where students of the 5 main universities in Birmingham lived. The demand pool excludes students not requiring accommodation such as those living with their parent/guardian or living in their own home. The potential future demand is based on information obtained from the 5 main universities in Birmingham.
- 7.11. On the issue of need, using the most up to date figures available, I conclude there is a demonstrated need for additional PBSA, especially within the Selly Oak/Edgbaston sub-area within which the site is located.

Table 3: Demand/ supply analysis

Blue = surplus
Red - shortfall

University/ Location	Uni. of Bham (Selly Oak/ Edgbaston)	Aston, BCU, UCB (City Centre)	Newman Uni. (Bartley Green)	City-wide
Scenario 1				
Existing demand	23,095	17,690	210	40,995
Existing + Committed Supply*	10,047	18,239	306	28,591
Shortfall/ surplus	-13,047	548	-98	-12,401
Scenario 2				
Potential future demand	24,407 - 25,407	19,139	516	44,062 - 45,062
Existing + Committed Supply*	10,047	18,239	306	28,591
Shortfall/ surplus	-14,360 to -15,360	-900	-210	-15,471 to -16,471
Scenario 3				
Potential future demand	24,407 - 25,407	19,139	516	44,062 - 45,062
Existing + Committed supply + Current applications	10,452	20,829	306	31,845
Shortfall/ surplus	- 13,955 to -14,955	1,948	-210	-12,217 – 13,217
Scenario 4				
Potential future demand	24,407-25,407	19,139	516	44,062-45,062
Existing + Committed supply + Current applications + HMOs	23,516	28,692	566	52,774
Shortfall/ surplus	- 891 to - 1,891	9,553	50	8,712 - 9,712

Figure 7: Table 3 from Student Accommodation Supply and Demand paper
January 2023**Location**

- 7.12. Policy TP33 requires PBSA to be “very well located in relation to the university that it is to serve and to the local facilities which will serve it, by means of walking, cycling and public transport.” There is no formal definition of ‘very well located’ in the context of policy TP33 however the *Guidance Note on Student Accommodation Statements* refers to a 15-20 minute walk as a guide and is based on BDP policy TP45 Accessibility Standards for New Development. This equates to a distance of approximately 1.5km.
- 7.13. Since the development could serve a number of institutions the table overleaf at Figure 8 gives a rough guide to distances and travel times. City centre campuses are included for completeness and because nothing would preclude students from attending any of the universities:

University	Distance as crow flies from site to university marker on Google Maps	Approx. shortest walking time according to Google Maps directions	Approx. shortest cycling time according to Google Maps directions	Approx. shortest public transport travel time according to Google Maps directions
University of Birmingham	2.61km	24 mins (1.8km via Wellington Rd/Church Rd)	8 mins (via Wellington Rd)	16 mins (walk/train)
Aston University	2.3km	27 mins (2.1km via Bristol Rd/ <u>Smallbrook Queensway</u>)	9 mins (via Bristol Rd/A38)	14 mins (No. 61 bus)
Birmingham City University – City Centre campus	2.1km	31 mins (2.4km via Bristol Rd)	10 mins (via Bristol Rd/A38)	18 mins (No. 61 bus)
Birmingham City University – South campus	1.62km	27 mins (2km via Wellington Rd/ Carpenter Rd)	9 mins (via Carpenter Rd)	Not practical – route too indirect
University College Birmingham	1.68km	26 mins (2km via Bristol Rd)	9 mins (via Bristol Rd)	Not practical – route too indirect
Newman University	7.2km	1 hr 48 mins (8.3km via A38)	34 mins (via Bristol Rd/A38)	43 mins (No. 61 or 63 bus)
Ulster University	0.5km	16 mins (1.3km via Bristol St)	5 mins (via Bristol St)	6 mins (No. 61 or 63 bus)

Figure 8: Distances and travel times to educational institutions

7.14. The table indicates that the development would be beyond a 15-20 minute walk from all the city's major universities, the nearest campus serving Ulster University, however the following should be noted:

- it would be within easy cycling distance of all but Newman University and it would be located on the new dedicated A38 Cycle Route which runs along Bristol Road between Selly Oak and the City Centre;
- it would be close to bus stops around the Bristol Rd/Ring Road junction serving several different bus routes; and
- Five Ways railway station is a short distance to the northwest of the site and it is only one stop each way to Selly Oak and New Street stations.

7.15. In addition, a convenience store, pharmacy and medical centre are all very close to the site near the junction of Bristol Road and Wellington Road; a McDonalds takeaway is immediately adjacent to the site; and there are a wider variety of shops and services at Five Ways and in the city centre.

7.16. Notwithstanding the longer walking distances, the site is accessible to several university campuses, especially for cyclists but also by bus and train, and to shops, services and leisure facilities within the city centre. Overall, the proposed site can only be considered to be 'very well located' in respect of Ulster University and in respect of the UoB, UCB and the BCU South campuses it can only be considered to be 'well located' due to the less convenient walking distances.

Impact on local neighbourhood and residential amenity

7.17. *Noise and disturbance:* The site is located in a mixed commercial and residential area. Given that it is currently vacant, the development would result in a significant increase in

comings and goings in its vicinity, however, these would not be objectionable given the context. The site is close to a very busy road intersection; the adjacent McDonalds drive-through operates 24 hours a day; and the adjacent hostel, when occupied, is likely to have a rather sporadic pattern of noise and activity. Students are unlikely to travel to and from the site *en masse* and consequently noise and disturbance arising from the development is likely to be assimilated into the existing busy noise climate.

- 7.18. A Residence Management Plan submitted with the application indicates a high level of management of the site including staff being present on site at all times, the provision of CCTV at the entrance, regular external maintenance, waste/refuse management, etc. The Plan indicates how the moving in/moving out periods would be managed to minimise disruption to local residents and to ensure highway safety is maintained. An integral refuse store is proposed on the upper ground floor and refuse collection is expected to take place within the application site. The access drive would be of a standard to hold a heavy vehicle and it would be able to turn within the site. On-site staff will manage the refuse collection process with the contractor.
- 7.19. The impact of the construction phase on local residents would be temporary and could be minimised through a Construction Management Plan.
- 7.20. *Privacy/outlook/light:* The residential building most likely to be affected by the proposal is the adjacent hostel. This is understood to have been vacant for some time following a Covid outbreak, however as the hostel use appears to be extant, it should be considered. Due to the relative positions of the buildings and windows, there would be no direct overlooking of the hostel from proposed habitable room windows and there would be a distance of approximately 13m between the flank wall of the proposed 8 storey block nearest the hostel and the hostel's habitable room windows. This separation distance is acceptable for the first two storeys but, in accordance with guidance contained in the Birmingham Design Guide, it should increase with the number of storeys up to 30.5m. This would reduce the outlook from the sole windows to 6 family bedrooms, although there would be no loss of privacy since the proposed windows are secondary windows. (See Figure 9 overleaf.)
- 7.21. Although this is not ideal, I am mindful that the hostel is not intended to be permanent living accommodation and it would affect only 6 bedrooms out of well over 100 bedrooms/habitable rooms and, on balance, this relationship is considered to be acceptable.
- 7.22. The development will be visible in the outlook from surrounding dwellings, however, other than in respect of the hostel, given the distances involved (+50m) I do not consider the impact on outlook to be such that it would justify refusal of the application, and the hostel should be considered more flexibly since it is not a permanent home. This is a brownfield site in an area which already has some mid-rise buildings and a building of some height should be expected.
- 7.23. A Daylight and Sunlight report sets out the impact of the development on neighbouring properties and shows that the greatest impact would be on the north-facing elevation of the hostel, with minor losses of light to Ontario House and Belgrave View on the east side of Bristol Road, and to 12-17 Spring Road and 1-3 Stone Road to the south. These minor impacts are considered to be acceptable.



Figure 9: Separation between north-facing hostel windows and proposed development

7.24. *Traffic/highway safety:* Despite local concern regarding traffic, there is no objection to the scheme from Transportation Development, on the basis of the following:

- The site will be served by an existing footway crossing on Spring Road with gates set back to allow sufficient space for vehicles to wait off the highway.
- Swept paths demonstrate that a refuse vehicle can manoeuvre within the site and can enter and leave in a forward gear.
- Although largely car-free, 5 disabled bays are proposed and there is sufficient space within the controlled area to provide an additional 7 temporary spaces for vehicles during moving in/moving out periods.
- Cycle parking at a ratio of 1 space per 4 bedrooms is proposed together with a free bike hire scheme. This is short of the 1 cycle space per 3 bedspaces required in the recently adopted Birmingham Parking SPD (Nov 2021) but still represents good provision. It is noted that the 1 space per 4 bedrooms was the recommended standard contained in the Car Parking Guidelines which was extant at the time the original application was made.
- There is no objection to the Travel Plan Statement.
- A finalised Construction Method Statement could be secured by condition.
- The site is extremely well served by all forms of public transport (bus, metro and train) and services can all be accessed within a short walk of the site via the existing pedestrian/cycle infrastructure
- The site is well located to the various university campuses across the city. The local universities (University of Birmingham, Birmingham City University and Aston University) can all be accessed within a short trip of the site using the sustainable modes of transport, walk, cycle and bus.
- The rental agreement with students will prohibit cars being brought to the site. On street parking is controlled by TRO's near to the site with areas of available parking generally occupied by local residents. Any student vehicles noted by local residents are likely to be reported to the building management.

7.25. *Crime:* Local concerns regarding a potential increase in crime are noted however there is no objection from the Police on this matter.

7.26. *Pressure on existing services:* Local concerns have been raised regarding this issue. The applicant would provide some services in-house, for example access to a GP, but there would likely be increased use of local services and infrastructure. However, this would be very difficult to quantify and there is no policy basis for refusal or for securing a financial contribution towards, for example, medical facilities to compensate for any such

impact.

Scale, massing and architecture

- 7.27. Your Principal City Design Officer has no objection in principle to a tall building and an associated cluster on this site. Much modelling has been undertaken during the course of pre-application discussions and on the previous application in order to demonstrate that the exact siting of the proposed tower would be appropriate to mark this gateway to the city centre from the south of the city, given the lack of availability of the McDonalds site which directly abuts the corner formed by the road junction.
- 7.28. The layout of the site maximises its capacity, overlooks the primary frontage of Bristol Road, provides a private amenity courtyard for residents; and keeps servicing away from the public realm and its primary surroundings. Communal spaces would activate the Bristol Road frontage.
- 7.29. The tower is appropriately positioned within the site to be as close to the road junction as possible. It would appear as a slim form when viewed from the north and south though when viewed from the east and west it would be less slender. The accompanying cluster would be an appropriate height relatively to both the tower and surrounding development.
- 7.30. Good quality architecture is proposed and much work has been carried out by the applicant's team and your Principal City Designer to ensure that the overall standard of design is carried through into the details.
- 7.31. I am satisfied that the development in itself is well-considered in design terms. The acceptability of the scale will, however, depend in part on the impact of the development on heritage assets, since these are part of the urban fabric and should be taken into account as part of the design process.

Proposed living environment

- 7.32. Internally, various room types are proposed giving potential occupiers a range of options including studios and one bed apartments for single occupancy; twodios with two bedrooms and a shared kitchen; cluster apartments comprising three or four bedrooms with shared kitchen/living space; and social studios comprising five or six studios but with a shared kitchen/living as well. In addition, the development would include a common room, auditorium, gym, basketball court, study space, private dining room and a landscaped courtyard. Communal facilities would be confined to the ground floors and mezzanine. Bedroom and shared spaces are adequately sized and the quality of the internal accommodation is expected to be high.
- 7.33. Public participation responses relating to the limited outdoor space are also noted. There is no explicit requirement to provide any outdoor space within PBSA developments and therefore the proposed courtyard is a welcome element of the scheme. Due to the height of development enclosing it, it is likely to be rather shady however it would be on site and is thus more likely to be used by the students than other nearby public green spaces. I am also mindful that some of the university campuses include high quality outdoor space which students would have access to.
- 7.34. In addition to the physical environment, the applicant has provided details of the arrangements it would put in place to ensure students' wellbeing is maintained, including the on-site provision of management staff, GP services, wellbeing events and activities; free breakfast on weekdays; free bike hire; access to a mental health portal app; and liaison with university student services to identify any students in need of additional support.
- 7.35. *Noise:* The key noise generators are road traffic, pedestrians and nearby commercial premises, namely McDonalds. Noise from McDonalds comprises plant noise from extract

equipment, deliveries and delivery-related movements, rolling cages/trolleys to the waste area, and vehicles driving over a broken grate/manhole cover. Some of these noises are clearly audible during the night-time at the measurement locations specified in the noise assessment. The dominant commercial noise at night is from early morning waste collections which occur close to the application site boundary off Spring Road.

- 7.36. In respect of traffic noise, the Noise Impact Assessment recommends different levels of mitigation according to the attenuation required. This is because noise levels would vary across and up the various façades, however all windows would be openable. This is acceptable to Regulatory Services subject to a condition requiring a suitable mitigation scheme to be submitted.
- 7.37. In respect of commercial noise, the nearest rooms to the waste collection area are on the west façade and are shared kitchen/diners, at 7m away and these are not considered by the Noise Impact Assessment to be noise-sensitive during the time of waste collections. The nearest bedroom windows are 25m away and these would suffer an adverse noise impact. The majority of rooms would be exposed to higher noise levels from road traffic, although it should be noted that traffic noise is considered to be 'noise without character' and is less offensive than the more striking noise generated by the waste collections and trolleys being wheeled about.
- 7.38. On the west-facing façade therefore, mitigation needs to deal with both traffic and commercial noise. Regulatory Services have a hierarchy based on possible mitigation strategies which follows that outlined in National Planning Policy Guidance. The applicant has discounted several of the mitigation strategies as they would require changes to the operation of the McDonalds restaurant, instead proposing to provide sealed windows with suitably attenuated glazing and façade ventilation.
- 7.39. Sealed windows are not ideal as they do not give the occupier the ability or choice to have purge ventilation or to open the windows during quieter times. However, with openable windows the noise would be such that complaints against McDonalds may be made by student occupiers.
- 7.40. The NPPF requires planning decisions to ensure that new development is appropriate for its location, taking account of the impact of noise, among other things (para. 185) and to ensure that new development can be integrated effectively with existing businesses without those businesses having unreasonable restrictions placed on them. In this instance, openable windows are likely to lead to complaints concerning a statutory noise nuisance and therefore sealed windows are the only technical option to address noise in this part of the site.
- 7.41. The applicant has provided an elevation indicating which windows would need to be sealed and it would affect 18 kitchen/diners and 20 bedrooms. In my view, while this would compromise the quality of the residential accommodation to be provided, in a development comprising 620 bedspaces, 20 bedspaces amounts to 3% of the total, so the use would be very limited and could be acceptable in the planning balance.
- 7.42. *Odour:* The Odour Impact Assessment (OIA) assumes the location of the McDonalds kitchen extractor, shown on an aerial photograph as being located towards the western edge of the roof. The OIA concludes that the odour concentrations are predicted to decrease slightly as a result of the proposed development at the majority of off-site existing receptors. This is because the development would act as a shield. A slight increase is predicted at the façade of Attwood Court approximately 70m west of the kitchen extract but this is not considered to be significant given the distance.
- 7.43. The predicted effect on proposed receptors (i.e. the students) in both exit velocity scenarios (0.5m/s and 5.0m/s) is greatest at ground floor level. The overall impact is

predicted to be higher in the lower exit velocity scenario where concentrations would be up to 2.5 times greater than they would be in the absence of the proposed building. Overall odour concentrations are also predicted to be greater in the higher exit velocity scenario, however given the horizontal orientation of the extract and its location within a recessed plant area, the lower scenario is considered by the author of the report to be more realistic. The potential risk of odour impacts as a result of the proposed development is considered by them to be 'not significant'.

- 7.44. Additional information initially confirmed that the ventilation strategy would include suitably attenuated glazing and façade ventilation to mitigate the risk of noise impacts from road traffic and activities at McDonalds, and that all rooms would be designed to meet the ventilation requirements of Part F of the Building Regulations and the overheating requirements of Part O when the windows are closed. Consequently, the risk of odour ingress through open windows was considered to be negligible because there would be no need for occupants to open the windows to maintain thermal comfort.
- 7.45. However, Regulatory Services expressed concern that openable windows were likely to result in complaints regarding a statutory odour nuisance. Consequently, the applicant has agreed in principle to seal habitable room windows on the north-facing elevation up to and including the third floor. At the time of writing, an addendum to the Odour Impact Assessment and full details of the windows to be sealed is awaited, however, my calculations indicate this would affect a maximum of 68 habitable rooms.
- 7.46. Considering the sealed windows for both noise and odour mitigation purposes, this is likely to affect at the most, 106 habitable rooms, of which a maximum of 88 would be to bedrooms, which amounts to 14% of the total number of bedspaces. Although not ideal, I do not consider this an unacceptable proportion of the development.
- 7.47. In summary, assessing the proposal against policy TP33 alone, the development of PBSA in this location is broadly considered to be acceptable however the site can only be said to be 'well located' rather than 'very well located' in reference to UoB, which is generating the largest demand for student accommodation, and the acceptability of the scale of the development, in particular the height of the tower, will depend in part on the impact on heritage assets. The quality of the residential accommodation would be compromised due to the mitigation measures in respect of noise and odour but this would be in a specific part of the site and to a limited extent.
- 7.48. Other policies in the BDP are also relevant to the development and these are considered next.

Impact on heritage assets

- 7.49. The Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on Local Planning Authorities, in the exercise of their planning functions to have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest which it possesses (section 66).
- 7.50. BDP policy TP12 relates to the historic environment and states that "*Great weight* will be given to the conservation of the City's heritage assets. Proposals for new development affecting a designated ... heritage asset or its setting will be determined in accordance with national policy" (my emphasis).
- 7.51. The NPPF recognises the value of heritage assets and sets out a framework for considering the potential impacts of proposed development on the significance of a designated heritage asset, also placing "*great weight*" on the asset's conservation (para. 199).

- 7.52. The application site is located in close proximity to three Conservation Areas and to a number of Listed Buildings, consequently, the application is accompanied by a Townscape and Visual Appraisal and Heritage Statement (TVAHS). This uses a sound methodology to set out the baseline townscape conditions and provides a Zone of Theoretical Visibility to inform the study and to test views from the nearby heritage assets. Using this information, your Principal Conservation Officer has concluded that there would be less than substantial harm to the significance of the following heritage assets:

Nos. 17, 18 & 19 Spring Road and Nos. 24-28 Spring Road (Grade II)

- 7.53. *Significance:* Detached and semi-detached villas c.1830-40s constructed as part of the planned development of the Calthorpe Estate and group value with other 19th century properties on the Estate. Historic setting has been compromised by the post-war modern housing estates with high rise modern buildings visible as part of the city centre skyline.



Figure 10: 17 and 18 Spring Road

- 7.54. *Impact on significance:* With regard to visual effects the TVAHS sets out the sensitivity of the visual receptors (in this case the listed buildings) as low to medium and the nature/degree of change as very low giving an overall visual effect of negligible. Taller elements of the new building, particularly the tower, would appear a short distance north-east of Nos. 17, 18 and 19 Spring Road above the roofline of the hostel and Amber Court on Stone Road but due to the varying heights of the proposed development and its layout, the visibility of the buildings on Spring Road would be minimised. Where visible, the increased scale of development within the site would be broadly consistent with existing tall buildings within this part of the setting to the listed buildings, particularly Belgrave View. The scheme would maintain a sufficient degree of separation between the listed buildings, stepping the massing up from Spring Road towards the 17-storey tower.
- 7.55. The TVAHS considers the ability to appreciate the listed buildings as part of the early phase of development of the Edgbaston Estate would not be adversely affected as background views play a limited role in the ability to appreciate or understand the buildings, noting that their setting is significantly altered to the north and east with modern housing and the insertion of Lee Bank Middleway. The architectural and historic significance of the buildings would still be legible despite new development in background views and the proposal would preserve the most important aspect of setting which contributes to significance, that being the visual relationship between the buildings and the Edgbaston Conservation Area to the south. The proposed scheme would form a characteristic change to the setting of the listed buildings due to the existing and emerging modern context to the north and the change would not affect the ability to

appreciate and understand the buildings' significance as part of the Edgbaston Estate. It concludes that overall their setting and significance would be preserved.

- 7.56. Your Principal Conservation Officer supports the view of the TVAHS that the most important aspects of setting to the south are preserved and that their setting is significantly altered to the north and east where the presence of taller development on the Middleway, and in the city centre beyond, form part of their wider visual setting. However, despite an awareness of the wider urban context to the north, from Spring Road the listed buildings can still be experienced in a predominantly suburban context, this is appreciable in views moving north along Spring Road where the immediate setting retains a low-scale, domestic suburban context and in direct views of the principal elevations of the listed buildings.
- 7.57. From viewpoint 1 (overleaf) the upper part of the 11-storey block fronting the Middleway would be apparent breaking the roof scape of the listed buildings. From this position the 17-storey element would not be seen rising up in the immediate backdrop of the listed buildings but moving north down Spring Road this element would become more apparent and seen as a much larger and notable change in the streetscape and, currently uninterrupted, visual setting of the listed buildings to the northeast.
- 7.58. Although the scale and appearance of the development would be characteristic of the existing and emerging urban character of the setting to the north and east, the development brings the urban scale much closer to the suburban context of the listed buildings, creating a distraction in their visual setting to the east, interrupting roofscape and intensifying the urban scale of the wider area, which is already a challenge to their suburban setting. The urban character, not currently noticeable to the east, would start to diminish the understanding, appreciation and experience of suburban context still appreciable in these views from Spring Road and within the immediate streetscape setting of the listed buildings.
- 7.59. Based on there being quite a noticeable change to the northeast and easterly views above the roofscape of these buildings, the Principal Conservation Officer would place the degree of change to them slightly higher than that assessed in the TVAHS. She considers the degree of change to be low, as opposed to very low, giving an overall minor visual effect, as opposed to a negligible visual effect. The minor effect is considered to be adverse and therefore she cannot fully agree with the position of the TVAHS that the setting of these listed buildings is preserved (i.e. no harm caused). Consequently, she concludes the development would have a minor adverse effect on the setting of the listed buildings causing harm and that harm is placed at the low end of 'less than substantial'.



Figure 11: Viewpoint 1 from TVAHS (current view)



Figure 12: Viewpoint 1 from TVAHS (proposed view)

- 7.60. In respect of all other assets your Principal Conservation Officer agrees with the conclusions of the TVAHS, that there would be no harm caused. This includes those assets, other than Nos. 17, 18 and 19 Spring Road, which were referred to in the reasons for refusal of the previous application and which is the subject of a current appeal.
- 7.61. I am satisfied that a rigorous process of assessment has been carried out by both the applicant's representatives and the Principal Conservation Officer, considering the impact on numerous heritage assets in the vicinity of the site. I have no reason to differ from your Principal Conservation Officer's conclusions and therefore agree that there is less than substantial harm caused to the significance of the listed buildings, Nos. 17, 18 and 19 Spring Road. Consequently, this application has responded to the reasons for refusal of the previous application (2020/09703/PA).
- 7.62. In accordance with para. 202 of the NPPF, where less than substantial harm to the significance of a designated heritage asset is identified, the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. This balancing exercise is undertaken towards the end of this report.

Sustainability

- 7.63. In broad terms, the site is located within an existing urban area, close to the city centre, with excellent access to public transport, shops and services, and it is well-connected to other parts of the city by cycling. By virtue of its sustainable location and accessibility by modes of transport other than the private car, it would contribute towards the reduction of the City's carbon footprint. It would also bring back into use a long-standing vacant brownfield site.
- 7.64. In respect of its construction and ongoing operation, the proposed development would comply with the requirements of BDP policies TP3 and TP4 incorporating passive design measures to reduce energy requirements, energy efficiency design measures and low/zero carbon technologies including solar PV, air source heat pumps and a gas-fired Combined Heat and Power unit. It is predicted to meet the BREEAM 'Excellent' rating.

Landscaping and biodiversity

- 7.65. The site has limited good quality planting and a low ecological value at present. All but one of the proposed tree removals within the site are category C trees, several are self-seeded and they have limited public amenity value. There are limited opportunities for new tree and shrub planting within the site but what is proposed would be concentrated along the front boundary and along the access drive to the rear, where it would have the greatest impact on the Bristol Road and Spring Road streetscenes.

- 7.66. A category B Red Oak located on the adjacent McDonalds site cannot be retained as it is unlikely to survive. While this is regrettable, it is an improvement on the previous scheme, which would result in the loss of two Red Oaks on the McDonalds site, if the appeal is allowed. McDonalds have confirmed their agreement to the removal.
- 7.67. Your Principal Arboriculturist/Ecologist considers the scheme could offer more in the way of biodiversity enhancements. The previous proposal included biodiversity roofs but the rooftop space is now proposed for solar PVs instead. He has, nevertheless recommended a condition requiring biodiversity roofing on the basis that there will be some rooftop space not used for PVs or because biosolar roofing could be provided. The applicant has amended the energy statement accordingly to free up space at rooftop L07 for biodiversity roofing.

Drainage

- 7.68. The site is in Flood Zone 1 and is at the lowest risk of flooding. Based on the geology, infiltration is considered unlikely to be suitable for the disposal of surface water flows from the site so discharge to the nearest surface water sewers is proposed. The proposed roof and impermeable hardstanding areas will be collected into a piped gravity drainage system and discharge into an off-line storage attenuation tank in the southwestern corner of the site. The tank will discharge, via a flow control device into a new connection to the existing nearby public sewer on Spring Road. Surface water discharge rate will be limited to 4.0litres/second (comprising 3.0l/s to Spring Road and 1.0l/s to Bristol Road). The strategy also makes reference to the use of permeable block paving, green roofs and possible rainwater gardens which are all sustainable drainage features.
- 7.69. The drainage information submitted is not as detailed as the LLFA would prefer, however, as the key components of the strategy are provided, specific conditions have been provided by the LLFA to ensure that fuller details and a sustainable drainage assessment are provided prior to commencement, and subsequently an operation and maintenance plan prior to occupation. Detailed informatives are also provided to assist at the discharge of condition stage. On the basis of these conditions being attached, the LLFA has no objection to the application.

CIL/Planning Obligations

- 7.70. Developments of PBSA are liable for CIL which in this case would be £1,441,682.44.
- 7.71. There are no planning obligations associated with this proposal.

Other issues

- 7.72. There are three particular comments received through the public participation exercise which have not been directly addressed above:
- 7.73. *Potential alternative uses of vacant PBSA*: I am aware of local concern regarding the use of PBSA which cannot be filled. It should be noted that PBSA is a '*sui generis*' use which means it is in a use class of its own. There is currently no permitted change from PBSA to other uses and therefore express planning permission would be required for a change to any other use. This would be assessed against the relevant policies and be subject to public consultation.
- 7.74. *Lack of affiliation to any specific university*: BDP policy TP33 requires new PBSA to be '*very well located in relation to the educational establishment it is to serve*' however it does not technically or explicitly require there to be a formal agreement in place between proposed student accommodation and a university.
- 7.75. *Fire safety*: I note concerns regarding fire safety. The HSE has advised on changes it considers ought to be made to the internal layout in order to meet Building Regulations, in

particular in relation to lobbies and corridor lengths. There has been some discussion between the HSE and the applicant's advisor on this matter and it may be the case that some changes have to be made to the internal layout as it is currently proposed. However, any changes are likely to be internal only and, if necessary, could be dealt with as a non-material amendment post-decision.

Planning Balance

7.76. The proposed development complies with a number of relevant development plan policies, however, there are deficiencies in the following areas:

- The site is not 'very well located' in respect of UoB which is generating the greatest need for student accommodation in all scenarios set out in the latest *PBSA: Supply and Demand* paper.
- Due to the height of the 17-storey tower, the development would cause less than substantial harm to the significance of designated heritage assets.
- The 8 storey block would not meet separation distances set out in the Birmingham Design Guide in respect of 6 habitable room windows at the adjacent hostel.
- Mitigation against noise and odour from the adjacent McDonalds restaurant is proposed in the form of sealed windows which would compromise the proposed living conditions for some occupiers.

7.77. Consequently, the proposal is not in full accord with BDP policies PG3, TP12 and TP33, or DM2 and DM6 of the Development Management in Birmingham DPD, or the Birmingham Design Guide.

7.78. In respect of the less than substantial harm which would be caused to the significance of designated heritage assets, in addition to the conflict with TP12, this harm also needs to be weighed against the considerable importance and weight to be applied to the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990, and the requirement of para.202 of the NPPF to balance the harm that would be caused to the significance of the setting of the Listed Buildings against the public benefits offered by the proposal is engaged.

7.79. To assist in the balancing exercise, the applicant has set out in the Planning Statement the public benefits which they consider would arise from the development. These are grouped as follows:

7.80. Economic benefits

- Capital investment of £45m.
- 370 direct FTE construction jobs and 445 indirect and induced FTE jobs per annum supported in the supply chain during the 2 year construction period.
- GVA uplift of £57.4m per annum during the construction period.
- Estimated net additional new student expenditure of £3.6m per annum.
- Approx. 35 FTE jobs in local shops and services through student expenditure and building maintenance and management.
- 13 FTE operational jobs associated with management and maintenance of the site.
- GVA uplift of approx. £290,000 per annum related to the ongoing building management and maintenance.

7.81. Social benefits

- For students, the provision of well-designed accommodation, that is fully maintained and cleaned and includes utility bills.
- 24-hour management team including security concierge and provision of CCTV.
- Close working with university student services to identify and support students struggling with their wellbeing.
- Provision of an app-based Mental Health Portal.

- On-site GP service with treatment room.
- Wellbeing events and activities provided.
- Free breakfast for students on weekdays.
- Free bike hire for students.
- On-site gym, cinema room, dining areas, public and private study spaces and landscaped courtyard.
- For local workers, employment and training opportunities in accordance with a Construction Employment Plan.

7.82. Alleviating Housing and Amenity Pressures

- Alleviation of pressure on private rental housing by adding additional homes that meet students' needs in a suitable and sustainable location, thereby freeing up homes for families and others, and reducing the risk of rental prices increasing.
- Reduction in the risk of family housing being converted to HMOs in areas of the city such as Selly Oak where there is already a prevalence of such accommodation, and consequently the alleviation of the residential amenity impacts in those areas.

7.83. Environmental benefits

- Extensive landscaping enhancements with significant additional planting which would have a positive effect on the appearance and biodiversity of the site.
- Incorporation of a gas-fired CHP unit, roof-mounted photovoltaic panels and an air-source heat pump.

7.84. Unlike with the previous application, the Planning Statement does not include in its list of public benefits potential visual or regenerative benefits but I summarise below what I consider the key ones to be:

- Re-use of a long-vacant brownfield site in close proximity to the ring road and on the approach to a major road intersection leading into the city centre.
- Location of a tall building at a major road junction.
- Active frontage and public realm improvements to the Bristol Road frontage.
- A well-considered architectural approach.

7.85. In addition, I am mindful of the following benefits:

- The development is liable for CIL, the spending of which would lead to wider public benefits.
- The provision of PBSA can be counted towards the City's overall housing supply at a rate of 1 unit per studio/1-bed apartment and, for the remaining 313 bedspaces arranged as clusters/twodios, using the Housing Delivery Test ratio for student accommodation of 2.5. In this case there are 260 studios, 47 1-bed apartments, and 125 units from the 313 bedspaces divided by 2.5. As a result, this development would contribute 432 units. Given that the City announced in January 2022 that it could no longer demonstrate a 5 Year Housing Land Supply, these units would make a good contribution.

7.86. This is a lengthy list and although I accept some, I have reservations about others:

- The construction period would be only two years so some of the economic and social benefits relating to this phase of work would only be temporary.
- The number of ongoing jobs would be very low at 13.
- The vast majority of the social benefits would relate to the student occupiers themselves and would have a very limited impact beyond the site.
- The impact on the HMO situation, while it has some merit in theory, is not evidenced by the applicant nor by the Council. For many students, an HMO will continue to be the

preferred option in terms of either the type of accommodation and the independence it offers, or the cost, or both of these.

7.87. The decision in this case also needs to be framed within the context of para. 11(d) of the NPPF. Para.11 applies a presumption in favour of sustainable development and requires prompt approval of proposals which accord with an up-to-date development plan. However, the Birmingham Development Plan became 5 years old on 10th January 2022 and is currently being updated. In accordance with NPPF paragraph 74, BDP policies PG1 and TP29 are considered out of date, and the Council's five year housing land supply must be calculated against the Local Housing Need figure for Birmingham. Currently, the Council cannot demonstrate a five year supply of deliverable housing sites. Based on the latest position the city has 3.99 years' supply. Consequently, Paragraph 11d) of the NPPF is engaged. This states,

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

7.88. Footnote 8 explains that this includes, for applications involving the provision of housing, situations where the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites, as is now the case in Birmingham. Footnote 7 includes, among other things, policies relating to designated heritage assets.

7.89. The purpose of para 11(d) is to tilt the planning balance in favour of the provision of housing where that is a particularly pressing need but to allow for exceptions where they are clearly justified, for example, where there is a need to protect special areas or assets. In this case, parts d)i and d)ii are relevant.

7.90. Firstly, is there a clear reason, based on the NPPF policies which protect designated heritage assets, for refusing the development proposed? Do the public benefits listed above outweigh the low level of less than substantial harm which would be caused to the significance of Nos. 17, 18 and 19 Spring Road, which are grade II listed buildings?

7.91. In my view, there is not a clear reason for refusal based on the heritage harm as the public benefits, when taken together, are sufficient to outweigh it. In reaching this conclusion, I am particularly mindful of low level of heritage harm and, cumulatively, the visual and regenerative benefits, the economic benefits which the NPPF requires to be given significant weight (para. 81), and the need for housing, including PBSA.

7.92. Secondly, would there be any adverse impacts of approving the application which would significantly and demonstrably outweigh the benefits, when assessed against NPPF policies taken as a whole?

7.93. In my view, there are no adverse impacts which would *significantly* and *demonstrably* outweigh the benefits. There are elements of the scheme which are undesirable, as referenced in para. 7.67 above, however, I do not consider them to be so harmful as to outweigh the benefits. Again, I am particularly mindful of the cumulative impact of the regenerative and economic benefits, and the need for housing, including PBSA.

7.94. Consequently, applying the tilted balance in favour of the provision of housing, I recommend approval of this application.

8. Conclusion

8.1. The proposed development would bring into use a long-vacant site for residential accommodation for which there is a demonstrated need, and in a location which is accessible by sustainable methods of travel. The applicant has responded positively following the refusal of their initial planning application, significantly reducing the impact to nearby designated heritage assets. There are areas of compromise but in the context of para. 11d) of the NPPF, these are not considered to be such that they outweigh the public benefits. Appropriate conditions which are considered to pass the tests set out in para. 56 are set out below.

9. Recommendation

The application is recommended for approval subject to the conditions listed below.

-
- | | |
|----|---|
| 1 | Contamination Remediation Scheme |
| 2 | Construction Method Statement/Management Plan |
| 3 | Construction employment plan |
| 4 | Arboricultural Method Statement/Tree Protection Plan |
| 5 | Sustainable drainage scheme |
| 6 | Drainage scheme for foul water disposal |
| 7 | Earthworks Details |
| 8 | Noise Insulation Scheme |
| 9 | Sample Materials Required |
| 10 | Sample panels |
| 11 | Architectural details |
| 12 | Bird/bat boxes |
| 13 | Contaminated land verification report |
| 14 | Sustainable Drainage Operation and Maintenance Plan |
| 15 | Hard and Soft Landscape Details |
| 16 | Boundary Treatment Details |
| 17 | Green/Brown Roofs |
| 18 | Requires the submission of a lighting scheme |
| 19 | Requires the provision of cycle parking prior to occupation |
-

20	Requires the removal of tree T5
21	Requires the submission and completion of works for the S278 Agreement
22	BREEAM Certificate
23	Residential Travel Plan
24	Residence Management Plan
25	Implementation of acceptable mitigation/enhancement
26	Implementation of Energy Statement recommendations
27	Noise Levels for Plant and Machinery
28	Approved plans
29	Time Limit

Case Officer: Amy Stevenson

Photo(s)



Photo 1: View looking north along Spring Road towards the city centre

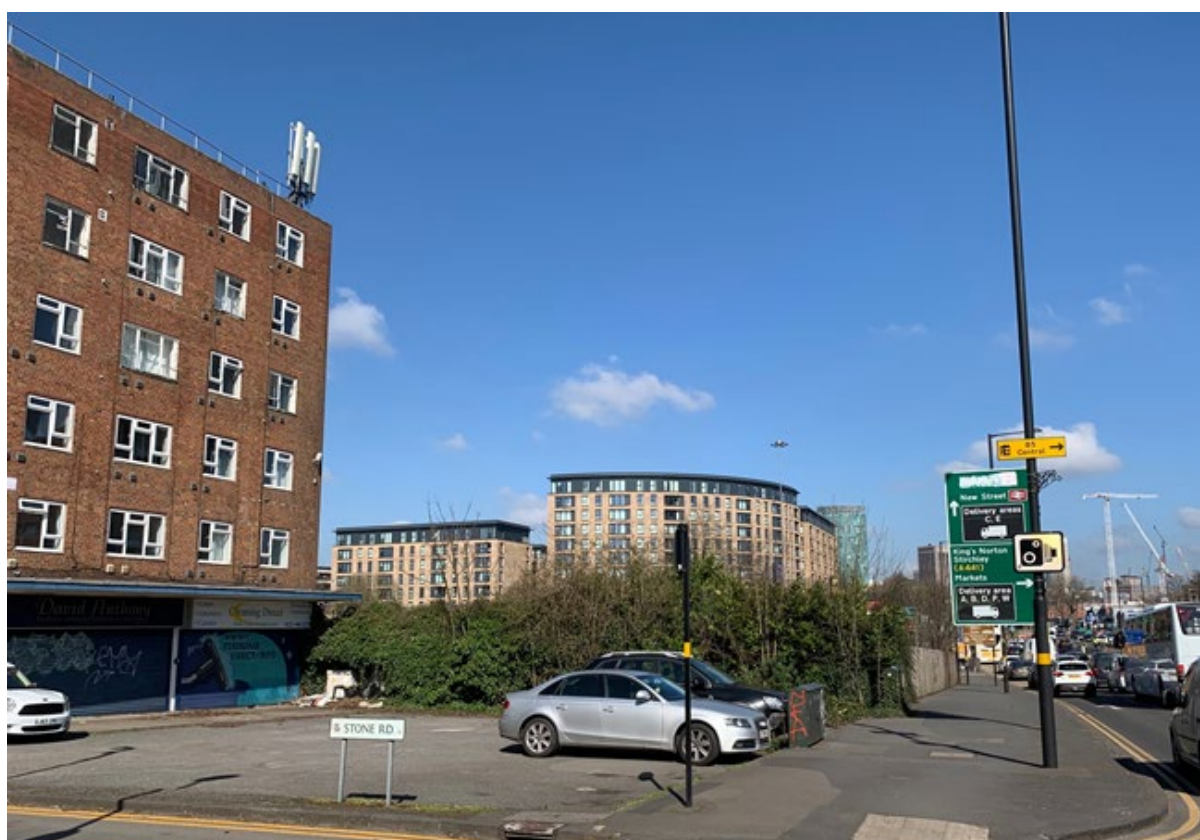


Photo 2: View of site from Bristol Rd/Stone Rd junction – looking north



Photo 3: View of site from Spring Road - looking east

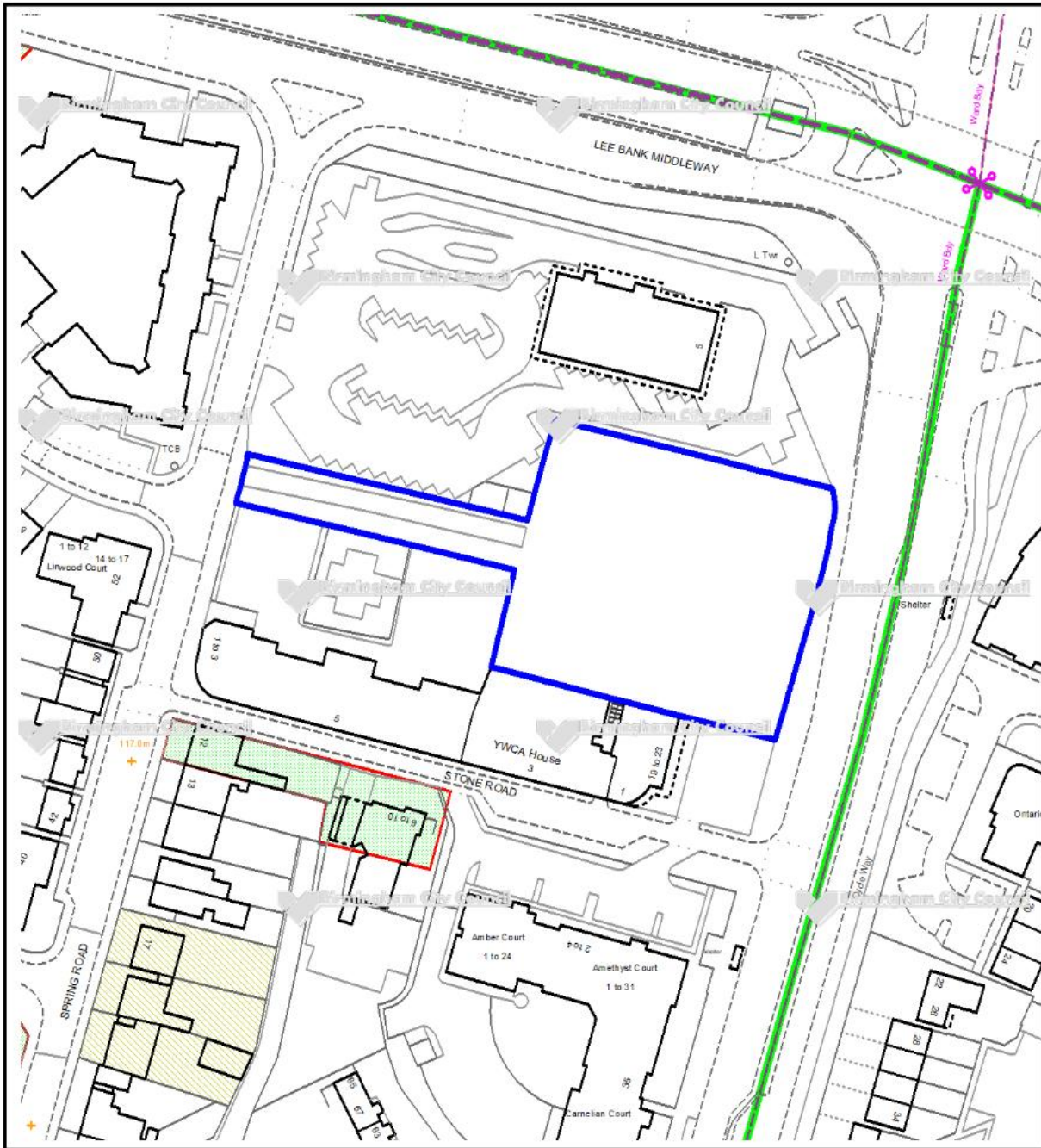


Photo 4: View of site from Bristol Rd looking south towards rear of hostel. McDonalds trees proposed to be removed shown to the right.



Photo 5: View looking east from Lee Bank Middleway

Location Plan



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Birmingham City Council

Planning Committee

23 February 2023

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve - Conditions	8	2022/07894/PA MSSC (Marine Society and Sea Cadets) H M S Vernon Osler Street Ladywood Birmingham B16 9EU Proposed replacement of existing gradient boat slipway

Committee Date:	23/02/2023	Application Number:	2022/07894/PA
Accepted:	08/11/2022	Application Type:	Full Planning
Target Date:	24/02/2023		
Ward:	North Edgbaston		

MSSC (Marine Society and Sea Cadets), H M S Vernon, Osler Street, Ladywood, Birmingham, B16 9EU

Proposed replacement of existing gradient boat slipway

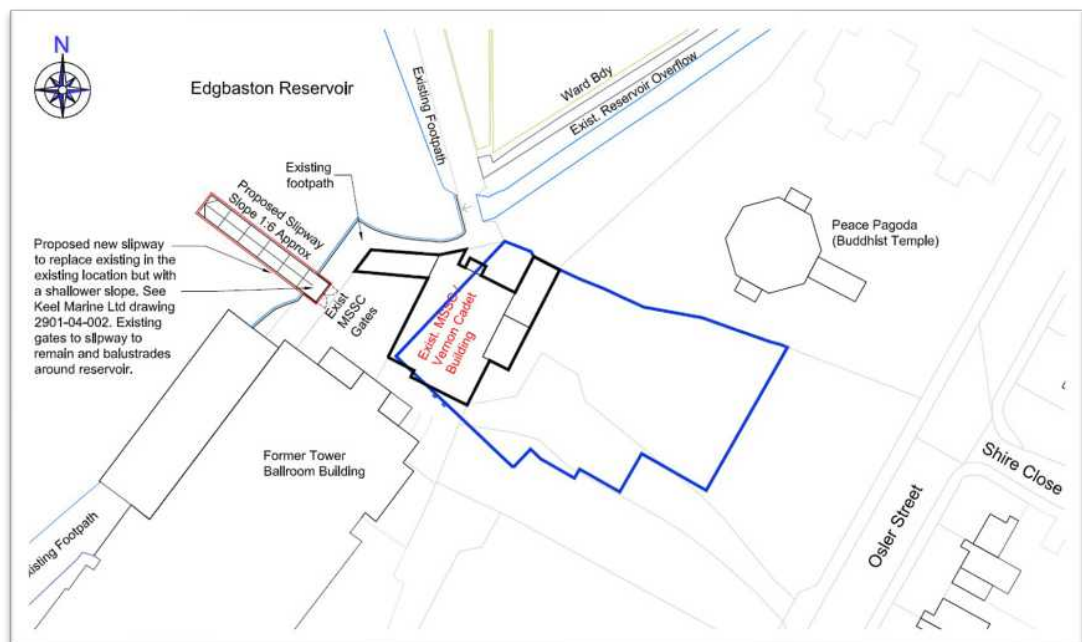
Applicant:	MSSC (Marine Society and Sea Cadets) 200b Lambeth Road, London, SE1 7JY
Agent:	Troyka Associates Limited Irving House, 47 Frederick Street, Jewellery Quarter, Birmingham, B1 3HN

Recommendation

Approve subject to Conditions

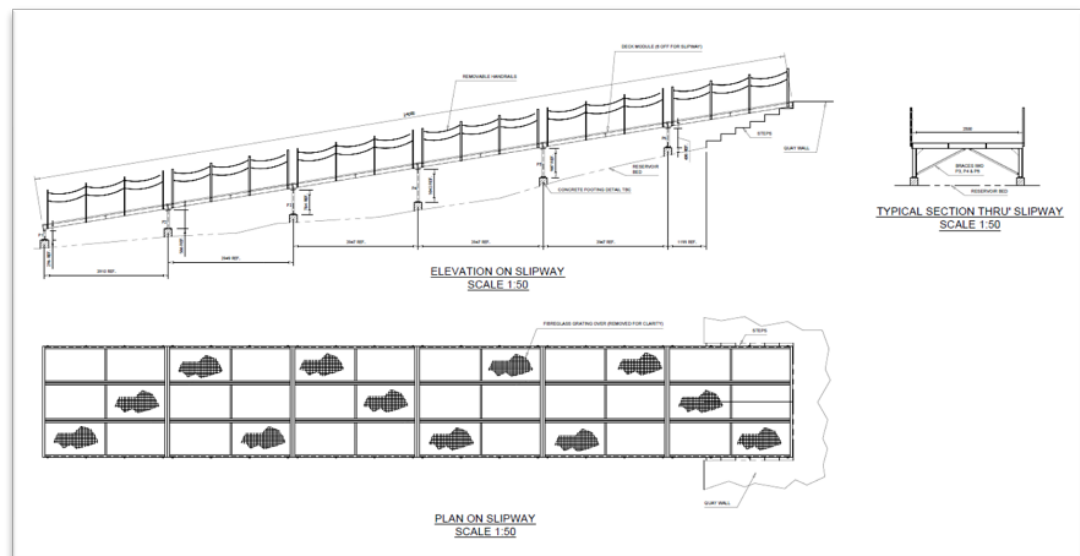
1. Proposal

- 1.1. The current application seeks planning consent for the erection of a replacement slipway, within a section of the Edgbaston Reservoir, adjacent to the main Sea Cadets building. This would allow for boats, associated with the Sea Cadets, to enter and leave the water throughout the year, make it easier and quicker to launch and recover boats, increase the number of cadets who would be able to access the water, easier access for canoes and kayaks and remove the need to have winches or tow ropes to move boats.



Plan 1: Proposed site plan, in context of Sea Cadets Building.

- 1.2. The proposed slipway is detailed to have a gradient of 1 in 6 and would be 3.5m wide by 24m long, extending directly out into the water, perpendicular to the edge of the reservoir. The slipway would be constructed as a galvanised steel frame with a composite grid surface, finished in yellow, allowing maximum visibility, with posts along both sides formed from removable chains. The platform would be supported on concrete posts that sit on the bed of the reservoir.
- 1.3. The existing lockable steel gates and guard rails separating the reservoir edge public footpath from the slipway would be retained. Ensuring that only the Sea Cadets and authorised users have access to the slipway, as is the case with the existing.



Plan 2: Elevational plans.

1.4. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application relates to the edge of Edgbaston Reservoir on the frontage of the Vernon Sea Cadets building, which is accessed from Osler Street. The area of the Reservoir in question sits to the far north-east.
- 2.2. The Sea Cadets are the applicants in this case, and they occupy a large rectangular sized plot of land, which is accessed from the east via Osler Street and to its west from the reservoir. The Sea Cadets are bound by residential dwellings to their east and a Buddhist Temple to their north, with industrial units sited further north. To the south lies the tower ballroom building, which is currently being demolished, alongside its various ancillary structures. To the site's west lies the wider Edgbaston Reservoir. This can be accessed directly from within the Sea Cadets site, via a gated entrance. The reservoir, dam and associated structures are locally listed structures.

3. Planning History

- 3.1. 2018/10195/PA - Demolition of existing boathouse and ancillary structures and erection of new boathouse to include classrooms, short stay sleeping accommodation and a multipurpose hall together with associated access, car and boat parking facilities, boundary treatment and landscaping – approved with conditions.
- 3.2. 2021/03779/PA - Temporary consent for the erection of a temporary boathouse and associated facilities including: classrooms, changing facilities, WC's and storage

spaces in the form of porter cabins; alongside car parking and boat storage provision – approved with conditions.

4. Consultation/PP Responses

4.1. Transportation – raise no objections.

4.2. Regulatory services – raise no objections.

4.3. Councillor Marcus Bernasconi has commented on the application, and raises the following matters for consideration:

- Midland Sailing Club have made a number of representations in this regard;
- A solution to their objection is for the orientation of the slipway to be amended;
- Planning committee should hold back on determining the application, until such options have been explored.

4.4. Canal and Rivers Trust: Raise no objection subject to a condition ensuring no material/debris from the slipway construction falls into the slipway.

4.5. Midland Sailing Club and 13no. of its members raise the following grounds of objection:

- The proposal will cause an underwater hazard;
- Impact upon the usability of the reservoir;
- Impact upon Midland Sailing Club and its users;
- Alternative orientations should be explored;
- No clear need for the proposal;
- Public safety risks;
- Impact upon annual Bangladeshi Boat Race.

4.6. The Royal Yachting Association has submitted a representation in response to the Midland Sailing Club. This raises the below matters:

- The rationale for the slipway is to make it easier and safer for boats to be launched, which could enable a greater level of activity to take place on the reservoir;
- Any underwater hazards could be mitigated against through the use of suitable controls (buoyage and/or clear briefing of participants);
- The proposal has the potential to result in a positive and negative impact, and The Royal Yachting Association recommend all user groups on the reservoir come together to explore possible alternative options that enable the Sea Cadets, staff and volunteers to launch more safely as well as potential mitigations that could be put into place to maintain a safe operating area if the current plans are approved; and
- The RYA is unable to become embroiled in a potential dispute between RYA affiliated organisations as this presents them with a conflict of interest.

4.7. 1no. further objection has been received in response to the application proposals and this is summarised below:

- The proposal would impact upon the Bangladeshi Boat Race held at the reservoir, impacting upon the event and its operation.

5. Policy Context

5.1. National Planning Policy Framework (NPPF):

- o Section 12: Achieving well-designed places - Paragraph 124-132

- Section 16: Conserving and enhancing the historic environment - Paragraph 189-202

5.2. Birmingham Development Plan (BDP, 2017):

- Policy PG3: Place making
- Policy TP3: Sustainable construction
- Policy TP39: Walking
- Policy TP40: Cycling

5.3. Birmingham Design Guide SPD (2022) and Edgbaston Reservoir Masterplan SPD (October 2022)

6. Planning Considerations

- 6.1. The proposed slipway would replace an existing slipway and the principle for such a development within this location is established. The existing slipway is 3m long and very steep at a gradient of 1:2, making this unsafe and very impractical for users, with the slipway being contrary to existing industry standards. The applicant has advised that a number of users have recently been injured using the slipway, as a result of its steepness and options to use technology to make the slipway safer have been explored, however, could not be taken forward due to the steep gradient that the slipway sits at. In addition to this, the applicant advises when the water levels are low in the summer, boats are hauled over the reservoir bed, which again is impractical for the long term. The proposed slipway seeks to remove these concerns by proposing a slipway which is longer and less steep, making this far more practical for the long term.



Image 1: shows proposed slipway and the reservoir water levels

- 6.2. The applicants have advised that other configuration options were considered but the physical location of the reservoir overflow, existing adjacent structures and safety

issues resulted in them being discounted. They add that the proposal would comply with industry Health & Safety Standards. It is also noted that the adopted Edgbaston Reservoir Masterplan SPD details a pontoon within this area, and although the development proposed is of a smaller scale, this broadly conforms with the aspirations of the SPD for this area of the Reservoir and its users. As such, the application is considered acceptable in this regard.

- 6.3. The design of the proposed slipway is acceptable in this reservoir context and City Design raise no objection subject to a condition covering materials. The new slipway would also have a neutral impact on the locally listed reservoir, dam and associated structures. This has been confirmed by the Councils Conservation Officer.
- 6.4. The closest neighbouring dwellings lie on Osler Street and the proposal would not result in any new undue noise or other associated residential amenity related concerns, above and beyond the existing situation on site.
- 6.5. Given that the proposed slipway would act as a replacement of the existing slipway on site, Transportation Development have raised no objection to the proposals in this regard.
- 6.6. The Canal and Rivers Trust raise no objection to the development, subject to the addition of a recommended condition, which would ensure no debris, including windblown debris falls into the reservoir. Such a condition would, during the construction phase of the development and thereafter, maintain the reservoirs water quality and would ensure no impacts upon the biodiversity which resides within. An appropriately worded condition in this regard is attached.
- 6.7. Concerns expressed over the orientation of the proposed slipway and its creation of an underwater hazard as well as impact upon certain events at the reservoir are noted but are not material in the determination of this application. It is understood that recreational boating has a long-established tradition of self-reliance and individual responsibilities. The RYA adds that "...all user groups on the reservoir come together to explore possible alternative options that enable the Sea Cadets, staff and volunteers to launch more safely as well as potential mitigations that could be put into place to maintain a safe operating area if the current plans are approved".

7. Conclusion

- 7.1. The proposals are in accordance with the above policies and should be approved.

8. Recommendation

- 8.1. Approve subject to conditions.

-
- 1 Implement within 3 years (Full)
 - 2 Requires the submission of sample materials
 - 3 Requires the scheme to be in accordance with the listed approved plans
 - 4 Reservoir water protection
-

Case Officer: Idris Gulfraz

Photo(s)

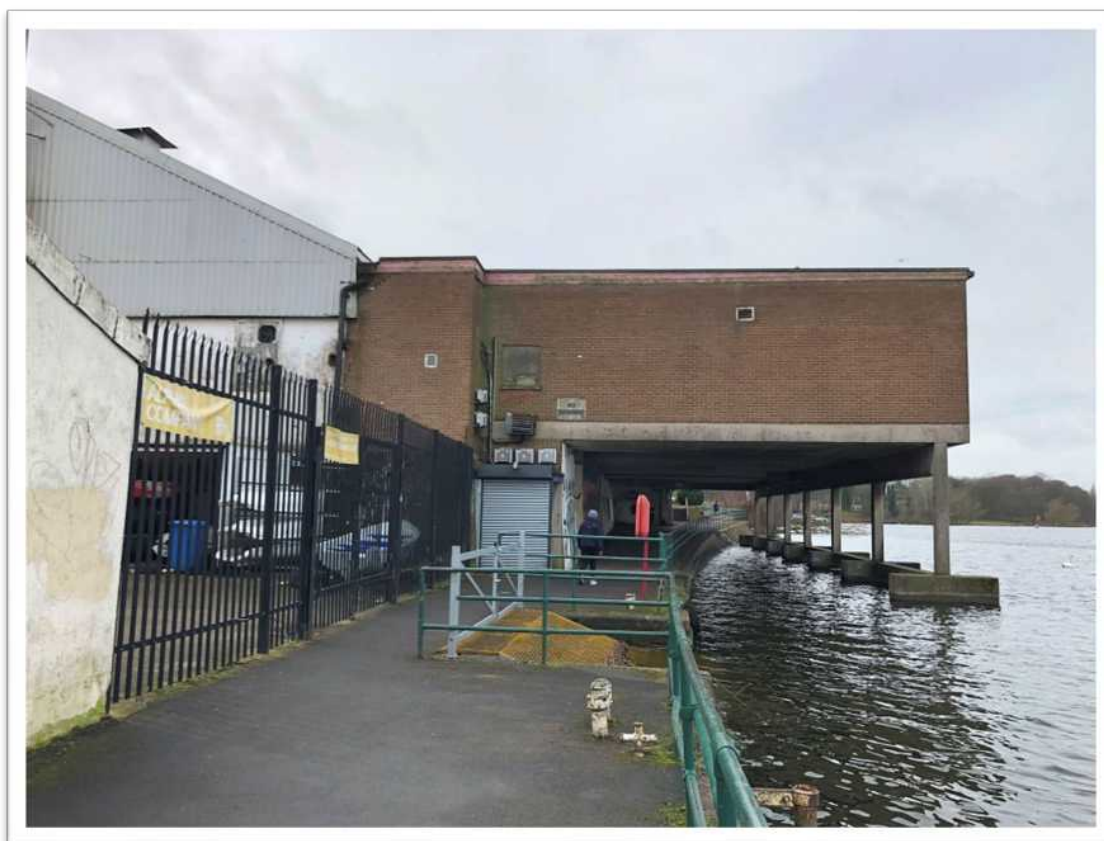
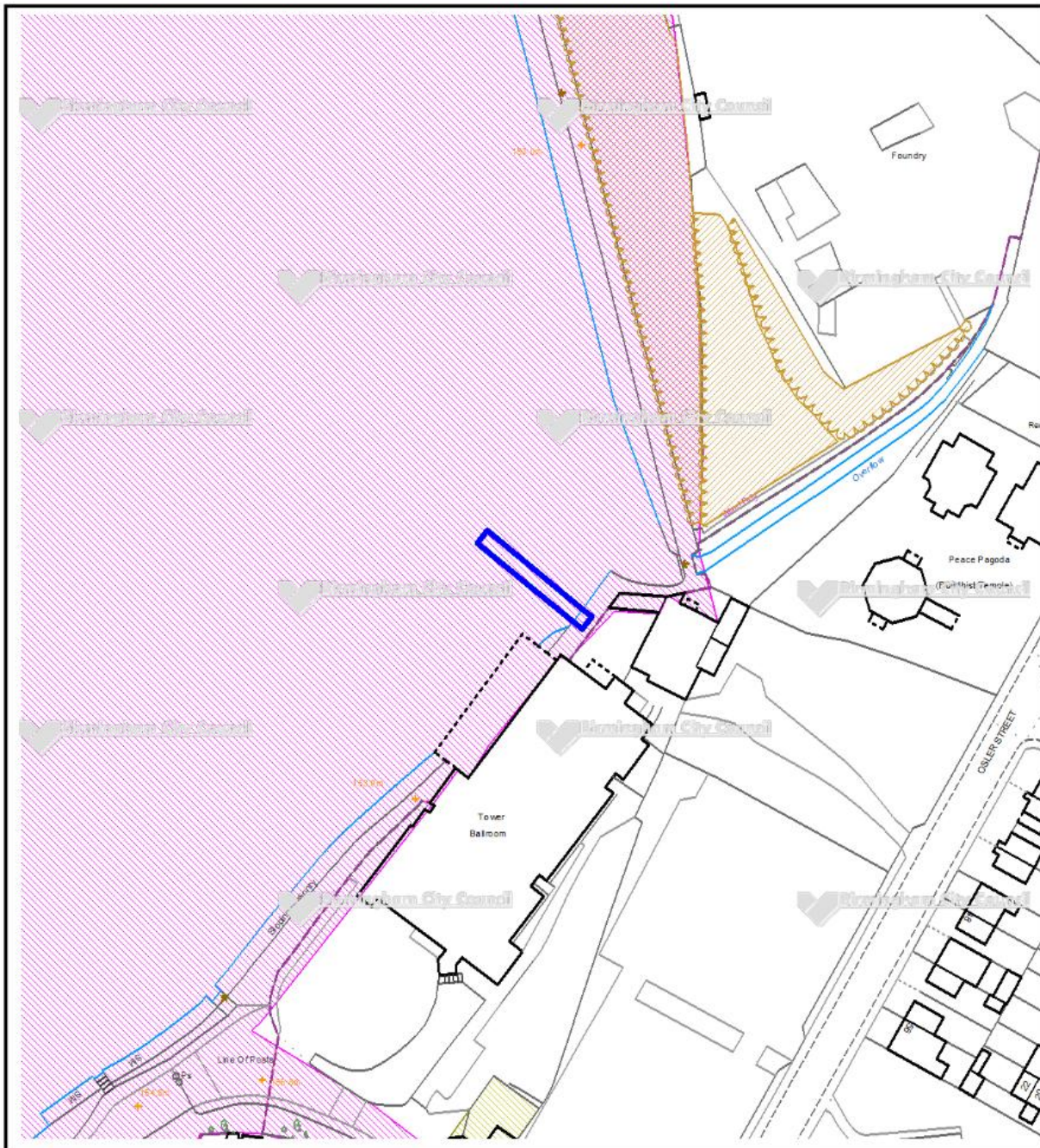


Photo 1 – showing access to existing submerged slipway.



Photo 2 – showing access to existing Sea Cadets Building.

Location Plan



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Birmingham City Council

Planning Committee

23 February 2023

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	9	2022/09301/PA Land off Bordesley Green Road and Venetia Road Birmingham B9 4TL Demolition of existing buildings/structures off Bordesley Green Road and Venetia Road, site reclamation and erection of security fencing.

Committee Date:	23/02/2023	Application Number:	2022/09301/PA
Accepted:	16/12/2022	Application Type:	Full Planning
Target Date:	17/03/2023		
Ward:	Bordesley & Highgate		

Land off Bordesley Green Road and Venetia Road, Birmingham, B9 4TL

Demolition of existing buildings/structures off Bordesley Green Road and Venetia Road, site reclamation and erection of security fencing.

Applicant: Birmingham City Council
C/o Agent
Agent: Tetra Tech
One Victoria Square, Birmingham, B1 1BD

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1 The application seeks planning permission for the proposed demolition of all existing buildings and structures on the two sites off Bordesley Green Road (Site 1) and Venetia Road (Site 2), the proposed reclamation of the two sites and the erection of 2.4m high paladin security fencing.
- 1.2 The scheme and reclamation of the two sites (Site 1 hatched in red and site 2 hatched in green) is the first stage in the preparation for the comprehensive re-development of the wider Bordesley Park (former Wheels) site (hatched in blue) funded through the government's Levelling-Up Fund following the City Council's successful bid under round 1 of the fund. The wider redevelopment will be subject to a separate full planning application at a later stage.

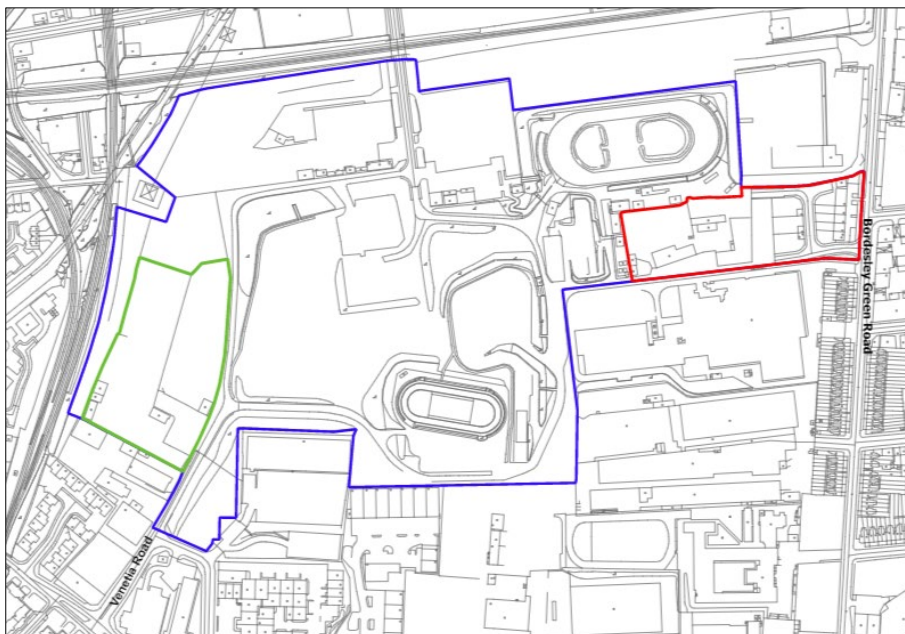


Figure 1: Location of sites within wider Bordesley Park site

- 1.3 The proposed detailed works comprise the demolition of all structures and buildings on the two sites, including site clearance, asbestos removal and removal of vegetation. The reclamation works would also include the breaking up of the areas of hardstanding, removal of any footings and below ground obstructions as well as screening and re-engineering of all made ground. Any contamination would be appropriately tested as well as treated and materials that cannot be reused on site would be removed.
- 1.4 The proposed fencing would be sited along the Bordesley Green Road frontage (Site 1) and along the southern boundary of Site 2. The fencing would be 2.4m in height and would comprise of green galvanised paladin fence panels with a new gate being situated on the Raleigh Road junction with Bordesley Green Road and a new gate off Venetia Road.

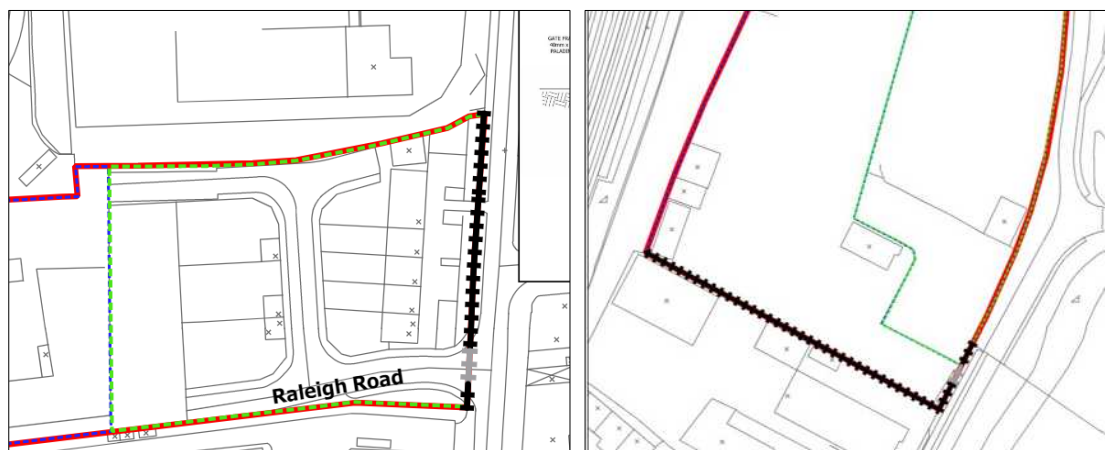


Figure 2: Proposed location of fencing Site 1 and Site 2

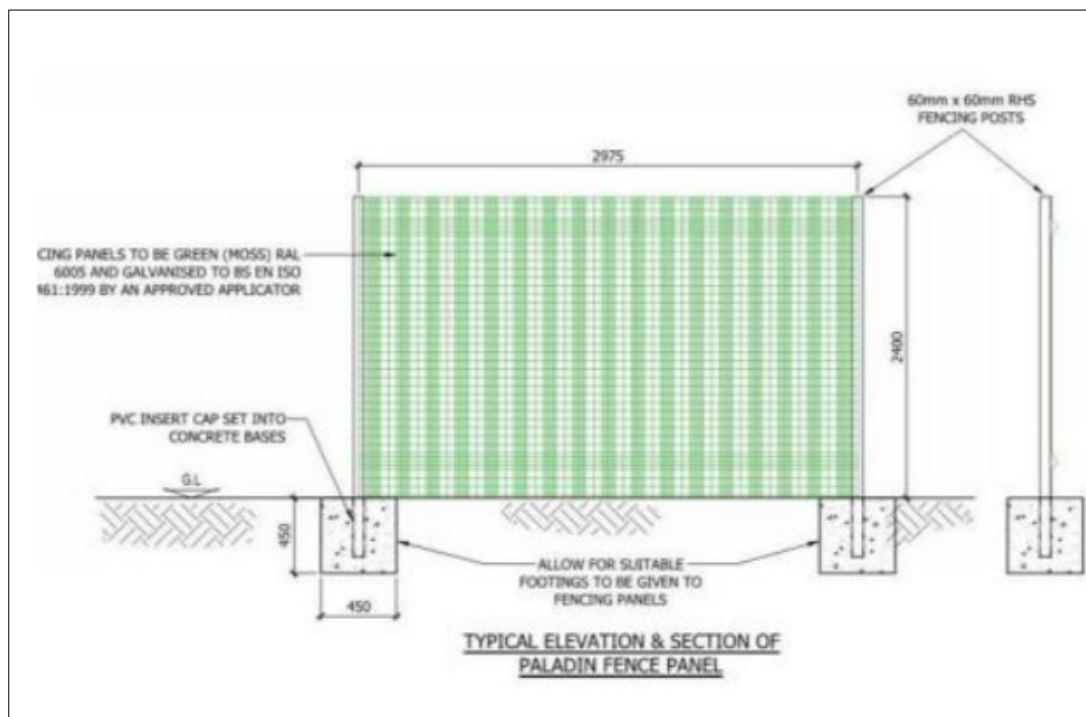


Figure 3: Typical Paladin Fence Panel

- 1.5 An Environmental Impact Assessment Screening Opinion was requested in December 2022 for the two sites. However, the proposed works would neither fall into Schedule 1 or Schedule 2 of the Town and Country Planning (Environmental

Impact Assessment) Regulations 2017 (as amended) and the sites are not within sensitive areas, as stated in 2.(1) of the Regulations. Therefore, the proposed works would not have a significant impact on the environment and would not require Screening in line with the Regulations at this stage.

- 1.6 The application is brought to Planning Committee as it has been submitted by Birmingham City Council.
- 1.7 The scheme is supported by a Demolition Method Statement, Phase 1 Geo-Environmental Assessment, Planning Statement, Ecological Appraisal and Arboricultural Report for both sites.

[Link to Documents](#)

2. Site & Surroundings

- 2.1. The application comprises of two separate sites, situated within the wider Bordesley Park site, located to the east of the city centre within the Saltley/Bordesley area. Both sites are adjacent to the former Wheels site.
- 2.2. Site 1 is situated within the north-eastern corner of the Bordesley Park site and to the west of and accessed off Bordesley Green Road and Raleigh Road. The site incorporates land forming part of the Cherrywood Industrial Estate and has a size of approximately 1.7ha. It was most recently used for industrial purposes including car storage/repair and used as a car breakers yard. The site largely consists of hardstanding with various steel framed buildings, shipping containers and a temporary building including large areas of open storage. It is adjoined by other industrial uses to the south and part to the north, with the former karting track of the Wheels site situated to the north-west. The nearest residential dwellings to this site are located along Bordesley Green Road, approximately 35m to the south.
- 2.3. Site 2 is situated within the south-western area of the wider Bordesley Park site and to the north off Venetia Road. The site has a size of approximately 1.9ha and comprises a number of buildings and temporary structures with large areas of hardstanding and open storage. Part of the site was most recently used as a scrap yard, whilst the remainder of the site was most recently used as a builders merchants. The site is adjoined by a dense landscaping strip to the west, with the railway line and Grand Union Canal beyond. To the north and east the site is adjoined by areas of overgrown vegetation and the former off-road karting track which formed part of the Wheels site. To the south, the site is adjoined by other commercial and industrial uses. The nearest residential dwellings to this site are approximately 200m to the south, on the opposite side of Garrison Lane and approximately 80m to the west, beyond the railway line/canal.

[Site Location](#)

3. Planning History

Land off Venetia Road

- 3.1. 19.05.2006: 2006/00922/PA – Continued use of site (approx. 0.66ha) for open storage and continued siting of storage containers in association with adjacent civil engineering contractors. Approved, subject to conditions.

- 3.2. 24.02.2003: 2002/06036/PA – Continued use – vehicle dismantling yard, dismantling shed and store, 2 temporary buildings. Approved temporary.
- 3.3. 17.02.2003: 2002/06065/PA – Change of use of vacant land to storage use (B8) in association with adjacent depot, and installation of fitters shed and containers. Approved, subject to conditions.
- 3.4. 23.09.1999: 1999/02578/PA – Change of use to vehicle dismantling yard, erection of dismantling shed and store, 2 temporary buildings and new fencing and boundary treatments. Approved temporary.
- 3.5. 10.02.1998: 1997/05281/PA – Change of use to vehicle storage, construction of valeting bay and portacabin office and erection of palisade fencing. Approved temporary.
- 3.6. 13.01.1998: 1997/04018/PA – Certificate of lawfulness for existing use – storage & breaking of vehicles & storage & retailing of car spares. Approved.
- 3.7. 07.02.1995: 1994/01898/PA – Use of site as marine container storage depot with ancillary offices and parking. Refused.
- 3.8. 23.02.1993: 1992/05170/PA: Construction of concrete pad and change of use to waste transfer station. Approved, subject to conditions.

Land off Bordesley Green Road

- 3.9. 05.09.2012: Certificate of lawfulness for the existing use of the site as a vehicle breakers yard with ancillary sales in excess of 10 years (Unit 2). Approved.
- 3.10. 21.05.2012: 2012/01292/PA – Retention of single storey spray booth and enclosure on part of rear yard (Unit 7). Approved, subject to conditions.
- 3.11. 01.03.2001: 2000/05527/PA: Erection of 3.5m high perimeter security fence. Approved, subject to conditions.
- 3.12. 27.05.1999: 1998/04730/PA – Continued use for dismantling of vehicles and retail sales of parts from vehicle storage yard, erection of maintenance workshop and sales building to comprise retail display area, counter area, office and w.c. Approved, subject to conditions.
- 3.13. 25.11.1997: 1997/01003/PA – Continued use for retail sales of spare parts from vehicle storage yard, and erection of maintenance workshop building. Refused.
- 3.14. 22.10.1996: 1996/03198/PA – Proposed damaged cars storage yard and erection of building comprising office, reception, w.c., counter and formation of car parking spaces, with installation of 2.4m high cladding fencing. Approved, subject to conditions.
- 3.15. 20.04.1993: 1993/01024/PA: Formation of vehicular access. Approved, subject to conditions.
- 3.16. 10.11.1992: 1992/03592/PA – Use for transferal of waste from mini skips or lorries prior to removal to tip (unit 10). Approved, subject to conditions.

Wider Bordesley Park Site (covering both smaller sites)

- 3.17. 24.02.2022: 2021/09467/PA – Land remediation to include engineering operation for the removal of areas of Japanese Knotweed equating to 9,160 square metres. Approved, subject to conditions.

4. Consultation Responses

- 4.1. Transportation – No objections.
- 4.2. Canal and River Trust – No objections.
- 4.3. Ecology – No objections subject to conditions for management of invasive weeds on site and implementation of acceptable mitigation in accordance with submitted details.
- 4.4. Environment Agency – No objections.
- 4.5. LLFA – No objections. Informative regarding flooding risks during demolition works.
- 4.6. Network Rail – No comments.
- 4.7. Regulatory Services – No objections subject to conditions for a demolition management plan, contamination remediation scheme, contaminated land verification report and unexpected contamination.
- 4.8. Severn Trent – No objection subject to a condition for drainage plans for disposal of foul and surface water flows.
- 4.9. Trees – No objections subject to a condition for an arboricultural method statement and tree protection plan.
- 4.10. West Midlands Fire Service: No comments

5. Third Party Responses:

- 5.1. MP, Ward Councillors, Residents Associations and local residents were consulted on the original scheme. The application was also publicised for 21 days by way of a Site Notice and Press Notice.
- 5.2. One comment from local resident received, stating:
- It is suggested that as part of the proposed redevelopment, the existing dwellings along Bordesley Green Road are demolished as they are too close to the main road, because there are congestion and parking issues on this road which would only increase
 - Residents should be re-located out of the area
 - Bordesley Green Road should be renamed to Ash Road as there is confusion with the surrounding road names, including Bordesley Green and Bordesley Green East.
 - Residents are unable to apply for a dropped kerb within the area, because the distance between dwellings and footpath is too short.

6. Relevant National & Local Policy Context:

- 6.1. National Planning Policy Framework (2021)

Chapter 2: Achieving sustainable development
Chapter 6: Building a strong, competitive economy
Chapter 8: Promoting sustainable transport
Chapter 11: Making effective use of land
Chapter 12: Achieving well-designed places

6.2. Birmingham Development Plan 2017:

PG 3 Place Making
GA7 Bordesley Park
TP44 Traffic and Congestion Management

6.3. Development Management in Birmingham DPD 2021

DM1 Air Quality
DM2 Amenity
DM4 Landscaping and Trees
DM6 Noise and Vibration
DM14 Highways safety and access
DM15 Parking and servicing

6.4. Bordesley Park Area Action Plan 2020

Principle 1: Growth
Principle 2: Connectivity
Principle 3: Local Character
Principle 4: Sustainability
Key Opportunities for Change: The Wheels Site and Environs

6.5. Supplementary Planning Documents & Guidance:

Birmingham Design Guide 2022
Birmingham Car Parking Standards SPD 2021

7. Planning Considerations

- 7.1. The application has been assessed against the objectives of the policies as set out above. The main matters for consideration are as follows:

Principle of Development

- 7.2. The application seeks to demolish all existing structures within the two sites and reclamation of the land in order to prepare them for the proposed comprehensive re-development of the wider Bordesley Park site, which will be subject to a separate planning application.

- 7.3. The loss of the existing uses and principle of the proposed reclamation works, considering the future aspirations for the site to be redeveloped with industrial and commercial uses, as set out in the Birmingham Development Plan 2017 and Bordesley Park Area Action Plan 2020, is considered to be acceptable subject to consideration of detailed technical matters as discussed below.

Residential Amenity

- 7.4. Both sites are largely situated within existing commercial/industrial settings with residential dwellings nearest to site 1, approximately 35m to the south along Bordesley Green Road and some distance from site 2, to the west (a minimum of 80m) beyond the railway line and canal and south (a minimum of 200m) from the

site. Both sites are separated from those residential uses by existing vegetation and roads. The works would not result in any loss of privacy, daylight/natural light or overlooking to nearest residents.

- 7.5. In terms of demolition works and potential noise implications for surrounding residents, the application is supported by an outline demolition method statement relating to the Phase 1 works of Asbestos Removal, Demolition and Reclamation. Section 4 states that the contractor, once selected, would be required to provide a detailed demolition management plan which would be conditioned to ensure there would be no unacceptable impact on surrounding residents. Regulatory Services is content with the approach.

- 7.6. In addition, both sites are known to have a previous history of landfill and infill and in terms of ground contamination, the application is supported by a Phase 1 Desk Top Study, a Phase II Ground Investigation report and a pre-liminary remediation strategy for both sites which have been reviewed by Regulatory Services. They raise no concerns with regard to the findings, however, recommend conditions which are attached accordingly.

Highway Safety

- 7.7. The two application sites are accessed off Bordesley Green Road and Raleigh Road (site 1) and Venetia Road (site 2), connecting to Garrison Lane in the south. Considering the existing road network around the site within a largely commercial and industrial setting, and the limited impact of the works on surrounding highways when compared to the existing uses, it is considered that the scheme would be acceptable in terms of highways and pedestrian safety. Transportation also raises no objections in this regard.

Ecology and Trees

- 7.8. The two sites comprise largely of hardstanding, with limited landscaping within the sites, including scattered trees on site 1 and a strip of broadleaved woodland along the eastern boundary of site 2. An Ecological Appraisal has been submitted with the application and it is considered that the trees and existing buildings/structures would have negligible suitability for bats and there would be no significant ecological constraints.
- 7.9. Two stands of invasive non-native species Japanese knotweed were identified growing on the northern boundary and in the north-east corner of site 1 and in the woodland strip on the eastern boundary of site 2. A condition for a method statement for the removal of the invasive weeds would be conditioned.
- 7.10. Measures to mitigate any potential ecological impact, including effective protection of the nearby SLINC area, and protection of the strip of woodland within site 2 have been set out within the submitted report and its appropriate implementation would be conditioned. Ecology agrees with the recommendation. They also highlight that the details of the Ecological Appraisal are valid for 24 months from the date of survey and therefore, if works have not commenced by October 2024, an updated assessment may be required.
- 7.11. In addition, the application is supported by an Arboricultural Method Statement and Tree Protection Plan. There is no statutory tree protection within the site and considering the sites are largely covered by hard standing, only very limited tree removal is proposed in order to allow for the reclamation of the land. The Tree Officer raises no objection but recommends a condition for the implementation of the works in line with the submitted tree protection plan. Additional informatives are recommended in order to ensure bats and birds are protected during the works.

Drainage and Flood Risk

- 7.12. The Environment Agency has reviewed the submission and confirms that the site is not considered to be sensitive with respect to controlled water receptors. They accept the findings of the submitted Ground Investigation Reports and therefore, raise no objections to the scheme.
- 7.13. In addition, the LLFA has confirmed that the sites are at very low risk of surface water flooding and the proposed demolition of buildings and areas of hard standing are unlikely to increase flood risk to third party land during the remediation of contaminated land. They have requested that during the remediation works, material is not placed in large continuous bunds which could impound water. If bunding of material is required, they should be no longer than 25 meters in length without a small space to prevent the impounding of water.
- 7.14. Whilst Severn Trent has recommended a condition for drainage plans for the disposal of foul and surface water flows to be submitted, considering the works relate to the reclamation of the site only and at this stage, no development or building works are proposed for the site, it is not considered the condition would be reasonable in this instance. Such a condition would likely be relevant, once an application for the wider re-development of the site is submitted in the future.
- 7.15. Canal and River Trust raised no objections to the proposal, but highlighted that any future proposals for the site would need to address how foul and surface water discharge would be managed to ensure canal water quality would not be affected.

Impact on visual amenity

- 7.16. The scheme proposes to erect fencing along the Bordesley Green Road frontage of site 1 and along the southern boundary of site 2. The fencing along site 1 would be visible to the adjoining road users; however, it is considered that the fencing is appropriate, considering the proposed works and existing commercial and industrial setting of the surrounding area. In addition, the fencing would also only be of a temporary nature and would be removed once the wider re-development works commence. The fencing is therefore considered to be appropriate and would not negatively impact on the visual amenity of the area. The fence along site 2 is situated along the boundary with the adjoining commercial site and therefore is not immediately visible within the public realm, and therefore is also acceptable.

8. Conclusion

- 8.1. The application seeks planning permission for the demolition of all structures on the two sites and reclamation of the land in order to prepare the sites for the proposed re-development as part of the wider Bordesley Park site. The loss of the existing uses and principle of the proposed works is acceptable and the works would not negatively impact on residential amenity, visual amenity, highway safety, ecological or drainage matters. The application is therefore recommended for approval, subject to conditions.

9. Recommendation

- 9.1. Approve, subject to conditions as detailed below.

1	Implement within 3 years (Full)
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-
- | | |
|---|--|
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | Requires the prior submission of a method statement for the removal of invasive weeds |
| 4 | Requires the implementation of the submitted mitigation/enhancement plan |
| 5 | Arboricultural Method Statement and Tree Protection Plan - Implementation |
| 6 | Requires the prior submission of a demolition management plan |
| 7 | Contamination Remediation Scheme - Implementation in accordance with submitted details |
| 8 | Requires the submission of a contaminated land verification report |
| 9 | Finding of unexpected contamination |
-

Case Officer: Laura Shorney

Photo(s)



Image 1: 3D Aerial View onto Site1, land off Bordesley Green Road (@Google maps)



Image 2: 3D Aerial View onto Site 2, Land off Venetia Road (@Google maps)



Image 3: Site off Bordesley Green Road (Site 1)



Image 4: Site off Bordesley Green Road (Site 1)

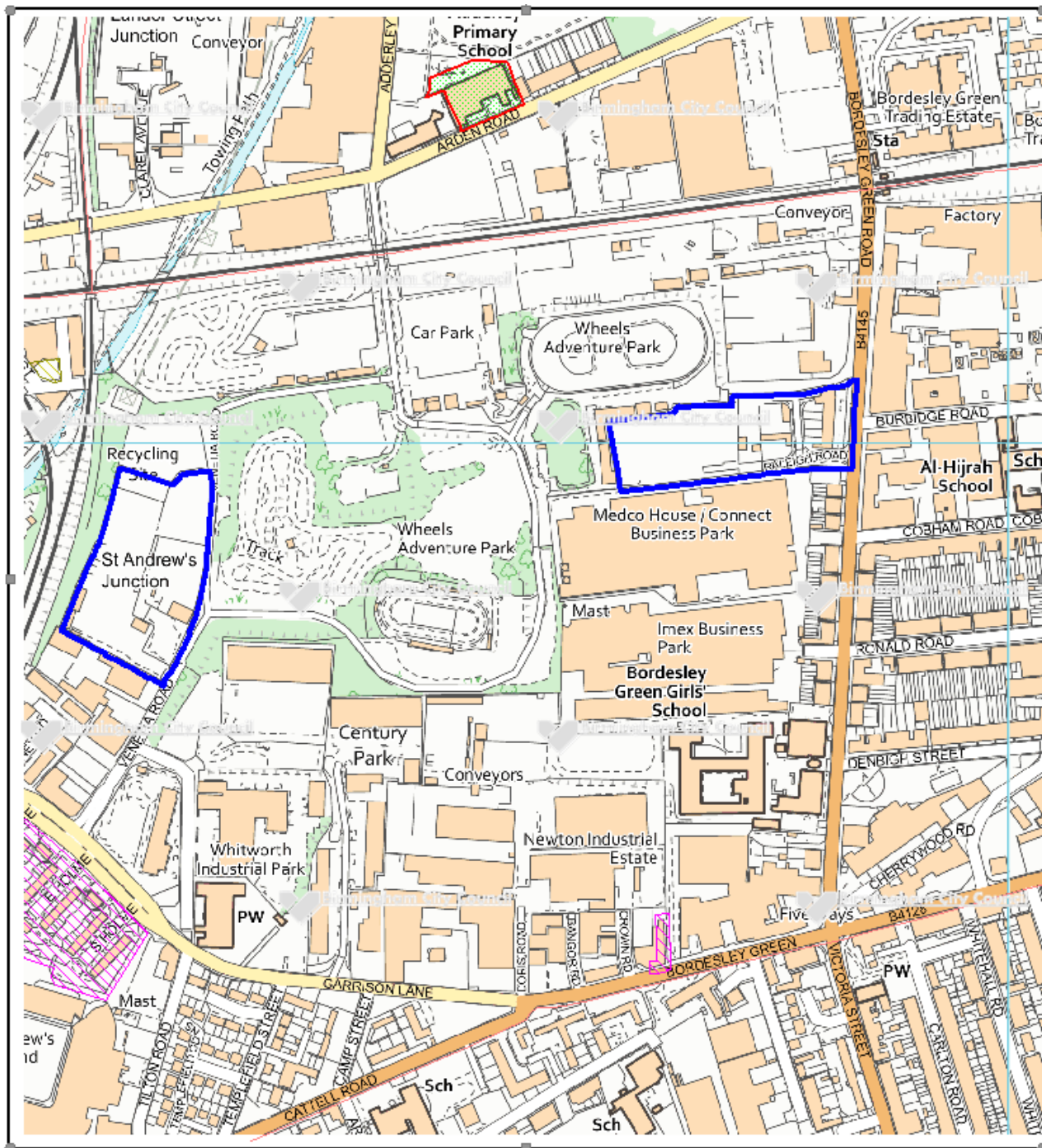


Image 5: Land off Venetia Road (Site 2)



Image 6: Land off Venetia Road (Site 2)

Location Plan



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Birmingham City Council

Planning Committee

23 February 2023

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Subject to 106 Legal Agreement	10	2021/03125/PA Land north and south of Mill Street bounded by Aston Road (A38), Dartmouth Circus, Dartmouth Middleway and the Birmingham and Fazeley Canal Curzon Wharf Aston Birmingham B6 4BS A Hybrid Planning Application Constituting EIA Development Comprising: a. A Full Application For Partial Demolition And Other Works To The Listed Wall Between The Site And The Canal. b. An Outline Planning Application For The Demolition Of Existing Buildings And Redevelopment Of The Land For Mixed Uses across 4 buildings, comprising up to a maximum of 620 residential homes (Class C3), up to 732 purpose built student accommodation apartments (Sui Generis), and up to 12,000sqm (GIA) of Office / Research and Development floorspace (Class E(g)(i) and (ii)) with Ancillary Amenity And Operational Space, Retail And Food And Drink Uses [use Class E (a) (b) And (c)]; Indoor Sport, Recreation Or Fitness Space [use Class E (d)], Public House And Drinking Establishments / Bowling Alley / Cinema (Sui Generis) within buildings varying in height up to 282.5m AOD (illustratively shown as G+8 storeys, G+13 storeys, G+40 storeys and G+52 storeys); Hard And Soft Landscaping And New Public Open Spaces Including Sustainable Urban Drainage Systems, Car Parking Provision and Alterations to Pedestrian and Vehicular Accesses.
Approve – Conditions	11	2021/03035/PA Canal wall south of Mill Street and north of the Birmingham and Fazeley Canal Aston Birmingham Partial demolition, reinstatement and other works to the canal side wall fronting the section of the Birmingham and Fazeley Canal situated between Aston Road and Dartmouth Middleway, Birmingham City Centre

Land off Cardigan Street and Gopsal
Street/Belmont Row
Birmingham
B4 7SA

Outline planning application for education (Use
Class F1), and commercial, business and service
(Use Class E); all matters reserved except for
scale.

Committee Date:	23/02/2023	Application Number:	2021/03125/PA
Accepted:	02/08/2021	Application Type:	Outline
Target Date:	09/09/2022		
Ward:	Nechells		

Land north and south of Mill Street bounded by Aston Road (A38), Dartmouth Circus, Dartmouth Middleway and the Birmingham and Fazeley Canal, Curzon Wharf, Aston, Birmingham, B6 4BS

A Hybrid Planning Application Constituting EIA Development
Comprising:

A. A Full Application For Partial Demolition And Other Works To The Listed Wall Between The Site And The Canal.

B. An Outline Planning Application For The Demolition Of Existing Buildings And Redevelopment Of The Land For Mixed Uses across 4 buildings, comprising up to a maximum of 620 residential homes (Class C3), up to 732 purpose built student accommodation apartments (Sui Generis), and up to 12,000sqm (GIA) of Office / Research and Development floorspace (Class E(g)(i) and (ii)) with Ancillary Amenity And Operational Space, Retail And Food And Drink Uses [use Class E (a) (b) And (c)]; Indoor Sport, Recreation Or Fitness Space [use Class E (d)], Public House And Drinking Establishments / Bowling Alley / Cinema (Sui Generis) within buildings varying in height up to 282.5m AOD (illustratively shown as G+8 storeys, G+13 storeys, G+40 storeys and G+52 storeys); Hard And Soft Landscaping And New Public Open Spaces Including Sustainable Urban Drainage Systems, Car Parking Provision And Alterations to Pedestrian And Vehicular Accesses.

Applicant:	Woodbourne Group (Mill Street) Ltd Woodbourne House, 10 Harborne Road, Birmingham, B15 3AA
Agent:	CBRE Ltd 55 Temple Row, Birmingham, B2 5LS

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

1.1 This is a hybrid application seeking planning permission for the following development:

1.2 **Outline permission** for the demolition of existing trade storage and distribution and training centre buildings and redevelopment of the site with 4 new buildings to accommodate the following uses:

- up to 620 residential homes;
 - up to 732 purpose-built student accommodation bedspaces;
 - up to 12,000sqm (GIA) of commercial space for office/research and development floorspace (Class E(g)(i) and (ii)) with ancillary amenity and operational space; and
 - up to 526sqm (GIA) other flexible and *sui generis* uses comprising retail and food & drink uses (Class E (a) (b) and (c); indoor sport, recreation or fitness space (use Class E (d)); public house and drinking establishments/bowling alley/cinema (*sui generis*).
- 1.3 Proposed buildings would vary in height up to 282.5m AOD, illustratively shown as 9, 14, 41 and 53 storeys. The uses would be distributed as follows:
- Plot 1: student accommodation (up to 732 bedspaces); retail, food and drink; gymnasium; public house/drinking establishments; bowling alley; cinema.
 - Plot 2: up to 122 residential apartments; retail, food and drink; gymnasium; public house/drinking establishments; bowling alley; cinema; parking spaces.
 - Plot 3: residential units (up to 498); retail, food and drink; gymnasium; public house/drinking establishments; bowling alley; cinema; parking spaces.
 - Plot 4: office/R&D; retail, food and drink; gymnasium; public house/drinking establishments; bowling alley; cinema.
- 1.4 Also proposed is hard and soft landscaping; new public open space (approx. 7,100sqm) including sustainable urban drainage systems; car parking provision (35 spaces); and alterations to pedestrian and vehicular accesses.
- 1.5 All matters are reserved except for access.



Figure 1: Indicative image of the proposed development
(Source: Design Code)

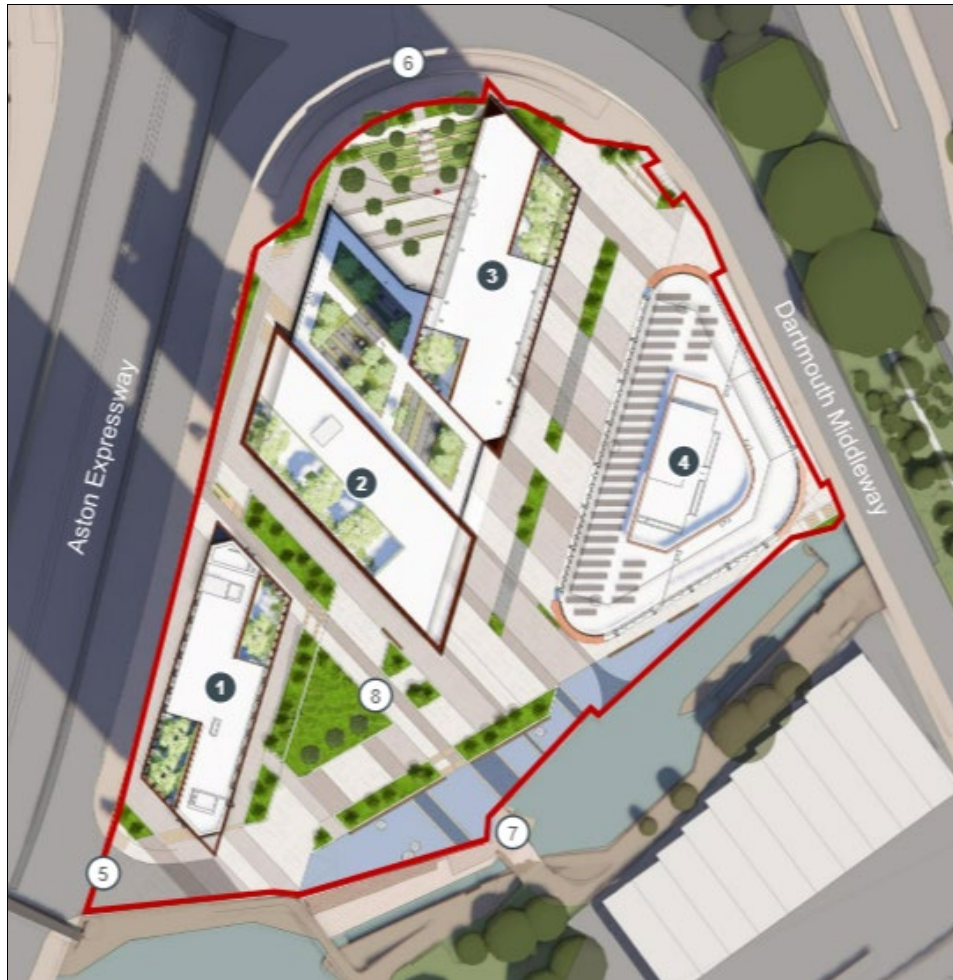


Figure 2: Proposed plot numbers

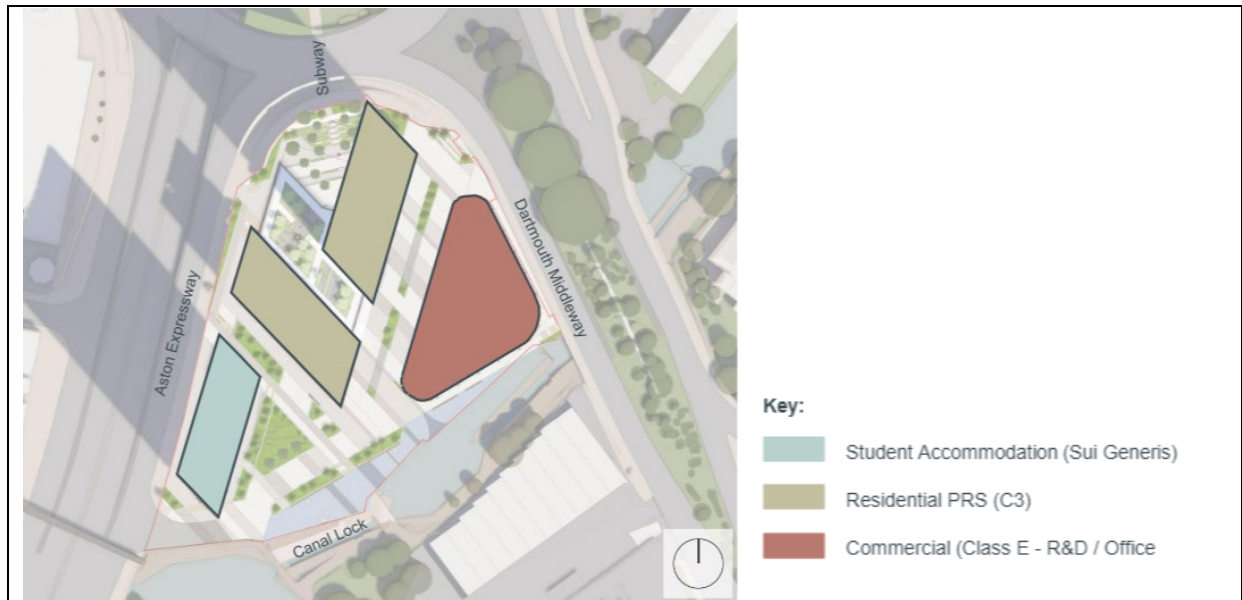


Figure 3: Proposed site plan showing indicative layout and uses
(Source: Design Code)

- 1.6 **Full planning permission** for partial demolition and other works to the Grade II Listed wall between the application site and the canal. A concurrent application for Listed Building Consent (2021/03035/PA) has also been submitted. The removal of part of the wall would open up views and pedestrian access between the canal and the application site and new public realm would connect the two environments.

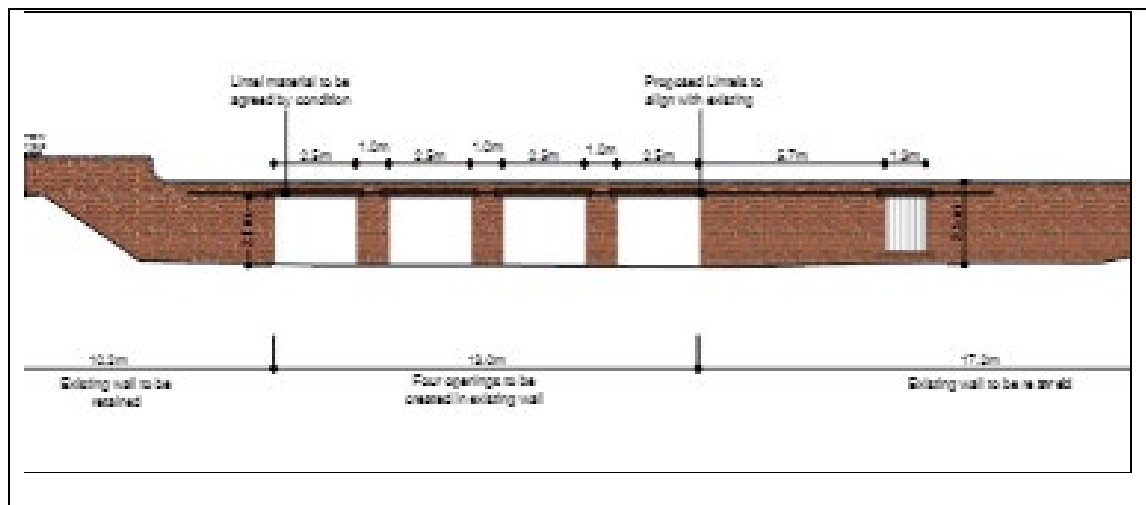


Figure 4: Main connection between canal towpath and application site
(Source: Proposed Elevation Canal Wall, Dwg PL114 Rev J)

- 1.7 **Employment:** Existing: 104 full time
Proposed: 880 full time equivalent
- 1.8 **Parking:** Cars: 35 spaces proposed primarily within car park on ground floor of the podium linking buildings 2 and 3 with access from the realigned Mill Street and across the shared public surface.
- Cycles: minimum of 25 spaces recommended for the office use and 425 spaces for the residential elements. These would be spread across three locations within the site.
- 1.9 **Site area:** 1.14ha
- 1.10 A Design Guide sets out the principles guiding the detailed design of the development. This sets 'Mandatory' and 'Recommended' principles and future Reserved Matters proposals would need to accord with the mandatory principles.

1.11 Supporting Documents:

Environmental Statement	Design and Access Statement
Aviation Safeguarding Assessment	Parameter Plans Document
Television and Radio Baseline Survey	Bat Survey Report
Utilities Report	Preliminary Ecological Appraisal
Flood Risk Assessment	Archaeological Assessment
Air Quality Assessment	Tall Buildings Report
Ventilation Statement	Energy and Sustainability Report
Phase 1 Geotechnical and <u>Geoenvironmental</u> Desk Study	Environmental Noise Report
Build to Rent Report	Sunlight and Daylight Assessment
Co-Living Report	Daylight Factor Assessment
Viability Assessment	Student Housing Needs Assessment
Affordable Housing Statement	Framework Travel Plan
Loss of Employment Land Report	Transport Assessment
Telecommunications Impact Assessment	Wind Study
Planning Statement	Heritage, Townscape and Visual Impact Assessment
Instrument Flight Procedure Safeguarding Assessment	CIL Additional Information Form

1.12 [Link to Documents](#)

2. **Site & Surroundings**

- 2.1 The application site is located immediately to the south of Dartmouth Circus with the Aston Expressway passing underneath to the west of the site; Dartmouth Middleway is to the east; and the Aston Junction of the Birmingham & Fazeley Canal/Digbeth Branch Canal lies to the south. Aston Road brings traffic off Dartmouth Circus southbound into the city centre parallel with the western boundary of the application site and the Mill Street cul-de-sac leads off it into the site giving vehicular access to the existing commercial units and the canal.
- 2.2 The site sits at a lower level relative to the elevated dual carriageways surrounding it. Pedestrian subways underneath Dartmouth Circus provide connections between the site and other commercial premises to the north.



Figure 5: Aerial photograph of the application site

- 2.3 The site is located within the Aston Science Park Core Employment Area and is located to the north of the Aston University campus. It falls within the City Centre Growth Area (BDP policy GA1) and abuts the Aston, Newtown and Lozells Growth Area (BDP policy GA3).
- 2.4 The canal is considered to be a non-designated heritage asset throughout the city centre and the two footbridges at Aston Junction are Grade II Listed structures. The canal wall, by association, is also Listed. The canal is a wildlife corridor and SLINC area (Site of Local Importance for Nature Conservation).

2.5 [Site location plan](#)

3. **Planning History**

Application site

- 3.1. 07/04/2021 - 2021/03035/PA – Application for Listed Building Consent for partial demolition, reinstatement and other works to the canalside wall fronting the section of the Birmingham and Fazeley Canal situated between Aston Road and Dartmouth Middleway – Awaiting decision.

Nearby sites

- 3.2 9/4/2020 - 2019/10607/PA - Innovation Birmingham, Holt Street (rear of Icentrum), Nechells - Erection of 11-storey office building (Use Class B1) with associated plant, highway and access improvements, hard and soft landscaping and other associated works – Approved subject to conditions and now under construction.

4. **Consultation Responses**

- 4.1 **Transportation Development:** No objection subject to the recommended conditions listed below. The existing vehicle access would be altered to formally stop-up Mill Street with some alterations to the entrance but improved pedestrian and cycle access to the canal by removing the boundary wall, and new steps up to the elevated Dartmouth Middleway.
- 4.3 Limited amount of car parking proposed which is allocated to disabled residents, servicing and registered drop-off/pick-up requirements. Predicted vehicle trip movements are likely to reduce given the change in activity on the site. Level of car and cycle parking provision is suitable given city centre location. Plans provided confirm all sized vehicles can access and manoeuvre within the site including an articulated HGV. All refuse and service vehicle movements can suitably take place within the site.
- 4.4 Recommended conditions:
- Pedestrian access rights to be maintained through the site connecting Aston Road and Dartmouth Middleway.
 - Projection from plot 3 which extends over the public footway to be a minimum 2.6m headroom provided and a BCC oversailing licence is required.
 - No occupation until the highway works have been carried out on the junction of Aston Road and Mill Street.
 - Car parking and cycle parking to be provided before the development is occupied.
 - Private access and turning area to be provided for servicing before any part of the site is occupied.
 - Construction Management Plan to be provided before any demolition and construction works commence.

- Student term start/finish arrival/departure management plan to be provided before any student accommodation is occupied.
- EVCP car parking provision to be provided; emerging guidance seeks 10% provision.

4.5 **Regulatory Services:** No objection subject to recommended conditions.

Initial comments

- 4.6 Air Quality: Submitted report states *“The assessment has identified potential exceedances of the annual mean nitrogen dioxide air quality objective at several proposed building facades up to and including second floor level of the proposed tower and office blocks. This indicates that any residential units which fall within these specific areas will require mechanical ventilation with heat recovery. The apartments will either require NOx filtration to protect the health of future occupants, or air intakes to be positioned higher than second floor level or on non-affected facades.”*
- 4.7 The report states that on-site monitoring during the construction phase may indicate improved air quality at the building facades. Further monitoring should take place during construction and a further air quality report submitted with its findings to determine the ventilation required.
- 4.8 Noise: Appropriate façade and glazing insulation is set out in sections 5 and 6 of the submitted report.
- 4.9 Contaminated land: Submitted report reviewed.
- 4.10 Recommended conditions:
- Contamination Remediation Scheme
 - Contaminated Land Verification Report
 - Requires submission of an air quality management plan
 - Requires a scheme of ventilation prior to occupation of the residential/work units
 - Extraction and odour control details
 - Noise levels for plant and machinery
 - Scheme of noise mitigation
 - Scheme of noise insulation between commercial and residential premises
 - Scheme of noise insulation to establish residential acoustic protection.
 - Construction Method Statement/Management Plan
 - Requires low emission vehicle parking

Further comments on air quality in external amenity areas

- 4.11 *“The scheme itself is in an area that will be expected to have elevated air pollutant levels and also will be affected by noise. As this is an outline scheme it is difficult without further evaluation to fully comment on potential impacts however I would be content that as this is shared amenity space, the incorporation of design and potential barrier mitigation would be sufficient to adequately control noise impacts. In respect of air quality it is more complex as the method we use to assess adverse air quality is based on pollutant levels at building facades – these are not exposure levels but are based on a balanced view of what is accepted in terms of air pollution levels at residential uses. There is no specific criteria to consider air quality impacts related to amenity space and again as this is not dedicated but shared amenity space and given the locations, whilst it is not ideal to have these in uses in areas where the air quality is poor I would not have any real objection to the scheme solely on that basis. It is already introducing residential receptors into an area of poor air quality which we would not support but based on other schemes in the area with similar impacts which have been supported it is a matter for consideration of the planning balance as with other*

schemes we can always condition sealed windows and nitrogen dioxide treatment although this is not particularly good residential amenity.”

- 4.12 **City Design Team:** No objection subject to conditions.
- 4.15. **Layout:** The layout to retain the historic alignment of the street is supported. Re-orientation of Mill Street as proposed is also accepted. The development seeks to establish four plots (with plots 2 and 3 linked). Whilst it has been difficult to align the spaces and routes around and between these development plots with historic streets beyond the site, a rationale based on connection has steered the design. There is a clear division between the first three plots (residential) and the fourth (commercial).
- 4.16 The elevated enclosure of the modern expressway around the northern corner has presented challenges. The openings now agreed upon through the canal boundary wall, seek to open up less of this listed structure, yet still achieve the degree of surveillance and connectivity through it and onto the canal and the strategic routes across the City.
- 4.20 The three residential plots comprise three towers each having a parallelogram plan form. The interplay between them and the linking podium repeat the acute and obtuse angles of this form. The repetition is bold and would give this development identity. The continuous interlocking parallelogram layout keeps an acceptable distance between the buildings.
- 4.23 **Scale, height and massing:**
- 4.24 *Plot 1:* It sits closer to the expressway than the principal tower (plot 3) thereby stepping the forms and creating an interesting grouping on the approach into the city. This tower holds the view north west along Digbeth Branch Canal towards the site.
- 4.25 *Plot 2:* This plot sits between plots 1 and 3. This reads as a mid-scale structure that encloses the gap but leaves a degree of permeability. The podium between this plot and plot 3, reads most strongly with this form as secondary massing to the scale and form of the principal towers.
- 4.26 *Plot 3:* This contains the principal and tallest tower.
- 4.27 *Plot 4:* Lower than the mid-scale building on plot 2, this building is intended to comprise a more typical emerging city scale in this district, holding the edge of the Middleway, but absorbing the change in topography more than any of the other three plots.
- 4.28 The scale of the development, its location and orientation all contribute to matters of microclimate (wind, daylight and sunlight) which are addressed in the following two documents submitted with the application.
- 4.29 *Pedestrian Wind Comfort Assessment:* This concludes that most of the direct vicinity of the proposed buildings would be suitable for pedestrian standing. Several spots would be less comfortable and are classified as suitable for walking. Lower wind velocities can be expected in zones behind Tower 1 and near the entrance to Tower 3 – these areas would be comfortable for frequent and occasional sitting. Various wind mitigation solutions are proposed including the use of solid canopies and porous screens. The use of canopies must be avoided and the Design Code has been amended to specifically commit to this.
- 4.30 *Sunlight and Daylight Assessment:* This indicates that the Curzon Wharf development has a degree of impact on the sunlight and daylight reaching the residential properties however remains in line with guidelines as set out in BRE 209. The level of impact can therefore be considered not detrimental to the neighbouring properties to the North and the South East of Curzon Wharf development.

- 4.35. Submission of a Phasing Plan and revised Design Code are noted. The Phasing Plan offers a sensible phasing of the development and provides a strategy that addresses the regeneration of the site effectively.
- 4.36. The revised Design Code is a very well organised document that considers comprehensively the character of this development as a single entity, not as a piecemeal jumble. The vision is clear and concise. A hierarchical approach has been given to both buildings and spaces and it is written in such a way that offers up certainty in terms of design quality.
- 4.38. **Principal Conservation Officer:** The HTVIA presents a summary of heritage position as follows:
- Moderate degrees of enhancement to Canal Roving Bridges
- Very Low degrees of less than substantial harm to the significance of:
Birmingham Children's Hospital
Listed buildings on Warstone Lane
- Low degrees of less than substantial harm to the significance of:
Steelhouse City Centre Conservation Area
Victoria Law Courts
Methodist Central Hall
West Midlands Fire Service HQ
St. Chads Cathedral
Clock Tower
- Low to moderate degrees of less than substantial harm to the significance of:
Bartons Arms Public House
- Moderate degree of less than substantial harm to the significance of:
Jewellery Quarter Conservation Area
- 4.39 The summary of position can be supported and as varying levels of less than substantial harm have been identified and acknowledged to 17 designated heritage assets then the tests of paragraph 202 of the NPPF will need to be met.
- 4.40 **Principal Ecologist:** The main development site is of limited ecological value as indicated by the Preliminary Ecological Appraisal and the Preliminary Roost Assessment for Bats. Redevelopment of the site and opening out public realm onto the canal has the potential to improve the biodiversity on the site if delivered at acceptable levels of urban greening. No objection to the demolition of a section of the existing wall but there will need to be consideration as to how this is done without polluting the canal water with dust and debris.
- 4.41 The indicative landscaping concentrates too much on hard rather than soft landscaping. The Urban Greening Factor should be used, aiming for a factor of 0.4 or above, to secure a more appropriate proportion of planting. Green roofs are also recommended and would facilitate ecological enhancements.
- 4.42 Recommended conditions:
- Bat activity survey prior to demolition of the existing buildings.
 - Landscaping scheme to be submitted.
- 4.43 **Employment Access Team:** No objection subject to a condition securing a Construction Employment Plan prior to commencement.

- 4.44 **Leisure Services:** The scheme, although on a relatively compact site which is surrounded by major roads and the canal, makes little contribution to increasing the surrounding green infrastructure. Apart from small areas adjacent to the canal, the environment would be predominantly hard paved and this is disappointing for such a high profile scheme on a such a visible site. It is also within an area (Nechells) currently severely lacking in green infrastructure and public open space (POS). More structure planting which would be visible from beyond the site would be welcomed.
- 4.45 The residential and co-living elements should be liable for an off-site POS contribution at full application stage. Whilst we would understand viability issues and support other requests from Sport England for contributions to nearby leisure facilities, this should not be at the expense of a contribution towards off-site POS and play.
- 4.46 Estimating the total number of people to be accommodated in the residential units (including co-living and excluding students) the total contribution would be £1,756,775 to be directed to the provision, improvement and/or biodiversity enhancement of public open space and play and its maintenance within Nechells and surrounding wards.
- 4.47 **Lead Local Flood Authority:** No objection subject to the following conditions and associated informatives to be attached to the decision document:
- Requires the prior submission of a sustainable drainage scheme
 - Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan
- 4.48 **Severn Trent Water:** No response received.
- 4.49 **Environment Agency:** No objection. The site has a predominantly industrial historic land use and the development may result in re-mobilisation of any contaminants present; a condition is recommended requiring a remediation strategy prior to commencement.
- 4.50 **Canal and River Trust**
- 4.51 Works to listed canal wall: Following amendments, the proposal better represents the protection of the historic canalside features sought by BDP policy TP12. The central section of wall would be retained at its full height, maintaining the character and sense of enclosure the wall provides. The proposed openings would be similar in style to the existing opening and provide a sense of connection between the proposed development and the towpath and canalside environment, increasing levels of engagement and providing safety through surveillance without a complete loss of historic character or a greater loss of historic fabric.
- 4.52 Conditions are recommended to secure details of the following: lintels, hard-surfacing, methodology for the works, external lighting, boundary treatment, pedestrian safety measures and phasing. Mitigation is also sought due to the loss of historic fabric including removal of graffiti, improvements to the surfacing of the listed bridges, and new planting to replace that lost by the creation of openings in the canal wall.
- 4.53 Proposed development: The towers would be set back from the towpath/waterspace and in an orientation that would not result in harmful shading of the canal. The potential for positive opportunities in relation to public realm adjacent to the canalside, increased activity, connectivity and surveillance are noted.
- 4.54 Other matters: a demolition and construction management plan should be provided to protect the canal during works; details of the construction of surface water drainage will be needed; further evidence is needed concerning the ground conditions and the

nature of the canal lining to protect the canal's structural integrity and to prevent pollution of the water; details of foundation design and construction methods will be needed at reserved matters stage; improvement should be secured to the nearby pocket park; wayfinding and signage should be secured.

- 4.55 [West Midlands Fire Service](#): No objection.
- 4.56 [Health and Safety Executive](#): No objection; the site does not lie within the consultation distance of a major hazard site or major accident hazard pipeline.
- 4.57 [West Midlands Police](#): No objection to the proposed uses. Detailed design advice provided concerning security, lighting, CCTV, access control, landscaping and boundary treatment. Query raised regarding the testing to be carried out to ensure the 4G telecommunications network will not be compromised.
- 4.58 [Civil Aviation Authority](#): No response received.
- 4.59 [Birmingham International Airport](#): No objection subject to conditions to ensure airspace safety.
- 4.60 [Historic England](#): Concern raised that the development would cause less than substantial harm to the following heritage assets:
- Steelhouse Lane Conservation Area – Harm to the character and appearance of the CA and to the significance of its key landmark listed buildings including Aston Fire Station (Gr II), Victoria Law Courts (Gr I), Methodist Central Hall (Gr II*) and Birmingham Children's Hospital (Gr II). (Viewpoints 6 and 28)
 - Jewellery Quarter Conservation Area – Considerable impact on character and appearance on the CA whose significance is derived in its low scale townscape and domestic origins. Overbearing scale would cause harm to the CA, to the Chamberlain Clock Tower (Gr II), and to numerous listed buildings along Warstone Lane. Very limited visibility from St Paul's Church (Gr I) but visibility likely to be significantly increased in winter when trees are bare of leaves. (Viewpoints 29 and 30)
 - St Chad's Roman Catholic Cathedral (Gr II*) – Scheme would add to the growing cumulative impact which has caused the setting of the cathedral to suffer greatly in recent years due to the increasing encroachment of tall buildings. Only partial visibility from a fixed position (viewpoint 34), the proposed tower would add to the growing number of tall buildings affected the cathedral's prominence, and the outline of its form in view from the southwest.
- 4.61 In the case of less than substantial harm, great weight should be given to the assets' conservation and the harm should only be permitted if it would be outweighed by public benefit.
- 4.62 [Birmingham Civic Society](#): Proposal is supported but some points to be addressed when a detailed application comes forward.
- Suitable site for tall buildings and major development.
 - Visible from St Chad's Cathedral and the Victoria Law Courts but not unduly overbearing.
 - Less than substantial harm to heritage assets including Newhall Penworks (Gr II), Steelhouse Lane Conservation Area and former Fire Station (Gr II).
 - Potential to improve transport connections with a cycle hub and Sprint. Poor pedestrian connectivity and security.

- Unfortunate that no affordable housing provision to be made. Co-living would add to the range of housing options in the city centre. Amenity space would be insufficient.
- New public realm and opening up of the canal would be a benefit.
- Potential new jobs would exceed the number of existing jobs on the site.
- Design and material quality should be high given the prominent gateway location.

- 4.63 **Sport England:** Objects in the absence of a S106 agreement to secure a financial contribution towards the provision of sports facilities. The occupiers of the proposed development, especially residents, would generate demand for sporting provision which should be met with the following contributions (based on an occupancy rate of the apartments including co-living of 1.7 persons per dwelling resulting in 1054 persons):

Sports Hall sum:	£183,061
Swimming pool sum:	£188,270
Playing Pitches sum:	£244,669
Total:	£616,000

5. **Third Party Responses**

- 5.1 Site and press notices posted. Local Councillors, Residents' Associations and the occupiers of nearby properties notified of the application. One response received as follows:
- 5.2 Birmingham Women's and Children's Hospitals (BWC) express concern about the impact on the aircraft transferring patients for major trauma services. Aircraft use the adjacent Nechells playing fields for landing and would at certain phases of the flight be below the rooftop of the main Mill Street building. This leads to the concern that the aircraft would not be able to identify the red obstruction beacons on the rooftop. Some form of lighting around the middle or along the height of the building should be added to enable continued operations as a major trauma centre.
- 5.3 The applicant has also forwarded a letter of support from the Birmingham Knowledge Quarter Alliance (B:KQA) which considers residential to be the missing component within the area and one which would provide an important aspect to the place-making and vibrancy of the Quarter. The gateway location of the site would be a key element in the B:KQA aim to reach into the surrounding areas of Aston and Nechells helping to spread its benefits into communities characterised by low levels of economic activity, skills and educational attainment. The commercial aspects of the proposal are also supported for the positive contribution they would make to the B:KQA's overall aim of furthering knowledge and providing employment opportunities for local communities.

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

6.1 **National Planning Policy Framework**

The following paragraphs are particularly, but not exclusively, relevant to the proposal:

Chapter 2: Achieving Sustainable Development – paras. 7, 8, 11
 Chapter 4: Decision-making – paras. 56, 57
 Chapter 5: Delivering a sufficient supply of homes – paras. 60, 62
 Chapter 8: Promoting healthy and safe communities – paras. 92, 98
 Chapter 9: Promoting sustainable transport – paras. 104, 110, 112
 Chapter 11: Making effective use of land – paras. 119, 120, 124,
 Chapter 12: Achieving well-designed places – paras. 126, 130, 131, 132, 133,

Chapter 14: Meeting the challenge of climate change, flooding and coastal change – para.152
Chapter 15: Conserving and enhancing the natural environment – paras. 174, 180, 183, 185, 186, 187
Chapter 16: Conserving and enhancing the historic environment – paras. 189, 194, 195, 197, 199, 202, 206

6.2 Birmingham Development Plan 2017

PG1 Overall levels of growth
PG3 Place making
TP1 Reducing the City's carbon footprint
TP2 Adapting to climate change
TP3 Sustainable construction
TP4 Low and zero carbon energy generation
TP5 Low carbon economy
TP6 Management of flood risk and water resources
TP7 Green infrastructure network
TP8 Biodiversity and geodiversity
TP9 Open space, playing fields and allotments
TP11 Sports facilities
TP12 Historic environment
TP17 Portfolio of employment land and premises
TP19 Core employment areas
TP20 Protection of employment land
TP21 The network and hierarchy of centres
TP26 Local employment
TP27 Sustainable neighbourhoods
TP28 The location of new housing
TP29 The housing trajectory
TP30 The type, size and density of new housing
TP31 Affordable Housing
TP33 Student accommodation
TP37 Heath
TP38 A sustainable transport network
TP39 Walking
TP40 Cycling
TP44 Traffic and congestion management
TP45 Accessibility standards for new development
TP46 Digital communications

6.3 Development Management DPD

DM1 Air quality
DM2 Amenity
DM3 Land affected by contamination, instability and hazardous substances
DM4 Landscaping and trees
DM6 Noise and vibration
DM10 Standards for residential development
DM12 Residential conversions and Specialist accommodation
DM14 Transport access and safety
DM15 Parking and servicing

6.4 Supplementary Planning Documents & Guidance:

Purpose Built Student Accommodation Supply and Demand (January 2023)
Birmingham Parking SPD 2021

Large Scale Shared Accommodation SPD 2021
Birmingham Design Guide 2022
Loss of Industrial Land to Alternative Uses SPD 2006
Public Open Space in New Residential Development SPD 2007
Conservation Through Regeneration SPG 1999
City Centre Canal Corridor Development Framework 2002
Big City Plan 2011
Our Future City Plan 2021

7 **Planning Considerations**

- 7.1. As the majority of the development proposed in this application is in outline form only, aside from the principle, the only matters for detailed consideration are access and works to the canal wall. However, the application is accompanied by a set of parameter plans and by documents such as the Design and Access Statement and the Design Code which give information about the form the applicant envisages the development could take. The Birmingham Design Guide (and previously the High Places SPD now superseded) indicates that proposals for tall buildings should be submitted as detailed applications however the applicant has chosen to submit largely in outline form and consequently the images reproduced in this report are indicative unless noted otherwise.

Principle – Office/R&D building

- 7.2. The application site falls within the Aston Science Park Core Employment Area (CEA) so BDP policy TP19 applies to this proposal. It states that applications for development within CEAs that are not in a Class B use will not be supported unless an exceptional justification exists. Class B uses, some of which have moved into the new E(g) class following changes to the Use Classes Order in 2020, cover industrial and storage/warehousing uses together with some types of office use. It is important to note that TP19 refers to employment uses including B1(b) Research and Development and B1(c) Light Industrial. B1(a) Offices is not referred to. The application, which refers to the updated use classes, seeks outline planning permission for E(g)(i) Offices and E(g)(ii) Research and Development. While the E(g)(ii) floorspace would accord with policy TP19, the E(g)(i) floorspace would not and is therefore in conflict with TP19.
- 7.3. Policy PG1 of the Birmingham Development Plan requires the city to maintain a minimum 5 year reservoir of 96ha of land for employment use. According to the 2020-2021 Authority Monitoring Report, at 1st April 2021, there was 113.5ha of readily available employment land giving 5.9 years' worth of supply. More recently, the Council's *Housing and Economic Development Needs Assessment* (HEDNA), published in April 2022 to inform the review of the BDP, concludes that the overall gross needs for employment space are:
- Offices: 453,900sqm and 22.7ha
Industrial: 1,353,500sqm and 268.7ha
- 7.4. The HEDNA notes that a broad indication of current supply indicates a slight shortfall in office permissions but a potential oversupply when all future supply is taken into account. For industrial, a shortfall of 52.8ha is calculated however potential sites released from HS2 works may help to meet this need. The HEDNA states that further assessment of Core Employment Areas and an Urban Capacity Study are needed to identify ways to address the industrial land shortfall.
- 7.5. From this I conclude that the additional employment floorspace if used for R&D purposes would accord with the requirement of TP19 to retain land in employment use, however it would not help to address the greater need for industrial floorspace rather

than the office-based employment uses. The more general E(g)(i) office floorspace would not accord with TP19, although I acknowledge it would still generate employment.

Principle – Residential (up to 620 dwellings)

- 7.6. The residential elements of the proposal would not accord with the requirements of TP19 so the applicant must demonstrate exceptional circumstances in their favour. Section 5 of the Loss of Industrial Land SPD provides guidance on circumstances where exceptions may exist. In particular, paragraph 5.6 states that within the city centre it is recognised that a more flexible approach towards change of use from industrial to residential is required to support regeneration initiatives. In such cases, proposals which involve the loss of industrial land may be supported but only where they lie in areas which have been identified as having potential for alternative uses within other adopted planning policy documents.
- 7.7. A Loss of Employment Land Report submitted with the application argues that there is an exceptional justification for the non-industrial elements of the scheme based on the following:
- The proposed development as a whole supporting the objectives of wider strategies such as the Big City Plan, the emerging Our Future City Plan, the Aston University Campus Masterplan, the Knowledge Quarter Masterplan and the Curzon Masterplan SPD.
 - With reference to the Clean Air Zone, an expectation that industrial and warehousing operators will want to relocate outside of it, including from within city centre CEAs.
 - The recent granting of planning permissions within the CEA for non-industrial.
 - The prominent gateway location into the city centre.
 - The unique sustainability Net Zero Carbon attributes of the development.
 - Job creation.
- 7.8. Some of these justifications have weaknesses:
- The site does not fall within the Curzon Masterplan SPD area and the Aston University Campus Masterplan is not a recognised planning document;
 - No evidence is provided that the existing units on the site have become undesirable or vacant as a result of the CAZ. There is certainly activity within several of the units on site. There is also no indication of what would happen to the existing uses assuming they would be displaced by the development.
 - The other recent permissions referred to do not incorporate residential uses.
- 7.9. I do acknowledge the prominent location of the site and the likelihood that a landmark development would need to include a range of uses to: make efficient and effective use of the site; to create a viable scheme; and to meet place-making aims with activity and vitality flowing from the mix of uses. Therefore, in principle and on balance, I consider it acceptable for that mix of uses to include a residential component. I am, however, mindful that in this case the proposed floorspace is weighted in favour of the residential element, at approximately 46,000sqm, and the employment use, although larger than existing, would at only 12,000sqm appear to be a subservient use.
- 7.10. BDP policy PG1 sets out the overall levels of growth required including 89,000 new homes, of which 51,100 dwellings are to be provided within the city boundary. Policy TP29 sets the housing trajectory requiring 2,850 dwellings per annum to meet the overall target. However, these two policies are now considered to be out of date as the BDP is five years old. Changes to the Standard Local Housing Need Method adopted by the Government in 2018 and the subsequent 35% uplift for the 20 largest cities and urban areas have increased the city's annual housing requirement to 7,493

dwelling per annum from January 2022 (including the required 5% buffer). Given this significant increase, the proposed 620 residential units could make a meaningful contribution towards housing supply. It is noted that the site falls within the City Centre Growth Area identified in BDP policy GA1.1 where residential development will be supported as part of the mix of uses.

- 7.11. The Financial Viability Assessment is based on an even split between one and two bedroom apartments. The HEDNA indicates that the greatest need across all tenures within the city as a whole is for two and three bedroom apartments so although the two bedroom apartments proposed would help to meet this need, no larger units are envisaged despite the need for them.

Principle – Purpose Built Student Accommodation (up to 732 bedspaces)

- 7.12. BDP policy TP33 requires proposals for off campus PBSA to demonstrate a need for the development.
- 7.13. A Student Housing Needs Assessment (SHNA) has been submitted with the application which reviews the supply of PBSA provision within Birmingham, both to the targeted universities of Aston University, BCU and UCB, and citywide, in order to demonstrate the need/demand for the proposed development. Due to the date of the report, April 2021, the data in the SHNA is drawn principally from the Planning Policy Team's report on Student Accommodation Supply and Demand (SASD), presented to Planning Committee on 7th January 2021.
- 7.14. The applicant's SHNA reiterates the Council's SASD report highlighting that within the city centre there was a shortfall of 1,058 bedspaces when comparing existing demand (based on 2018/19 Higher Education Statistics Agency (HESA) data) to existing and committed supply. Potential future demand is also drawn from the SASD and indicated as 19,103. A further 3,182 bed spaces were being considered at the time of the SASD through current planning applications and pre-application schemes, including the application scheme. Adhering to the SASD report, the SHNA demonstrates that if these additional schemes are granted planning consent and are built out, the total supply of city centre PBSA would equate to 17,789 PBSA bed spaces, resulting in an under supply of 1,314 bedspaces against potential future demand.
- 7.15. The applicant's SHNA notes that the above figures do not consider those students who wish to change accommodation from HMO's and those who wish to reside in PBSA rather than being home based. However, the Council's SASD paper has shown a past trend of more and more students living at home over the past 5 years.
- 7.16. The Council's most recent SASD paper, dated January 2023 is based on data held by the Council and that published by HESA in January 2023. This considers various scenarios and continues to indicate a city-wide shortfall in PBSA bedspaces based on both existing demand and potential future demand. The figures are shown here for ease of reference:

Table 3: Demand/ supply analysis

Blue = surplus
Red - shortfall

University/ Location	Uni. of Bham (Selly Oak/ Edgbaston)	Aston, BCU, UCB (City Centre)	Newman Uni. (Bartley Green)	City-wide
Scenario 1				
Existing demand	23,095	17,690	210	40,995
Existing + Committed Supply*	10,047	18,239	306	28,591
Shortfall/ surplus	-13,047	548	-98	-12,401
Scenario 2				
Potential future demand	24,407 - 25,407	19,139	516	44,062 - 45,062
Existing + Committed Supply*	10,047	18,239	306	28,591
Shortfall/ surplus	-14,360 to -15,360	-900	-210	-15,471 to -16,471
Scenario 3				
Potential future demand	24,407 - 25,407	19,139	516	44,062 - 45,062
Existing + Committed supply + Current applications	10,452	20,829	306	31,845
Shortfall/ surplus	- 13,955 to -14,955	1,948	-210	-12,217 – 13,217
Scenario 4				
Potential future demand	24,407-25,407	19,139	516	44,062-45,062
Existing + Committed supply + Current applications + HMOs	23,516	28,692	566	52,774
Shortfall/ surplus	- 891 to - 1,891	9,553	50	8,712 - 9,712

Figure 6: Table 3 from Purpose Built Student Accommodation: Supply and Demand Update 23 January 2023

- 7.17. For existing demand the citywide shortfall would be 12,401 bedspaces (scenario 1) and for future demand it would be up to 16,471 bedspaces (scenario 2). These figures are based on committed and existing supply – i.e. those already built or currently under construction. However, looking more closely at the potential future demand, once current applications are factored in (including this application) there would be a 1,948 bedspace surplus in the City Centre (scenario 3). While a degree of flexibility in supply is needed, the projected surplus is not insignificant, and this scheme would account for approximately one third of it. This matter will be addressed later in this report as part of the planning balance exercise. A significant shortfall in the number of bedspaces would remain in the South of the city (up to 14,955).
- 7.18. The applicant has provided a prompt response to the 2023 Supply and Demand Paper following its publication, submitting an Update Note. This clarifies that while the proposed development generally targets the city centre based universities (Aston, BCU and UCB), it also takes in the city-wide supply and demand to demonstrate need. Para. 3.1.2. states,

“Whilst the proposed development at Curzon Wharf is generally aimed at students studying at BCU, AU and UCB, a large proportion of students who study at the universities outside of the city centre at UoB and NU prefer to reside within the city centre near to public transport hubs (bus, tram and rail) and all available amenities.”

- 7.19. No evidence is provided to support this statement. Their assessment also fails to take account of full time students who do not require accommodation because they live in their own home or with parents, or who are not in attendance. Para. 3.1.6 also suggests that demand may come from students living in HMOs who may prefer PBSA however those living in HMOs and other rented accommodation have already been included in the Council's estimation of demand and it is assumed that all students requiring some form of accommodation would choose to live in PBSA.
- 7.20. Notwithstanding the shortcomings with the applicant's Update Note, under scenario 2 of the Council's 2023 report, there is a shortfall of 900 bedspaces based on future demand against existing and committed supply. A limited unmet demand of 900 bedspaces could therefore be argued.
- 7.21. In addition to demonstrating need, policy TP33 requires the proposed development to be very well located in relation to the educational establishment that it is to serve and to the local facilities which will serve it, by means of walking, cycling and public transport.
- 7.22. At the time the applicant's SHNA was prepared, the targeted universities were identified as being Aston University, Birmingham City University and University College Birmingham, however no nomination rights had been agreed and therefore it should be assumed that occupiers could be enrolled with any university within the city. This is confirmed in the Update Note at Para. 3.1.2. quoted above (para. 7.18).
- 7.23. The site is in a sustainable location, with convenient access via walking and bicycle to the targeted universities and Birmingham city centre, where all facilities including public transport bus and train hubs are located along with services, commercial, community and leisure facilities. However, it is rather less well-located to where the future need for bedspaces will be, principally in the south of the city. There is no formal definition of 'very well located' in the context of policy TP33 however the Guidance Note on Student Accommodation Statements refer to a 15—20minute walk as a guide and is based on BDP policy TP45 Accessibility Standards for new development. This equates to approximately 1.5km.
- 7.24. Google Maps calculates the following travel times from the site:
- University of Birmingham Selly Oak campus (5.34km as crow flies):
Cycling: 22 mins Walking: 1 hour Bus: 32 mins
 - Birmingham City University, Westbourne Road campus (3.5km as crow flies):
Cycling: 19 mins Walking: 57 mins Bus: 37 mins
- 7.25. Google Maps does not offer a route via train as the bus is more convenient however calculating this separately for UoB, it would take 27 minutes to walk to New Street Station, 7 minutes on the train and a further 1 minute walk into the campus, a total of 35 minutes assuming you can walk straight onto a train without having to wait.
- 7.26. All of these times and distances are beyond the 1.5km/15-20 minute walk indicated in the Guidance Note and consequently the application site cannot be considered to be 'very well located' in respect of campuses in the south of the city.
- 7.27. TP33 also requires the proposed development to have an acceptable impact on the local neighbourhood and residential amenity. The site is located within a commercial area and there are no residential properties in the immediate vicinity.

- 7.28. The final two criteria in TP33 relate to the design of the development, internally and externally. The scale and massing of the development is considered below (under the heading 'Design') however given that this is an outline application, very limited information is provided concerning the internal arrangements and thus a conclusion on their appropriateness cannot be made.

Principle – Other non-residential uses

- 7.29. The application proposes 560sqm of a mix of uses including retail and food and drink uses, gymnasium space, public house and drinking establishments/bowling alley/cinema (sui generis) across all four buildings. The NPPF requires main town centre uses, including retail, to be located within the boundaries of existing centres. The site falls outside of the City Centre Retail Core but within the City Centre Growth Area (BDP policy GA1), which states, "*Appropriate scale retail development will be supported where it complements the existing Retail Core and as part of mixed-use redevelopments throughout the City Centre*". Considering the relatively small amount of floorspace involved, I consider this to be appropriately scaled development which would complement rather than compete with the existing retail core within the context of a mixed-use development.

Principle - Conclusion

- 7.30. The renewed employment offer at the site would roughly double the existing employment floorspace and increase jobs significantly however only one of the uses proposed, class E(g)(ii) would directly accord with BDP policy TP19. In my view there is a reasonable justification for incorporating a residential element in the mix of uses in order to meet place-making and regeneration aims, as well as to increase the supply of housing. However, the following should be noted:
- the type of employment space provided is not all that which is normally permitted in a Core Employment Area and none of it is that for which there is the greatest need in the city;
 - half of the PRS residential units proposed are one-beds of which there is already a good supply in the city centre; similarly, there is a projected surplus of PBSA bedspaces based on future demand;
 - the site is not 'very well located' in respect of the UoB where there is the greatest demand for PBSA;
 - the proportion of the total floorspace proposed is heavily weighted in favour of the residential component.
- 7.31. The reservations listed here should be taken into account in the planning balance exercise at the end of this report.

Sustainability

- 7.32. The Planning Statement refers to the development as being high quality Net Zero Carbon (NZC) ready and says it will reflect the Council's Route to Zero objectives and support the Clean Air Zone. It is intended to be a unique, sustainable ecosystem that will be the first of its kind in Birmingham and the UK. It is important to emphasise that the supporting documents indicate the development would be 'net zero carbon ready'. This means it is intended at this stage to be designed and built to be highly energy efficient and powered by renewable energy sources but it would be technically capable of operating more traditionally using non-renewable energy. Occupants would be able to offset on-going carbon demand by procuring zero carbon electricity or using recognised carbon offsetting frameworks.
- 7.33. The development would be NZC-ready by:

- Reducing the use of embodied carbon by specifying low carbon materials.
 - Reducing energy demand by creating a well-insulated building envelope which is airtight and thermal-bridge-free, with high performance glazing.
 - Increasing energy efficiency through the use of, for example, LED lighting and low power fans and pumps.
 - Dealing with remaining energy demand through the use of air source heat pumps, exhaust air heat pumps and photovoltaics.
- 7.34. As a result of the above, the following carbon emission reductions are expected (compared to the minimum achieved through the Building Regulations):
- Tower 1: Carbon emissions reduction of 13% through energy efficiency measures alone, and 69% through the inclusion of low and zero carbon technologies.
 - Tower 2: Carbon emissions reduction of 8% through energy efficiency measures alone, and 74% through the inclusion of low and zero carbon technologies.
 - Tower 3: Carbon emissions reduction of 31% through energy efficiency measures alone, and 72% through the inclusion of low and zero carbon technologies.
 - Office: Carbon emissions reduction of 20% through energy efficiency measures alone, and 43% through the inclusion of low and zero carbon technologies.
- 7.35. The office building, whose residual energy demand would be met through heat pumps, would target BREEAM certification of 'Very Good'. The pre assessment has demonstrated a score 58.6%. It cannot meet the BREEAM 'Excellent' rating required by TP3, because the NZC approach allocates resources and budget in a different way to the BREEAM criteria.
- 7.36. Of the other three buildings, Towers 1 and 2 would generate hot water through efficient air-source heat pumps, and heating and hot water for Tower 3 would be generated by exhaust heat pumps. Photovoltaic panels would be provided where appropriate on the roof or façades throughout the development.
- 7.37. The development has the potential to be highly sustainable, complying with the requirements of BDP policies TP3 and TP4 but going beyond what is normally proposed to comply with them and well beyond normal Building Regulations requirements. However, there is some uncertainty on this matter in two respects:
- Firstly, the technology to be included in the development. The applicant advises that the full range of materials and construction of the development are not currently finalised and that, given the rapid development of the NZC industry, newer and more efficient alternatives may be available before reserved matters applications are submitted.
 - Secondly, the on-going operation of the development. The intention is for the buildings to be operated by renewable energy sources but they would be technically capable of operating with non-renewable energy sources too, in which case they fall short of achieving the carbon emission reductions indicated above.
- 7.38. The applicant has suggested the imposition of a planning condition which would require the submission of an NZC strategy and compliance report for each phase of the development. This is the text of the condition:
- On or before the submission of reserved matters in respect of a development phase hereby permitted, except for the commercial building (building 4), a Net Zero Carbon Strategy for that phase shall be submitted to and approved in writing by the Local Planning Authority. In accordance with section 12 of the Energy Document dated*

March 2021, the Net Zero Carbon Strategy shall specify and quantify the requirements and carbon emission reductions to be achieved for the phase to:

- a. minimise embodied carbon during construction through the use of low embodied carbon building materials; and*
- b. ensure the delivery of a Net Zero Carbon ready development for operation through the use of energy demand reduction measures, energy efficiency measures and, low and zero carbon energy sources.*

Prior to occupation of that phase, a Net Zero Carbon Report shall be issued to the local planning authority to assess compliance with the Strategy. The phase must be implemented in accordance with the approved Net Zero Carbon Report.

- 7.39. Such a condition has its limitations. What it would secure is a series of strategies and reports which *may* demonstrate a lack of compliance with the NZC-readiness aims set out in the Energy Document. Furthermore, the condition would not *guarantee* the ongoing operation of the building as NZC; at any point the development could, in theory, be swapped to use higher carbon emitting energy sources.
- 7.40. In an effort to give more certainty, the applicant has confirmed through the Design Code the use of a specific range of materials for the external façades of the buildings which are likely to help meet the low embodied carbon aspirations. This is helpful, although the external material choices are only one element of the overall sustainability credentials of the scheme. The applicant has also indicated that the two trigger points within the condition – on or before reserved matters and prior to occupation – are points where there will be much more certainty about the materials and technology to be used.
- 7.41. The general NZC aspirations associated with this development are very much to be welcomed, especially in light of the city's climate emergency declaration in 2019. The applicant would be investing heavily in delivering a NZC-ready development and is consequently keen that a good amount of weight should be attributed to this element of the proposal. Assuming they are able to deliver the carbon emissions savings proposed such that it can be considered to be a NZC-ready development, then this would be a progressive project, paving the way for similar developments in the future. However, as this is a largely outline planning application, until applications to deal with the reserved matters are submitted, with the accompanying NZC Strategies and the subsequent NZC Reports, there remains an element of doubt over whether what is being proposed can be delivered. The applicant has acknowledged this and has agreed that, should the NZC-readiness not be delivered, following appropriate viability reviews, the proposed financial contribution towards affordable housing could be increased. As this would be based on a viability assessment, it is possible that it would conclude that to provide additional affordable housing would make the development unviable. In such a case the potential benefits of either the NZC-readiness or any additional affordable housing would both fail to materialise. The development is, however, still likely to reach a betterment over more standard tall building sustainability achievements.

Design

- 7.42. As this is largely an outline application, the parameter plans establish some principles, for example minimum and maximum heights of the proposed buildings and their position on the site, but the detailed scale, layout, appearance and landscaping would be dealt with at reserved matters stage. The Design Code gives a good indication of the likely appearance of the proposed buildings.
- 7.43. *Layout:* Retention and improvement of the existing access point is accepted, along with

the indicative re-orientation of Mill Street and establishment of 4 plots. Opening up of the canal wall would achieve connectivity and surveillance. There are difficulties relating to the elevated highway around much of the site and pedestrian routes/connections including with an underpass to the north, however the general layout and footprint of the four buildings is acceptable.

- 7.44. *Scale, height, massing:* The location of the site is suitable for a tall development being at a key gateway into the city centre when travelling by vehicle from the north and at an important node on the ring road. The variation in height between the buildings would create an interesting grouping on the approach into the city. The Pedestrian Wind Comfort Assessment accompanying the application indicates that mitigation for wind is needed and suggests the use of canopies. Your City Design Manager has concerns about canopies which can result in poor design and the Design Code has been amended to remove reference to canopies. A Sunlight and Daylight Assessment notes a degree of impact on nearby residential properties to the north and southeast of the site but this would not be to the extent that it would be detrimental to residents' amenity.



Figure 7: View of proposed development from Park Lane bridge over A38 Aston Expressway (Source: HTVIA)

- 7.45. *Architecture and materiality:* The submitted Design Code in its revised form is a thorough and detailed document which addresses a range of design matters including the site approach, built form, landscape strategy, and transport and access. It contains in excess of 200 mandatory requirements, including those relating to materials for the main façades, and is intended to ensure that the designs submitted in subsequent reserved matters applications meet the high quality expected by BDP policy PG3 and the Birmingham Design Guide, including Design Principle 26: Fulfilling Design Quality. The City Design Manager is satisfied with the content of the document and the schedule of mandatory requirements within it.
- 7.46. Based on the mandatory requirements within the Design Code, the residential blocks would be expected to have a checkerboard-style façade while the commercial block would express a vertical language with horizontal feature banding every 1 or 2 storeys to break up the elevation. The podium would feature the pocket park with translucent screens enclosing it.



Figure 8: Checkerboard-style façade on residential buildings
(Source: Design Code)

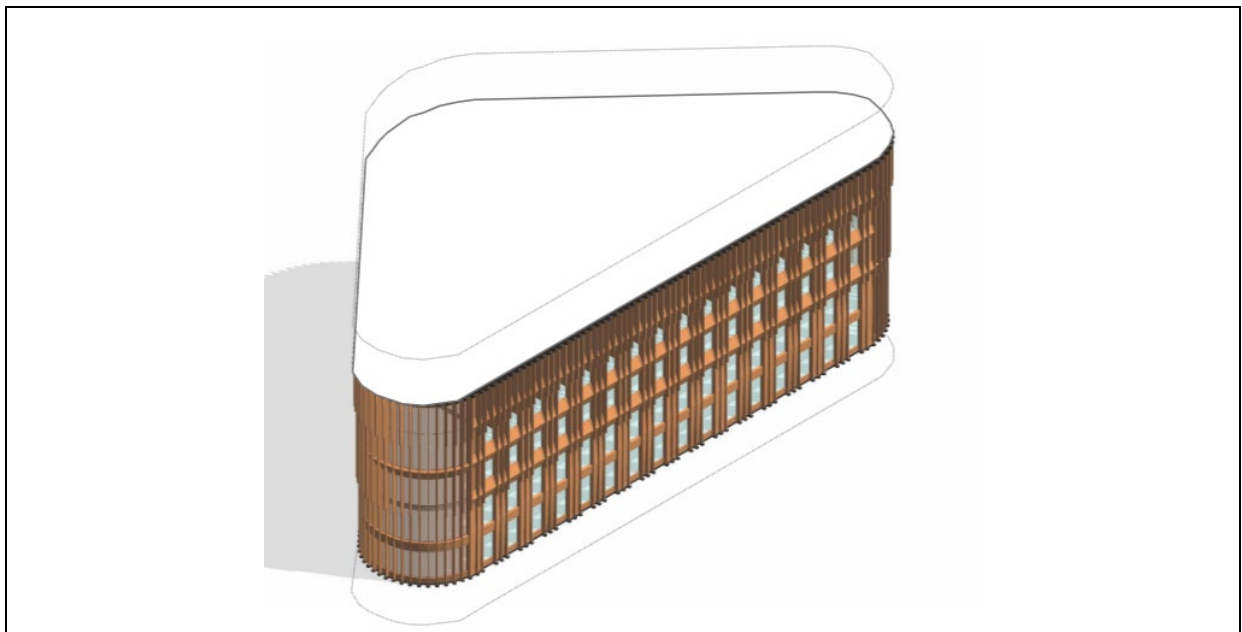


Figure 9: Commercial building façade detail (Source: Design Code)



Figure 10: Podium pocket park (Source: Design Code)

7.47. Principal materials would include Corten cladding panels, contemporary brickwork and precast concrete cladding.

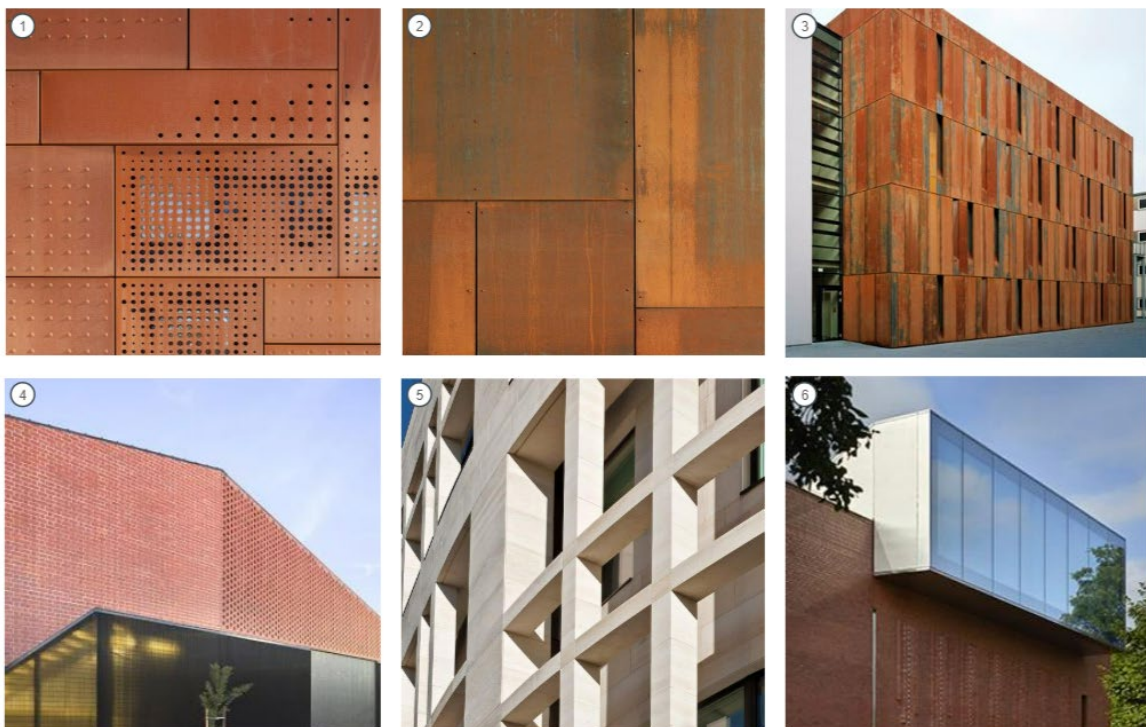


Figure 11: Examples of the proposed materials (Source: Design Code)

7.48. *Phasing Strategy*: This indicates that the first phase of development would bring forward the office building and improvements to the canal, including canalside landscaping, together with internal vehicle access and manoeuvring areas through the centre of the site, with the remaining buildings and public realm following in two further

phases. Your City Design Manager is satisfied that this strategy would secure the public realm works at an early stage in the development.

Landscaping/biodiversity

- 7.49. The application site has very limited ecological value at present and is largely hard-surfaced. The proposal offers the opportunity to enhance the soft landscaping and biodiversity of the site however I agree with your Principal Ecologist that the indicative landscaping scheme is rather limited in its planting proposals and could deliver a more attractive and biodiverse development. Improvements have been made in the revised Design Code however as layout and landscaping are reserved matters, the space to be given over to landscaping is not fixed at this stage.

Impact on heritage assets

- 7.50. There are two key issues in respect of heritage assets – the impact on the canal wall and the Grade II Listed bridges in the area immediately adjacent to the site, and the impact of such a tall development on heritage assets in the wider area.

Immediate impact: canal wall and bridges

- 7.51. The application site forms part of the setting of two Grade II Listed roving canal bridges on the Birmingham and Fazeley Canal. Part of the application site includes the connecting wall between the two bridges which forms the southern boundary to the site and is listed by way of attachment to the two bridges. In addition, throughout the city centre, the canal corridor is considered to be a non-designated heritage asset.



Figure 12: Aerial photograph of the canal bridges

- 7.52. There have been detailed discussions with the Canal and River Trust and the heritage specialists about the extent of the canal wall to be removed. The final design includes the reduction in height of some parts of the wall, removal of other sections and, in the centre section, the creation of four new apertures to facilitate pedestrian movement between the towpath and the public realm within the application site.
- 7.53. The original Heritage Assessment and the Heritage Note accompanying the final plans conclude that on balance and notwithstanding the loss of historic fabric, there would be moderate degrees of enhancement to the significance of the canal bridges, on the basis that they would be more visible and appreciable as a result of the opening up of the canal wall.



Figure 13: Photograph of canal wall at the boundary with the application site

- 7.54. Your Principal Conservation Officer agrees with this conclusion, noting that the heritage benefits would comprise improved movement/access to the bridges, creation of new views, new experiences and new audiences and this would better reveal their significance. Less than substantial harm would be caused to the significance of the bridges due to the loss of the original form and fabric of the wall which forms part of their setting, but this would be a low level of harm and would be outweighed by the heritage benefits. It is noted that the majority of the section of wall proposed to be fully removed would be the least significant part of the wall.
- 7.55. In respect of the rest of the proposed development, this has the potential to alter the visual setting of the canal and the bridges. There have already been significant changes to their setting due to modern industrial development and highway infrastructure; the surrounding environment is rather hostile due to lack of surveillance and poor access onto the canal. The proposed development would have a beneficial impact on heritage assets through the creation of landscaped public realm adjacent to the towpath with improved connections between the site and the canal and the creation of a safer and more attractive environment. On balance, your Principal Conservation Officer is satisfied with the impact of the proposal on the canal bridges and wall and I have no reason to disagree with her conclusion.

Wider impact: surrounding heritage assets

- 7.56. The application site is located in a prominent position and, due to its scale, would be visible from a number of heritage assets principally to the west of the city centre.
- 7.57. The Heritage Assessment has considered a number of heritage assets with inter-visibility with the proposed development to the degree that the proposal might impact on their significance through development within their setting. Your Principal Conservation Officer broadly agrees with the conclusions of the HA as follows:

Very Low degree of less than substantial harm to the significance of:

- *Birmingham Children's Hospital* - The proposed development is considered to present an adverse impact to the asset's significance and appreciation of that significance through development in its setting which on balance, taking account of distance and the presence of other tall development visible to the rear of the hospital, equates to a very low level of less than substantial harm.

- *Listed buildings on Warstone Lane* – The proposed towers would project above and to the background of these properties but their architectural interest is principally experienced from their front elevations and the towers would not be visible in such close views.

Low degree of less than substantial harm to the significance of:

- *Steelhouse City Centre Conservation Area, Victoria Law Courts, Methodist Central Hall and West Midlands Fire Service HQ* - The introduction of the towers into this location would diminish the ability to appreciate what is essentially a designed and notable view from within the conservation area as well as compete (albeit at some distance) with the landmark status and prominence of scale of the listed buildings causing harm.
- *St. Chads Cathedral* – The towers would be visible in the background of the cathedral to varying degrees depending on viewing position. They would challenge the cathedral's landmark status, particularly the positive experience of its two slender spires. However, the cathedral's setting has already been significantly compromised by modern development, particularly tall buildings near to it, and the cathedral and towers would only be visible together from a small number of highly localised areas.
- *Clock Tower* – The proposed tower would feature in views of the clock in the distant background and present a degree of challenge to the clock's landmark status through the introduction of a new visual distraction. However, the core elements of its form and function, architectural design and key location would remain, and the Big Peg as already introduced large scale development into the traditional low-rise Jewellery Quarter environment and is an existing visual distraction within the affected view.

Low to moderate degree of less than substantial harm to the significance of:

- *Bartons Arms Public House* – The proposed towers would be visible above and behind the pub when travelling from the south and would challenge the pub's prominence and landmark status within the townscape. However, the surroundings are already modified by modern development and the towers would be in the distant background.



Figure 14: View of proposed development behind Bartons Arms PH (Source: HTVIA)

Moderate degree of less than substantial harm to the significance of:

- *Jewellery Quarter Conservation Area* – The towers would be a terminating feature in the view along Warstone Lane and would project above the roof lines of rows of traditional buildings fronting Warstone Lane. Visibility of such tall buildings would also represent an encroachment upon the Jewellery Quarter's traditional low-rise environment. However, modern development already introduces high-rise buildings into the Conservation Area and the proposal would add to a cumulative impact rather than an entirely new impact.



Figure 15: Proposed view along Warstone Lane (Source: Viewpoint 30 of HTVIA)

- 7.58. I am satisfied that a rigorous process of assessment has been carried out by both the applicant's representatives and your Principal Conservation Officer, considering the impact on numerous heritage assets in the vicinity of the site and further afield. I have no reason to differ from your Principal Conservation Officer's conclusions and therefore agree that there is less than substantial harm caused to the significance of the designated heritage assets listed above.
- 7.59. In accordance with para. 202 of the NPPF, where less than substantial harm to the significance of a designated heritage asset is identified, the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. This balancing exercise is undertaken towards the end of this report.

Highway safety/parking

- 7.60. The entrance to Mill Street would remain in its existing position but with alterations to the access point and improvements for pedestrians and cyclists accessing the canal towpath. Although layout is a reserved matter, indicative and conceptual plans in the Design and Access Statement suggest the remainder of Mill Street would be stopped up. Vehicle access would still be available across the public realm to provide for servicing, disabled parking and registered drop off/collections. I note Transportation Development has no objection to the proposal subject to a number of conditions.

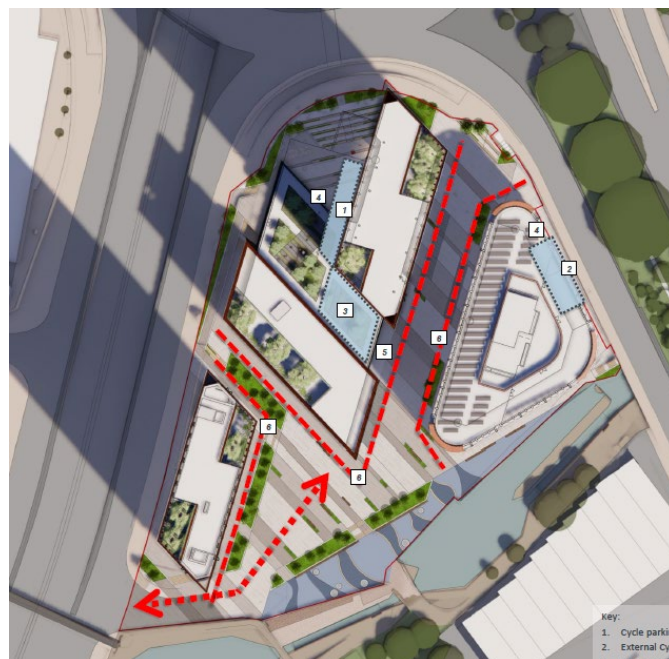


Figure 16: Proposed access arrangements

Air quality/noise/contaminated land

- 7.61. *Air quality:* The site is located at the intersection of major arterial routes through and around the city centre, consequently, and notwithstanding the implementation of the Clean Air Zone, the air quality assessment identifies exceedances of the annual mean nitrogen dioxide air quality objective at several proposed building façades. Although technically within the Clean Air Zone, the development would be adjacent to the ring road which may well see greater levels of traffic as a result of the CAZ. Nevertheless, Regulatory Services advise that further air quality monitoring and appropriate ventilation could be secured by condition to ensure a suitable internal residential environment.
- 7.62. In respect of the external residential environment, Regulatory Services advise there is no specific criteria to consider air quality impacts here and, taking account of the shared rather than private nature of the outdoor amenity space proposed for use by residents and the location of it, they offer no technical objection. However Regulatory Services does acknowledge it is not ideal to have residential uses in areas where air quality is poor.
- 7.63. *Noise:* The Noise Assessment identifies the main source of noise at the site as traffic. It specifies glazing and ventilation attenuation accordingly and Regulatory Services recommends conditions to secure suitable noise insulation and ventilation to protect residential amenity within internal spaces.
- 7.64. *Contaminated land:* Historically, the site has been in industrial use and the Preliminary Geotechnical and Geo-environmental Assessment indicates potentially high land quality risks as a result. Conditions are recommended by both the EA and Regulatory Services to secure further investigatory work and appropriate mitigation.

Impact on residential amenity

- 7.65. Given the outline nature of the application, a full assessment of the impact on the amenity likely to be afforded to residential occupiers of the development is not possible, however, some information is provided in the parameter plans, the Design Code and other documents accompanying the application, which can be considered along with the technical comments above concerning noise and air quality.
- 7.66. I note the following information:
- Apartments would be designed to meet or exceed the Nationally Described Space Standards (NDSS).
 - PBSA is likely to be arranged as clusters of 6-10 rooms with shared living and dining facilities, plus wider shared space, for example, gym, study areas and cinema room. A small number of studios may also be provided.
 - Outdoor amenity space would be in the form of sky terraces, an elevated pocket park on the podium between buildings 2 and 3, and winter gardens. Together this would amount to approx. 1,500sqm.
- 7.67. Compliance with the NDSS and the emphasis on cluster flats for PBSA accords with policies DM10 and TP33 respectively,
- 7.68. In terms of the various outdoor areas, in principle their provision satisfies policy DM10 and Design Principle 15 of the BDG, however I have concerns about their potentially small size relative to the number of users, and their general ambience and quality given their proximity to major roads.

- 7.69. In respect of size, the Birmingham Design Guide sets out guidelines for different types of accommodation, in accordance with which, the following amenity space would be required for this development:

Apartments:	3,720sqm
<u>PBSA bedspaces:</u>	<u>7,320sqm</u>
Total:	11,040sqm

- 7.70. The size of the amenity space proposed, approx. 1,500sqm, would clearly be very significantly below the standards set in the BDG. In the case of a shortfall, the BDG requires proposals to demonstrate how the reduction would not impact on the delivery of quality amenity space, for example by providing innovative architectural design which creates a number of smaller spaces providing variety, benefit from sunlight at different hours of the day, and enable different residents to have private space.
- 7.71. Balconies may be incorporated into the designs of the towers which would give some additional, individual outdoor space however they are unlikely to deliver a significant amount. The application indicates that residents would have access to internal amenity space and also to the public realm within the site, although this would not be as enclosed or private as communal amenity space solely for residents' use. The applicant has also pointed to other developments in the city centre with very limited outdoor space.
- 7.72. Looking more generally at the character of the surrounding environment, in particular the elevated roads which wrap around it, creating pleasant outdoor space of any size would be difficult and this is a drawback of the site and its location.
- 7.73. The nearest parks are some 750m or more away (Tower Street recreation ground and Phillips Street Park) walking through industrial areas and/or across or under dual carriageways. These are not realistic alternatives which would compensate for the lack of amenity space on site. The canal might offer some amenity opportunities but primarily for walking or sitting on a bench rather than socialising with housemates or neighbours in a semi-private setting rather than in a public place.
- 7.74. The most recently approved relevant planning policies DM2 Amenity and DM10 Standards for Residential Development make direct references to the provision of outdoor amenity space, its attractiveness and its useability. The proposal due to the location of the site cannot be said to wholeheartedly reflect these aspirations.
- 7.75. I note from the parameter plans that at their closest points the towers would be approx. 10-14m apart. City Note LW-3 of the BDG sets separation distances in order to protect residents' privacy, requiring 21m between building faces for 2 storey dwellings and 27.5m to 3 storeys and above. The City Note states that the weight given to these standards may be influenced by the location of the development and the scale of surrounding properties and that in the city centre they will be applied more flexibly. In the absence of detailed internal layouts it is impossible to assess the full impact of separation distances on residential amenity however the proposed distances may well be acceptable taking account of the city centre location and the design and layout considerations associated with a landmark development at a gateway location.
- 7.76. In summary on this issue, internally a suitable living environment could be created. Externally the creation of pleasant outdoor space for residents is more challenging and does not, in my view, entirely accord with policies DM2 and DM10 of the Development Management in Birmingham DPD and this should be weighed in the planning balance.

Drainage/flood risk

- 7.77. The site lies within Flood Zone 1 where there is the lowest risk of flooding including from fluvial, surface water and groundwater sources. Existing drainage is via private separate foul and surface water drainage systems discharging into the separate foul and surface water Severn Trent Water (STW) network on Mill Street.
- 7.78. The proposed drainage strategy cannot include soakaways or swales/ponds due to the nature of the proposed development and site conditions, however porous construction material, rainwater gardens and green/blue roofs would be incorporated where practical. Discharge would be partially into the canal (proposed office building) and partially into the STW network (rest of site). A detailed layout of the proposed foul water drainage is yet to be developed.
- 7.79. The Flood Risk Assessment and Drainage Strategy concludes the proposed development would not increase the risk of flooding on or off the site including at the access and egress points and I note there is no objection from either the EA or the LLFA. Conditions are recommended to secure a more detailed Sustainable Drainage Scheme and Operation and Maintenance Plan.

Community Infrastructure Levy (CIL)/Planning Obligations

- 7.80. CIL would be payable on the PBSA element of the scheme at reserved matters stage and, if it comes forward as per the floorspace currently proposed would be in the region of £1.7m.
- 7.81. The site falls within the Low Value Residential Area and although at present CIL would not be charged on the remaining accommodation, in the event the draft Charging Schedule is adopted prior to the determination of this application, a further CIL payment would have to be made.
- 7.82. In developments where more than 15 residential units are proposed, the Council seeks 35% affordable homes, in accordance with BDP policy TP31. BDP para. 8.21 states the Council is committed to providing high quality affordable housing for people who are unable to access or afford market housing and that this is an important commitment to ensure a choice of housing for all. The HEDNA concludes on affordable housing that there is a “*notable need*” and “*it is clear that provision of new affordable housing is an important and pressing issue in the area.*” Where meeting the 35% target would make the development unviable, the application must be supported by a financial viability appraisal (FVA) to demonstrate this. The FVA is independently assessed on behalf of the LPA and it may be the case that a lower amount of affordable housing can be offered instead.
- 7.83. An FVA has been submitted with this application and following independent assessment the applicant has agreed to provide 3% affordable private rent units to be let at 20% discount to market rent in perpetuity. These would be provided on site and amount 18 in total. The actual discount to rents (based on the assessor’s view of expected rents) would be as follows:
- 1 bed apartments reduced from £1,150 to £920
2 bed apartments reduced from £1,450 to £1,160
- 7.84. The FVA has been rigorously tested by the Council’s independent assessor and it is noted that the development incorporates new public realm at a cost of c.£2.5m and the CIL payment of c.£1.7m. The NZC element of the scheme is a significant cost, at c.£11.1m, however this is expected to be largely offset by the assumed “green premium” associated with higher rents. Notwithstanding these factors, it is

disappointing that the development cannot provide a more meaningful number of affordable units. In order to improve on this situation if possible, review mechanisms are proposed within the legal agreement which could see the amount of affordable housing increase should viability allow later on during the construction period. This would include a situation whereby the NZC-readiness of the scheme is not met and the £11.1m allocated does not secure the promised sustainability benefits.

- 7.85. BDP policy TP9 requires residential developments to provide new public open space (POS) at a rate of 2ha per 1000 population. This should be provided on site in most circumstances. In this case, Leisure Services has requested a contribution towards off-site POS and play facilities based on the residential and co-living elements of the scheme. However, as the review of the FVA has only managed to secure a very limited amount towards planning obligations and affordable housing is a priority for the Council, there is no additional funding available for POS. Sport England's request for a contribution towards the provision of sports facilities is also noted, but again the development cannot support any further contributions.
- 7.86. The Canal and River Trust (CRT) has also requested a financial contribution towards improvements to the canal environment in the vicinity of the application site, including to remove graffiti, to provide additional landscaping and for resurfacing of the towpath in the vicinity of the application site. In the absence of a cost estimate from CRT for this work, the applicant has offered £20,000 based on their own estimations. CRT suggest the following list of improvement works to the canal infrastructure to accommodate increased use:
- Delivery of improvements to the two listed bridges;
 - Environmental improvements and making good of the canalside from any works on/near the boundary;
 - Removal of graffiti on historic fabric in relation to all historic fabric within the setting of and visible from the site;
 - Interpretation of historic context;
 - Improvements to the pocket park opposite (to the east) such as seating, bins, etc.;
 - External lighting; and
 - Wayfinding and signage on and off site.
- 7.87. The improvement of the canal environment would play an integral part in the success of the place-making potential of this proposal and the first three items listed above are considered essential to that effect.

Environmental Statement

- 7.88. Environmental Impact Assessment (EIA) is the process undertaken in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (SI2017/571) the 'EIA Regulations'. The EIA process is where development proposals deemed likely to have significant environmental effects are appraised. EIA establishes the nature of a development and the environment in which it is likely to take place, during both the construction and operational phases. The Environmental Statement (ES) is the document that reports the assessment process and is submitted with the planning application. It has the status of a material consideration during the determination of the application.
- 7.89. An ES should focus on the likely significant effects of the proposed development. The subject areas are identified via a scoping opinion and in this case they are:
- Townscape and Visual
 - Built Heritage

- 7.90. Topics scoped out as being unlikely to give rise to significant effects on the environment were: socio-economics; noise and vibration; air quality; transport; biodiversity; water resources and flood risk; daylight, sunlight and overshadowing; wind microclimate; ground conditions; archaeology; land use; natural resources; waste; human health; risk of major accidents and disasters, and climate change.
- 7.91. The ES was submitted during the application process in August 2021 and an addendum to chapters 6 and 7, updating the Heritage, Townscape and Visual Impact Assessment, followed in November 2021 in response to minor alterations to the proposals for works to the canal wall.
- 7.92. The ES predicts what the significance of each environmental effect would be, which is determined by two factors:
- The sensitivity, importance or value of the environment (such as people or wildlife); and
 - The actual change taking place to the environment (i.e. the size or severity of change taking place).
- 7.93. Most environmental disciplines classify effects as negligible, adverse or beneficial, where effects are minor, moderate or major.
- 7.94. During the assessment of likely significant effects, the EIA (in line with requirements of the EIA Regulations) has considered measures to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects. This is commonly termed 'mitigation'. Finally, each chapter determines whether the level of effect reported is 'significant' or not. This determination is based on professional judgment.
- 7.95. Taking the chapters separately there follows a summary of the predicted significant effects:
- Townscape and Visual
- 7.96. Construction phase - Short term adverse effects on local townscape character and views are unavoidable and are likely to take the form of the use of cranes and construction activity on and around the site. Effects on surrounding receptors are expected to range from Negligible to Major Adverse. The construction process would be subject to a Construction Environmental Management Plan (CEMP), which would help control and minimise these effects.
- 7.97. Operational phase: Townscape Effects - The baseline assessment identified that at present the application site adversely influences local townscape character, for example through the general low quality of the buildings and public realm, poor relationship with the canal, and its failure to optimise the gateway location. The proposal would introduce high quality, highly sustainable, landmark buildings into the site and improve the public realm. Effects on the local townscape character areas are expected to range from Minor to Moderate Beneficial to Moderate to Major Beneficial.
- 7.98. Operational Phase: Visual Effects – The proposed development would play a limited role in adaptations to established views from the south, east and west, with Major to Moderate Beneficial effect on Views A and B though the contribution to the skyline. The development would be highly prominent in views from the north and while many views from the north are less sensitive, a number of higher sensitivity receptors from the north have been considered. Effects on these views vary from Moderate Beneficial (Views 15, 16 and 23) to Negligible (Views 18, 21, 31-33) with one adverse effect expected at View 19 (Bartons Arms PH in foreground) (Moderate Adverse). The

development would be highly prominent in close range views from the Grand Union Walkway, the Birmingham and Fazeley Canal and the Digbeth Branch Canal, as well as forming a significant backdrop in views further from the site along the waterways. Effects on these views vary from Major to Moderate Beneficial to Major Beneficial due to the scheme's ability to enhance the canalside setting, create high quality new public realm, aid legibility and create a new landmark. Finally, views from the south including the city centre have been considered and the distance from the city core and the topography result in modest levels of influence. There would be Negligible to Minor Beneficial to Major to Moderate Beneficial effects on 13 of these views with the remaining 3 (Views 6 (Corporation St), 27 (Snow Hill tram stop with St Chad's Cathedral in foreground) and 28 experiencing Major to Moderate Adverse effects.

Built Heritage

- 7.99. 19 specific built heritage receptors were identified with potential to be affected during the construction and/or operational phases of the development.
- 7.100. Construction phase – The proposed development has the potential to bring construction impacts through the presence of construction activity in views of and including heritage assets, through direct impact to the fabric of heritage assets to facilitate development and in temporary restrictions to access around heritage assets. At most, effects would be of Moderate Adverse significance to the following assets: the two listed canal bridges adjacent to the site, a cluster of assets on Corporation Street, St Chad's Cathedral, the Bartons Arms PH and the Jewellery Quarter Conservation Area. All other effects to built heritage assets would be Negligible or Minor Adverse. Mitigation measures are proposed in respect of the two listed canal bridges to be controlled through planning condition.
- 7.101. Operation phase – Impacts are likely through changes in the character of views to and including heritage assets that contributes to their heritage significance, and through changes to the character of the development site itself and its relationship to nearby heritage assets. Adverse effect of, at most, Moderate significance are expected, to the cluster of heritage assets on Corporation Street, St Chad's Cathedral, the Bartons Arms PH and the Jewellery Quarter Conservation Area. The proposed development would bring effects of Moderate Beneficial significance to the two listed canal bridges adjacent to the site.
- 7.102. An Addendum submitted in November 2021 following amendments to the proposals for the canal wall confirmed that the changes would not affect the original conclusion of the Built Heritage chapter of the ES. A further Heritage Note submitted in March 2022 following another amendment to the canal wall confirmed that in respect of heritage, townscape and visual impacts there would be no change to previous conclusions.

Cumulative effects

- 7.103. It is a requirement of the EIA Regulations for the ES to assess the cumulative effects arising from the proposed scheme. It is common for these to be broken down into two types of effect:
- Effect Interactions – the interaction of environmental effects of the proposed scheme affecting the same receptor, either within the site or in the local area; and
 - In-combination Effects – the combination of environmental effects of the proposed scheme with approved projects.
- 7.104. Townscape and visual: The ES considers the likely effect interactions, taking account of the residual effects following any mitigation, for both construction and operational phases. It concludes no cumulative effects are anticipated. Consented schemes within 1km of the site have been considered for in-combination effects on townscape

and visual. Cumulative residual effects ranging from Major Adverse to Major Beneficial were identified at construction and operational phases. However for various reasons, including distance to and from the site and the level of change proposed it is not considered there would be significant cumulative effects resulting and no additional mitigation is required.

- 7.105. Built heritage: Inter-development effects are only expected in regard to St Chad's Cathedral and Birmingham Children's Hospital in both the construction and operational phases. Effects would be Major Adverse for St Chad's and Minor Adverse for BCH. It should be noted that nearby construction sites have already met the threshold for Major Adverse impact during both the construction and operation phases.
- 7.106. According to the EIA Regulations, the Local Planning Authority (LPA) should reach a reasoned conclusion on the individual and cumulative significant effects and this conclusion should be integrated into the decision as to whether planning permission should be granted. If it is to be granted, the LPA should consider whether it is appropriate to impose monitoring measures. These effects are therefore considered in the planning balance discussion below.

Planning Balance

Relevant factors in the balancing exercise

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

For **decision-taking** this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 7.109. Footnote 8 confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 7.110. The Birmingham Development Plan became 5 years old on 10th January 2022. In accordance with NPPF paragraph 74, BDP policies PG1 and TP29 are considered out of date, and the Council's five-year housing land supply must now be calculated

against the Local Housing Need figure for Birmingham. As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking.

- 7.111. However, Footnote 7 notes the specific policies which protect important areas or assets and these include policies relating to designated heritage assets.
- 7.112. The proposals would cause less than substantial harm to the significance of several designated heritage assets and, if found to provide a clear reason for refusal, in this case because the public benefits of the scheme do not outweigh the heritage harm identified, then planning permission should not be granted.
- 7.113. The harm identified to the significance of designated heritage assets needs to be weighed against the considerable importance and weight to be applied to the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990, specifically in sections 66 and 72, as well as the degree of accord with BDP policy TP12 and the relevant paragraphs in the NPPF.

Potential public benefits of the proposal

7.114. Economic benefits

- 12,000sqm office/R&D space within the Core Employment Area. This would be a notable increase on the existing employment space, its quality and the number of jobs. The class E(g)(ii) R&D element clearly accords with BDP policy TP19 however a more general class E(g)(i) office use would not accord with TP19. Furthermore, although both would generate employment, according to the HEDNA, none of the space is of a type which is in greatest need. Therefore, while the provision of additional employment space in a CEA would normally attract substantial weight, in my view the weight attached here should be more modest due to the specific type of uses proposed.
- Economic/planning obligations. Benefits would arise from the following:
 - Jobs: 460pa construction; 880 direct on-site FTE; 300 indirect net additional jobs.
 - Once operational, total direct, indirect and induced economic output of up to £44.1m GVA in Birmingham.
 - Increased resident expenditure of £7.8m per annum on retail goods and £5.2m per annum on leisure goods and services.
 - CIL on PBSA c.£1.7m
 - Public realm works c.£2.4m
 - Minimum 3% affordable housing contribution
 - £20,000 towards canal works

- 7.115. Para. 81 of the NPPF states that “*Significant weight* should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development” (my emphasis). Accordingly, the economic benefits in terms of jobs and expenditure are welcomed, as are the CIL, public realm and canal work contributions. However, I also note the following: the construction jobs would only be temporary, and there is no guarantee that PBSA occupiers would be retained in the city long term so their spending power may also be temporary. Furthermore, the very low affordable housing offer is disappointing considering the scale of the need for affordable housing, and the absence of contributions towards public open space and the provision of sports facilities are also noted. These factors moderate the weight afforded to these benefits.

7.116. Social benefits

- Provision of housing including PBSA bedspaces. The city is only able to demonstrate a 3.99 year housing land supply (including the 35% uplift for the 20 largest towns and cities and the 5% buffer) rather than the required 5 year supply. Taking account of the extent of the shortfall, the provision of housing should be given substantial weight in the determination of this application. However, in my view, the weight afforded to it must be tempered by the following factors:
 - The residential component of the scheme involves the loss of industrial land and in terms of floorspace it far outweighs the additional employment floorspace proposed.
 - The HEDNA indicates that the city's greatest need is for two and three bedroom properties but 50% of the residential units would have one bedroom only.
 - Although there is a demonstrated need for more PBSA, the greatest need is in the south of the city to serve UoB, rather than in the city centre, which in respect of future demand and supply is projected to be well into a position of a surplus of supply. The site is not very conveniently located in terms of travel to campuses in the south of the city.
 - The external residential environment would be compromised by the character of the surroundings.

Therefore, while the provision of housing is welcome in broad terms, the type of housing proposed in this scheme is not likely to address the city's greatest need and the general residential environment would be reduced in quality due to the proximity to the ring road, and therefore the weight afforded to it in the planning balance should be reduced to reflect this.

- Creation of a landmark development on a gateway site. This site is ideally situated to host a landmark development. The parameter plans show appropriate layout, scale and height and the Design Code is sufficiently detailed to ensure that a high-quality development comes forward through the reserved matters applications. I am confident that the resulting development would accord with the thrust of BDP policy PG3 and the Birmingham Design Guide. This should be given substantial weight.
- Provision of new public realm contributing towards place-making and connectivity at a strategic point on the canal network and to security/pedestrian safety. This is a substantial benefit, again in accordance with the thrust of PG3, and the phasing plan indicates that the canal works would form part of the first phase of work.
- Provision of 560sqm of retail floorspace. This would be a moderate benefit providing ancillary uses bringing vitality to the development and in particular its public realm.

7.117. Environmental benefits

- Net zero carbon/sustainability measures. If developed as proposed, the scheme would bring significant sustainability benefits over and above those normally secured through the BDP's sustainability policies (TP1-5 but particularly TP3 and TP4). However there are uncertainties surrounding the delivery and thus the weight attributed to this should be reduced accordingly.
- Heritage. There would be a moderate beneficial impact in respect of the canal with a loss of historic fabric outweighed by the benefit of opening up views and experiences of the Listed bridges. However, less than substantial harm to the significance of heritage assets further afield has been identified, within a range from *very low* to *moderate*, with the Jewellery Quarter Conservation Area and the Bartons Arms PH

experiencing the *moderate* degree of harm. The ES also identifies effects of Moderate Adverse significance on these heritage assets, and a Major Adverse cumulative effect on St Chad's Cathedral. In accordance with TP12 and the NPPF, great weight should be given to the impact on heritage assets in the planning balance.

- Landscaping/BNG/ecological enhancements. The site is starting from a very low base but the dominance of hard landscaping in the proposal represents a missed opportunity to contribute in a meaningful way to the greening and biodiversification of the city centre in accordance with TP8 and DM4. This is given low weight in the balance.

7.115. This proposal demands a very finely balanced judgment.

7.116. Weighing most highly in its favour are the place-making benefits associated with such a prominent development at the key gateway into the city centre when approaching from the north, and with the opening up of the site to the canal at what is currently a rather unpleasant junction on the city's canal network. The creation of a landmark development is facilitated by the mixed use nature of the scheme, with the residential element filling the floorspace of the towers. In my view, the most compelling justification for the non-industrial uses within the Core Employment Area is to achieve this urban design benefit. There are reservations concerning the type of residential development proposed, namely the large proportion of one-bed apartments, the distance of the PBSA from universities with campuses in the south of the city where the greatest need for PBSA is and the projected surplus of supply in the city centre, and the poor external environment for residents due to the location of the site, however I consider they are outweighed by the resulting ability to create a landmark development. I am mindful also of the heritage benefits associated with the enhanced views and appreciation of the listed canal bridges and the improvements to security and the general canal environment which would flow from the new connection between the canal and the site.

7.117. Taking a city-wide approach, the provision of housing – both apartments and PBSA – would help to address the city's need for housing and, in view of the lack of a 5 year housing land supply this should be given good weight. I also attach good weight to the additional employment floorspace in a CEA, the associated jobs and the other economic benefits. In both cases, the weight would have been greater but for the reservations expressed above.

7.118. In respect of the NZC aspirations, although this is highly desirable in principle, in view of the uncertainties over delivery I only attach moderate weight to this benefit.

7.119. Set against these benefits are concerns regarding the very small amount of affordable housing proposed, and the less than substantial harm identified to designated heritage assets ranging in scale from 'very low' to 'moderate'. Here conflicts arise with policies in the development plan and these bring the scheme into conflict with the development plan as a whole.

7.120. In respect of affordable housing, I note this has increased during the course of the application process from 0% to 2.5% and again to 3%. It may be further increased in the event that NZC-readiness cannot be achieved so 3% is the minimum, but this is still disappointing against a target of 35%.

7.121. With specific regard to the impact of harm caused to the significance of heritage assets, I am particularly mindful of the great weight that both the BDP and NPPF place on the conservation of assets. The NPPF states that the more important the asset, the greater the weight should be. The Bartons Arms is a Grade II* Listed Building, primarily due to its well-preserved interior, though it also has an impressive external appearance which naturally impacts on the interior. The list description states,

“The intactness of this pub interior and the wealth of tile work make it the best example of its date in Birmingham.”

7.122. St Chad’s Cathedral is also Grade II* Listed, for architectural and historic reasons:

“As an early work and first Cathedral of AWN Pugin ...instrumental in the development of his ideas ... an elegantly proportioned, and skilfully composed mid-C19 cathedral, which incorporates thoughtful detailing and high-quality craftsmanship Remarkable quality of the ornate interior... As the first Catholic cathedral to be built in England since the Reformation...”.

7.123. The Jewellery Quarter Conservation Area is described in its Character Appraisal and Management Plan as being *“unique within the local, national and international context, for its high concentration of craft industry with associated trades in one small area, based in converted 18th and 19th century domestic properties and purpose-built later workshops and factories illustrating the whole history of the development of the industry. As such it is of major significance with no immediate parallels either in Britain or overseas”.*

7.124. These buildings hold considerable historic significance and the less than substantial harm which would be caused to their significance by the development is considered by conservation advisors to reach a moderate level. However, in my view, and very much on balance, I consider there are enough benefits associated with this proposal to outweigh the heritage harm.

7.125. In reaching this conclusion on heritage matters it follows that I can find no clear reason for refusal based on policies which protect heritage assets, as referenced by NPPF para.11(d)i and Footnote 7.

7.126. Considering para. 11(d)ii, whether there are any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies of the NPPF when taken as a whole, in my view, several of the benefits are less than ideal and some elements of the proposal have their shortcomings which I have sought to present openly in this report. However, again very much on balance, I do not consider that the adverse impacts arising would, either individually or cumulatively, outweigh the benefits of the scheme.

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

8 **Conclusion**

8.1. This application offers the opportunity to create a landmark development at the key gateway site into the city centre when approaching from the north. There is enough detail within this largely outline application to be satisfied that the site could be laid out appropriately, with well-designed buildings, and that the connections between proposed public realm within the site and the canal environment would bring significant place making benefits. The prospect of a NZC operational phase is an exciting one for the city and may set a standard for similar development to follow. If this cannot be achieved, a mechanism is in place to try to secure a larger amount of affordable housing to enhance the wider public benefits of the scheme.

9 **Recommendation**

- 9.1. That consideration of application 2021/03125/PA be deferred pending the completion of a Section 106 Legal Agreement to secure the following:
- i) A minimum of 3% affordable housing to be provided on site.
 - ii) A Financial Viability Assessment ('FVA') review to be undertaken before the commencement of each and every phase of the Development that includes residential apartments or purpose built student accommodation to identify the level of any additional affordable housing to be provided above the 3% minimum, including as a result of a situation where that phase did not achieve Net Zero Carbon ('NZC') readiness.
 - iii) A Canal Environs Contribution of Twenty Thousand Pounds (£20,000) payable to the Council towards improvements to the canal environs which are adjacent to the Development.
 - iv) Provision of new public realm within the site of a value of no less than £2,494,000 (index linked to construction costs from the date of this resolution to the date on which payment is made). In the event that the agreed public realm works cost less than £2,494,000 the difference will be provided to the Council to be spent on off-site affordable housing.
 - v) A financial contribution of £XX,XXX for the public realm works supervision fee.
 - vi) A financial contribution of £1,500 for the administration and monitoring of this deed to be paid upon completion of the legal agreement.
- 9.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by 23rd May 2023, or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reasons:
- i) In the absence of a legal agreement to secure affordable housing, the proposal conflicts with Policy TP31 Affordable Housing of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
 - ii) In the absence of a legal agreement to secure a review of the Financial Viability Appraisal to be undertaken before the commencement of each and every phase of the Development that includes residential apartments or purpose built student accommodation to identify the level of any additional affordable housing which can be provided, the proposal conflicts with Policy TP31 Affordable Housing of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
 - vii) In the absence of a legal agreement to secure a Canal Environs Contribution of Twenty Thousand Pounds (£20,000) payable towards improvements to the canal environs which are adjacent to the Development, the proposal conflicts with Policies PG3 and TP12 of the Birmingham Development Plan 2017, and the Birmingham Design Guide SPD, and the National Planning Policy Framework.
 - viii) In the absence of a legal agreement to secure the provision of new public realm within the site of a value of no less than £2,494,000 (index linked to construction costs from the date of this resolution to the date on which payment is made), the proposal conflicts with Policy PG3 of the Birmingham

- 9.3. That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
- 9.4. That in the event of an appropriate legal agreement being completed to the satisfaction of the Local Planning Authority by 23rd May 2023, or such later date as may be authorised by officers under delegated powers, favourable consideration be given to this application, subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

-
- | | |
|----|--|
| 1 | Requires the submission of reserved matter details following an outline approval |
| 2 | Implement within 10 years (outline) |
| 3 | Requires Reserved Matters application to be made in accordance with the Development Phase Design Brief |
| 4 | Requires submission of a Net Zero Carbon Strategy and Report for each phase of development |
| 5 | Requires the prior submission of wind assessment for each phase |
| 6 | Requires the prior submission of a construction employment plan. |
| 7 | Requires the prior submission of a demolition works statement/management plan |
| 8 | Requires the prior submission of an additional bat survey |
| 9 | Requires the prior submission of a phasing plan |
| 10 | Works to the Canalside Wall - Entering of Contract |
| 11 | Requires the prior submission of a construction method statement/management plan |
| 12 | Requires the prior submission of a contamination remediation scheme |
| 13 | Requires the submission of a Canal Protection Plan for each phase of development |
| 14 | Works to the Canalside Wall - Structural Details and Method Statements |
| 15 | Requires the prior submission of a sustainable drainage scheme |
| 16 | Requires the prior submission of level details on a phased manner |
| 17 | Requires the submission of a further air quality assessment |
| 18 | Requires the prior submission of architectural details |
| 19 | Requires the prior submission of sample materials in a phased manner |
-

20	Requires the prior submission of noise mitigation measures
21	Requires the prior submission of noise insulation
22	Requires the submission of an air quality mitigation and management plan for each phase
23	To ensure information on the proposed low/zero carbon energy technology is submitted
24	Requires the prior submission of a contaminated land verification report
25	Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan in a phased manner
26	Prior to Occupation Submission of Extraction and Odour Control Details for Commercial Unit(s) within Use Classes E(a), (b), (c) and (d)
27	Requires the submission of a CCTV scheme
28	Requires the submission of a lighting scheme in a phased manner
29	Requires the submission of an obstacle lighting scheme
30	Requires the submission prior to occupation of hard and soft landscape details
31	Requires the submission of hard surfacing materials
32	Requires the submission of a landscape management plan
33	Requires the submission of boundary treatment details
34	Requires the submission of a Residential Travel Plan for phases with a residential component
35	Requires the submission of a commercial travel plan
36	Requires details of electric vehicle charging points
37	Requires the submission of cycle storage details in a phased manner
38	Requires the submission of a Residence Management Plan for PBSA
39	Requires the scheme to be in accordance with the listed approved plans
40	Requires the approval of amendments to the airspace by the Civil Aviation Authority
41	Requires implementation in accordance with the Design Code
42	Limits the noise levels for Plant and Machinery
43	BREEAM Certificate
44	Pedestrian access rights
45	Public footway headroom

-
- 46 Vehicle Turning
 - 47 Highway works to be carried out prior to occupation
 - 48 Prevents the use from changing within the use class
 - 49 Limits the hours of operation
 - 50 Limits delivery time of goods to or from the site
 - 51 Requires the scheme to be in accordance with the environmental statement
-

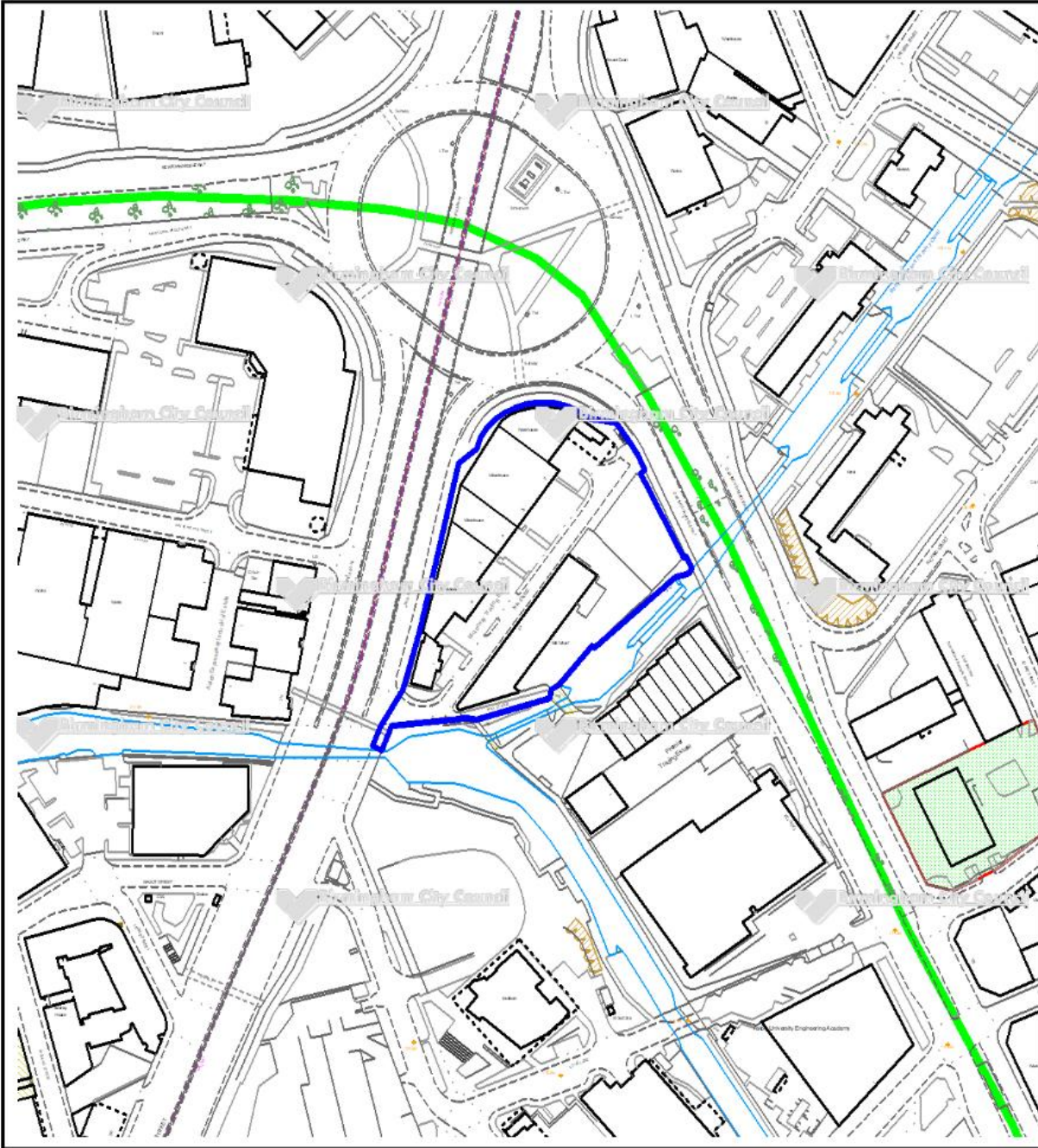
Case Officer: Amy Stevenson

Photo(s)



Photograph 1: View looking south towards site from Aston Expressway

Location Plan



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Committee Date:	23/02/2023	Application Number:	2021/03035/PA
Accepted:	07/04/2021	Application Type:	Listed Building
Target Date:	09/09/2022		
Ward:	Nechells		

Canal wall south of Mill Street and north of the Birmingham and Fazeley Canal, Aston, Birmingham

Partial demolition, reinstatement and other works to the canal side wall fronting the section of the Birmingham and Fazeley Canal situated between Aston Road and Dartmouth Middleway, Birmingham City Centre

Applicant: Woodbourne Group (Mill Street) Ltd
Woodbourne House, 10 Harborne Road, Edgbaston, Birmingham, B15 3AA

Agent: CBRE Ltd
55 Temple Row, Birmingham, B2 5LS

Recommendation

Approve subject to Conditions

1. Proposal

1.1 This application relates to a section of canal wall at Aston Junction, shown below:



1.2. The following works are proposed:

1) Removal of a section of wall to the east of the canal bridges, shown in red below:



2) Increase the height of the remaining east 'wing' of the wall to a consistent level – see red dotted line:



3) Introduce 4 apertures in the wall alongside an existing door opening, between the two bridges, shown in the following CGI:



- 4) Reduce height of west 'wing' of wall to 1.1m, shown in the following CGI:



- 1.2 Existing fabric, e.g. coping stone, will be re-used where possible and changes in the height of the wall will see the replication of the wall's existing sweeping form. Specific paving will mark the path of the wall where it is removed.

- 1.3 Supporting statements: Planning Statement; Design, Access and Heritage Statement; Listed Elements Report – Canalside Structures.

- 1.4 [Link to Documents](#)

2. **Site & Surroundings**

- 2.1. The application relates to the wall to the north of the towpath of the Birmingham and Fazeley Canal on Mill Street. The wall forms part of the curtilage of two grade II listed roving canal bridges; a mid-1780s brick built roving bridge to the northeast of Aston No.1 Lock, and an early 19th century cast iron roving bridge, located over the head of the lock at the junction of the Birmingham and Fazeley Canal and Digbeth Branch Canal. The wall links both bridges and extends westwards to the junction of Mill Street and the Aston Expressway tunnel.

- 2.2. The proposal is connected to a wider proposal for the redevelopment of industrial units off Mill Street. The wider site is located immediately to the south of Dartmouth Circus with the Aston Expressway passing underneath to the west of the site; Dartmouth Middleway is to the east. Aston Road brings traffic off Dartmouth Circus southbound into the city centre parallel with the western boundary of the application site and the Mill Street cul-de-sac leads off it into the site giving vehicular access to the existing commercial units and the canal.

- 2.3. The canal is considered to be a non-designated heritage asset throughout the city centre. The canal is a wildlife corridor and SLINC area (Site of Local Importance for Nature Conservation).

- 2.4. [Site location plan](#)

3. **Planning History**

- 3.1. 02/08/2021 - 2021/03125/PA - Land north and south of Mill Street bounded by Aston Road (A38), Dartmouth Circus, Dartmouth Middleway and the Birmingham and Fazeley Canal, Curzon Wharf, Aston, Birmingham, B6 4BS – Planning permission sought for a hybrid planning application constituting EIA development comprising:

A. Full Application For Partial Demolition And Other Works To The Listed Wall Between The Site And The Canal.

B. Outline Planning Application For The Demolition Of Existing Buildings And Redevelopment Of The Land For Mixed Uses across 4 buildings, comprising up to a maximum of 620 residential homes (Class C3), up to 732 purpose built student accommodation apartments (Sui Generis), and up to 12,000sqm (GIA) of Office / Research and Development floorspace (Class E(g)(i) and (ii)) with Ancillary Amenity And Operational Space, Retail And Food And Drink Uses [use Class E (a) (b) And (c)]; Indoor Sport, Recreation Or Fitness Space [use Class E (d)], Public House And Drinking Establishments / Bowling Alley / Cinema (Sui Generis) within buildings varying in height up to 282.5m AOD (illustratively shown as G+8 storeys, G+13 storeys, G+40 storeys and G+52 storeys); Hard And Soft Landscaping And New Public Open Spaces Including Sustainable Urban Drainage Systems, Car Parking Provision And Alterations to Pedestrian And Vehicular Accesses.

Awaiting decision.

4. **Consultation Responses**

- 4.1. Historic England: No objection.

- 4.2. Canal and River Trust: No objection subject to conditions:

- Details of type, material and finish of lintels to be used for the proposed openings to the wall.
- Details of hard surfacing proposed either side of boundary wall.
- Details of methodology of how the works will be carried out.
- Details of proposed external lighting.
- Consideration of increased risk of access to the lockside and potential risk to pedestrian safety, and proposed mitigation measures.
- Removal of graffiti on listed bridges and remaining sections of wall.
- Works to make good the towpath and provision of replacement planting.

- 4.3. The amended proposal retains the character and sense of enclosure the wall provides. The openings proposed are similar in style to the existing opening and provide a sense of connection between the proposed development beyond the wall and the towpath/canalside environment, both visually and physically, increasing levels of engagement, activity and overlooking, and thus providing safety through surveillance without a complete loss of historic character or a greater loss of historic fabric.

- 4.4. Principal Conservation Officer: No objection subject to conditions:

- Building recording
- Method Statement
- Repair and work to historic fabric
- Full architectural and specification details
- Mortar mix to be agreed

- 4.5. The heritage benefits to the listed bridges through improved movement/access to, creation of new views, new experiences and new audiences would enhance and better reveal the significance of the bridges and, on balance, would outweigh a low degree of 'less than substantial harm' caused to the significance of the listed wall through loss of original form and fabric, and the significance of its place in the setting of the listed canal bridges. In line with the requirements of paragraph 202 of the NPPF and policy TP12 of the BDP the proposal is acceptable on balance.
- 4.4. City Design Team: No objection. The opening up of this wall will allow the site to be better connected to the south, along the canal and for the principal amenity space to benefit from the asset that the canal networks offer the city. It will also improve surveillance and safety both within the site and along this critical stretch (and junction) along the canal. The design may be difficult to implement well, however, the Conservation Officer will be best to advise on the manner and detailing of the delivery.
- 4.5. Regulatory Services: No objection.

5. **Third Party Responses**

- 5.1. Site and press notices posted; local MP, councillors and residents' groups notified; no responses received.

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

6.1. **National Planning Policy Framework**

Section 8: Promoting healthy and safe communities - Paragraph 91-92

Section 11: Making effective use of land - Paragraph 118

Section 12: Achieving well-designed places - Paragraph 124-132

Section 16: Conserving and enhancing the historic environment - Paragraph 189-202

6.2. **Birmingham Development Plan 2017**

PG3 Place making

TP12 Historic Environment

7. **Planning Considerations**

- 7.1. This application supports application 2021/03125/PA which, if approved by your Committee, would see the wider redevelopment of land to the north of the canal off Mill Street. It would facilitate the place-making aims of that proposed development to create new connections between the canal towpath and new public realm to be created within that application site, along with improved surveillance and security on this part of the canal network.
- 7.2. The scheme of proposed works to the canal wall has been amended during the application process, having originally proposed the removal of a large section of wall between the two listed bridges. The amended proposals, involving the creation of apertures instead of full removal, seek to create connections between the towpath and the wider application site, whilst limiting the loss of historic fabric.

- 7.3. The Design, Access and Heritage Statement (DAHS) divides the wall into sections A and B:



FIGURE 4.3 | CANAL WALLS

- 7.4. Section A: The DAHS states that the architectural and historic interest lies in it being a substantive 19th century wall, typical of similar features along the Birmingham and Fazeley Canal. It is in generally good condition but has been subtly altered in a number of areas including with several apertures to enable access. Some of these openings have been re-filled. Graffiti is prevalent along its length.
- 7.5. Section B: This exhibits multiple phases of construction and major alterations. The integrity of traditional elements is very low with substantive intervention and reconstruction. The majority dates from the 20th century. Graffiti detracts from its aesthetics and overgrown vegetation is steadily eroding the fabric. It has negligible architectural or historic interest and makes little to no contribution to the significance of adjacent heritage assets beyond a minor contribution to the canal's sense of enclosure.
- 7.6. The DAHS states that the proposal presents both beneficial and adverse impacts to the assets' heritage significance and the ability to appreciate that significance.
- 7.7. Beneficial: The existing wider site presents an adverse impact on the heritage assets and the unlit, tightly enclosed nature of the areas adjacent to the listed bridges create a hostile environment that neither promotes access onto the canal nor appreciation of its heritage assets. The proposal to open out the space and create improved public realm, with landscaping and improved accessibility will be of great benefit to the significance of the heritage assets, creating new experiences of their heritage significance from within their immediate setting, whilst preserving those which already exist.
- 7.8. Adverse: Loss of traditional fabric will result from the partial demolition of sections of the canal walls. However, this is confined as much as possible to Section B of the wall which is of least heritage interest.
- 7.9. Overall, the DAHS concludes that the proposed development presents a moderate degree of enhancement to the significance of the listed bridges.
- 7.10. An update to the DAHS following the amendments to create apertures instead of fuller removal of the wall between the bridges acknowledges the slightly reduced visibility of the bridges from within the wider application site, however there would be greater retention of historic fabric and the designed sense of enclosure between the

locks. On balance, the net effects of both the reductions in adverse and beneficial outcomes are found to be neutral: balancing one another out.

- 7.11. Your Principal Conservation Officer agrees with this conclusion, noting that the heritage benefits would comprise improved movement/access to the bridges, creation of new views, new experiences and new audiences and this would better reveal their significance. Less than substantial harm would be caused to the significance of the bridges due to the loss of the original form and fabric of the wall which forms part of their setting, but this would be a low level of harm and would be outweighed by the heritage benefits.
- 7.12. I am satisfied that a rigorous process of assessment has been carried out by both the applicant's representatives and your Principal Conservation Officer, considering both the positive and negative impacts on the designated heritage assets. I have no reason to differ from your Principal Conservation Officer's conclusions and therefore agree that while there is less than substantial harm caused to the significance of the assets, it would be outweighed by the heritage benefits.

8. **Conclusion**

- 8.1. The proposed development would facilitate the place making endeavours of the concurrent hybrid planning application, resulting in an overall positive impact on designated heritage assets. The Principal Conservation Officer has recommended a number of conditions to ensure the work is carried out in a suitable manner and these are attached.

9. **Recommendation:**

- 9.1. Approve subject to conditions

-
- | | |
|---|--|
| 1 | Implement within 10 years (conservation/listed buildings consent) |
| 2 | Building recording |
| 3 | Method Statement |
| 4 | Works to the Canalside Wall - Structural Details and Method Statements |
| 5 | Repair and work to historic fabric |
| 6 | Mortar |
| 7 | Implement as part of wider development |
| 8 | Requires the scheme to be in accordance with the listed approved plans |
-

Case Officer: Amy Stevenson

Photo(s)



Photo 1: View from Aston Rd looking northeast and showing Section A of wall



Photo 2: View of canal wall from Mill Street

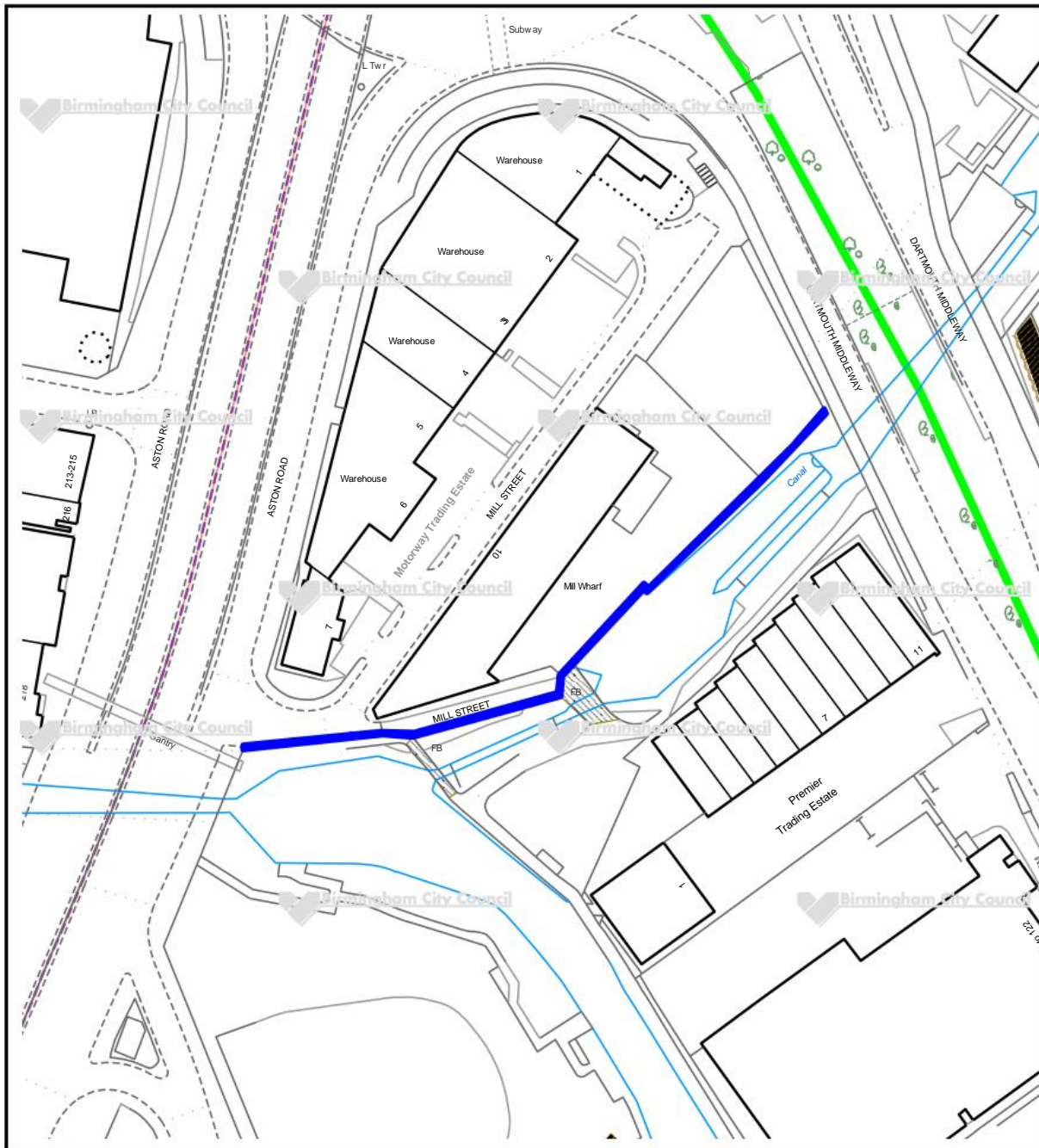


Photo 3: Location of proposed apertures



Photo 4: Section B of wall - proposed to be demolished

Location Plan



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Committee Date:	23/02/2023	Application Number:	2022/07259/PA
Accepted:	21/10/2022	Application Type:	Outline
Target Date:	24/02/2023		
Ward:	Nechells		

Land off Cardigan Street and Gopsal Street/Belmont Row,
Birmingham, B4 7SA

Outline planning application for education (Use Class F1), and
commercial, business and service (Use Class E); all matters reserved
except for scale.

Applicant:	Birmingham City University C/o Agent
Agent:	Delta Planning Cornwall Buildings, 45 Newhall Street, Birmingham, B3 3QR

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. **Proposal:**

- 1.1 This application relates to two plots (known as Plot A and Plot C) within the wider Eastside Locks site. Plot A has an area of 0.45ha and Plot C is 0.72ha to give a total site area of 1.17 hectares. This is an outline application which seeks approval for the proposed uses and scale of development, or maximum height of the buildings together with the maximum floorspace which can be achieved on each plot. The application has been submitted in outline form in order to provide some certainty that these sites can be brought forward by Birmingham City University (BCU) for education, commercial, business and services in the future.

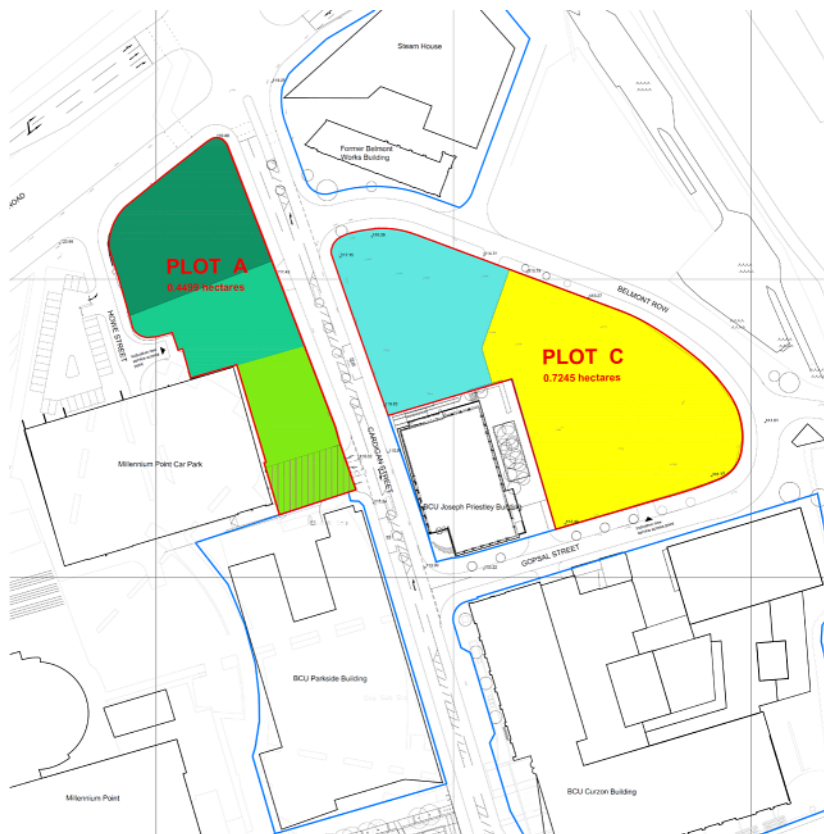


Image 1: Layout of Plots A & C

- 1.2 The maximum floorspace proposed is 118,781sqm (GEA), comprising of a maximum of 52,335sqm (GEA) on Plot A and 66,446sqm (GEA) on Plot C with full details shown below:

Plot totals	Maximum Proposed G.E.A. (sqm)	Maximum Proposed G.I.A. (sqm)	PLANNING USE CLASS G.I.A.			Max. Roof top plant (sqm)
			Max. E(a)-(f) Active frontage (sqm)*	Max. E(g)(i) and (ii) (sqm)	Max. F1 (sqm)	
Plot A	52335	49718.25	1249.5	48806.25	48806.25	3467
Plot C	66446	63123.7	1249.5	58709.05	58709.05	4414.65
GRAND TOTAL	118781	112841.95	2499	107515.3	107515.3	7881.65

- 1.3 As set out in the table above a small proportion of the development will be for a mix consisting of some or all of retail, restaurant/cafes, financial and professional services, indoor sport and recreation, medical services and childcare (Class E(a-f)). These will be located on ground and first floor levels. The remainder of the development will be a mix of offices (Class E(g)(i), research and development (Class E(g)(ii)) and education (Class F.1).
- 1.4 The development parameters for Plot A set a maximum of 6 to 14 storeys of accommodation including roof top plant. Through the lifetime of the application the amount of 14 storey development has been reduced with the inclusion of a 10 storey element. Taking account of the approximate 4m fall southwards across the site, from Jennens Road, the maximum height based on existing site levels would range from approximately 26.4m to 64.9m.

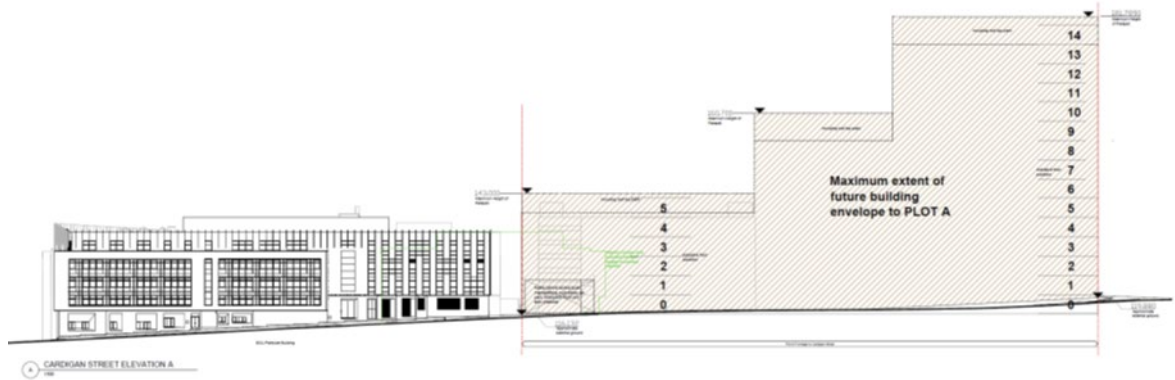


Image 2: Maximum extent of building on Plot A as viewed from Cardigan Street

- 1.5 The proposal for Plot C is to allow 7 to 9 storeys of accommodation including roof top plant. Taking account of the approximate 5m fall southwards across the site, from Belmont Row, the maximum heights based on existing site levels would range from approximately 30.6m to 41m.

Image

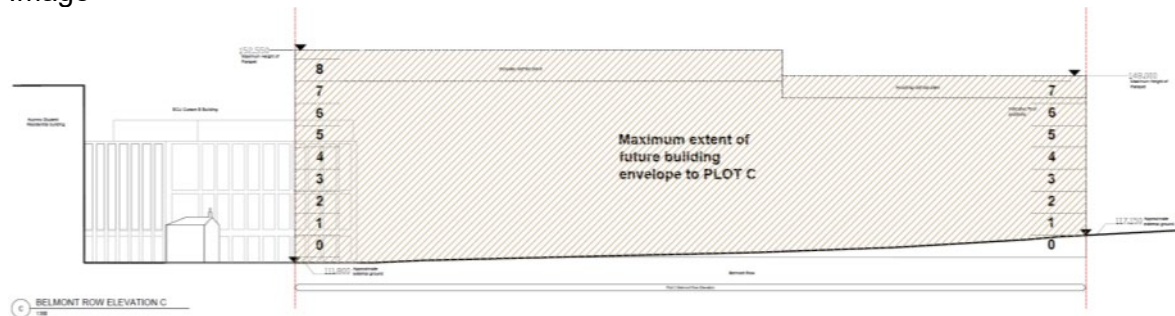


Image 3: Maximum extent of building on Plot C as viewed from Belmont Row

- 1.6 As an outline application with only permission sought for the scale of the buildings the proposed plot layout including access and the design of the buildings are not known at this stage. The remaining reserved matters are layout, access, appearance and landscaping.
- 1.7 [Link to Documents](#)

2. **Site & Surroundings:**

- 2.1 Eastside Locks is a major mixed-use development in the Eastside area of Birmingham covering an area of 6.17ha. Over the last decade BCU has developed its City Centre Campus within this part of the City occupying part of Millennium Point and constructing a number of new buildings known as the Parkside, Curzon and Joseph Priestley buildings.
- 2.2 Plot A is located to the west of Cardigan Street that runs north to south through Eastside Locks and forms a service level carpark for BCU. The plot is bounded by Jennens Road to the north, Cardigan Street to the east, the Millennium Point Car Park and Howe Street to the west and the existing BCU Parkside Building to the south.

- 2.3 Plot C lies to the east of Cardigan Street and the wider Plot C already accommodates the BCU Joseph Priestley Building to the south. The site is enclosed by Belmont Row and Gopsal Street.
- 2.4 Warwick Barr Conservation Area lies to the north of Belmont Row enclosing the locally listed Ashted Canal Locks and Pumping Station, the Digbeth Branch Canal to the east of the site, the Lock Keepers Cottage to the south east of Plot C, and the locally listed Co-op Building on Belmont Row
- 2.5 The two plots lie within the Curzon Masterplan Area whilst the wider Eastside Locks site is one of 26 designated sites within the City Centre's Enterprise Zone (EZ).

2.6 [Site location plan](#)

3. **Planning History:**

The Application Site:

- 3.1 2018/08426/PA - Outline application for education (Use Class D1), offices (Use Class B1a & b) and ancillary campus retail facilities (Use Classes A1-A5); all matters reserved except for scale. Approval granted on 22/03/2019, now expired.

Plot A only

- 3.2 2018/03982/PA – Change of use to temporary car park to provide 144 car parking spaces with associated access. Temporary approval granted 12/07/2018.
- 3.3 2021/04290/PA - Variation of Condition 2 (discontinued within a timescale) of temporary planning permission 2018/03982/PA for the change of use to temporary car park to provide 144 car parking spaces with associated access to extend temporary permission by 3 years. Temporary approval granted 09/07/2021.

Plot C only

- 3.3 2013/08194/PA (Joseph Priestly Building) Reserved Matters application for the erection of a five storey office building (B1a) with associated basement car parking and a ground floor restaurant/cafe (A3) together with associated landscaping pursuant to outline application 2009/00308/PA. Approved 06/02/2014 and now completed.
- 3.4 2013/08196/PA - Reserved Matters application for the erection of a four storey office building (B1a) with associated basement car parking and landscaping pursuant to outline application 2009/00308/PA (Building 5 not implemented)

Wider Eastside Locks

- 3.5 2009/00308/PA - Section 73 application for variation of conditions B1, B3-5, B7-9, B11, B12, B14-17, C6, C7, C9, C10, C13, C16-19; and deletion of conditions B2, B6 and C3 attached to planning application C/02942/08/OUT. Approved 05/05/2009. Condition 15 of the outline planning permission requires the submission of any reserved matters before the expiration of 10 years from the date of the permission (i.e. by 5 May 2019).
- 3.6 2008/02942/PA - Mixed-use redevelopment of land at Eastside Locks for up to 143,350 sq. m new floorspace comprising offices (including technology and Small-Medium Enterprises) (Classes B1(a) and B1(b)), residential with undercroft parking (Class C3), hotel with ancillary bar/restaurant, fitness suite and conferencing facilities (Class C1), retail/offices/restaurants/bars (Classes A1, A2, A3, A4 and A5), multi-

storey car park (sui generis) creating a total of 1,653 car parking spaces within the development as a whole. Approved 05/12/2008

4. Consultation Responses:

- 4.1 Transportation - No objection
- 4.2 BCC Regulatory Services – No objection subject to conditions requiring submission of contamination remediation scheme, contaminated land verification report, construction management plan, details of any extraction equipment, noise levels for plant and machinery, sound insulation for plant/machinery, noise mitigation for commercial uses, delivery code best practice and air quality mitigation.
- 4.3 Local Lead Flood Authority (LLFA) – No objection subject to conditions requiring submission of sustainable drainage scheme and sustainable drainage operation and maintenance plan.
- 4.4 BCC Employment Team – No objection subject to conditions requiring submission of construction employment plan and local employment strategy.
- 4.5 Severn Trent Water - No objection
- 4.6 Canals and Rivers Trust – No objection subject to conditions requiring submission of risk assessment and method statement, construction environmental management plan, lighting scheme and programme of archaeological mitigation.
- 4.7 West Midlands Police - no objection subject to conditions requiring secure access control, limited access to roof, scheme of CCTV and use of anti-graffiti coating on accessible external walls.
- 4.8 Inland Waterways Association – No objection
- 4.9 Environment Agency – No objection subject to condition requiring contamination remediation strategy for each plot.
- 4.10 West Midlands Fire Service – No objection
- 4.11 Historic England – Concerns raised that the proposed blocks fail to make the most of the opportunity to preserve, enhance and better reveal the significance of the adjacent Conservation Area.

5. Third Party Responses:

- 5.1 Neighbours, local ward councillors and MP were consulted for the statutory period of 21 days and a site notice displayed. No responses have been received.

6. Relevant National & Local Policy Context:

6.1 National Planning Policy Framework:

Chapter 2 – Achieving Sustainable Development
Chapter 6 – Building a Strong Competitive Economy
Chapter 7 – Ensuring the Vitality of Town Centres
Chapter 8 – Promoting Healthy & safe Communities
Chapter 9 – Promoting Sustainable Transport
Chapter 11 – making effective Use of Land
Chapter 12 – Achieving Well Designed Places

6.2 Birmingham Development Plan 2017:

GA1 – City Centre
PG3 – Place Making
TP3 – Sustainable Construction
TP4 – Low and Zero Carbon Energy Generation
TP6 – Management of Flood Risk and Water Resources
TP12 – Historic Environment
TP20 - Protection of Employment Land
TP21 -The Network and Hierarchy of Centres
TP24 – Promoting a Diversity of Uses within Centres
TP26 – Local Employment
TP36 - Education

6.3 Development Management DPD:

DM2 – Amenity
DM6 - Noise and vibration
DM14 - Transport access and safety
DM15 - Parking and servicing

6.4 Supplementary Planning Documents & Guidance:

Birmingham Design Guide SPG
Birmingham Parking SPD
Big City Plan
Birmingham Curzon HS2: Masterplan

7. Planning Considerations:

- 7.1 The site is located within the City Centre where Policy GA1 of the BDP identifies Eastside as a regeneration area where well designed mixed use developments will be supported including office, technology, residential, learning and leisure. Policy TP36 sets out the Council's approach to education provision specifically stating that the development and expansion of the City's Universities will be supported.
- 7.2 The application site also lies within the Curzon Masterplan boundary. It identifies the Eastside Locks area as an ideal location for a mix of high-tech, research, learning and business developments. Furthermore, Eastside Locks is one of 26 designated sites within the City Centre's Enterprise Zone (EZ) which in itself is a commitment to realise growth and to promote the reuse of the site.
- 7.3 The application is effectively a resubmission of previously approved outline application 2018/08426/PA which is now time expired. A wider mix of uses is now proposed and the maximum quantum of development has increased. The applicant has explained that the maximisation of scale and quantum of development from this proposal is important for the University in order to make the most efficient use of this valuable land asset to support the Universities long term growth, as well as supporting the wider Birmingham Knowledge Quarter (BKQ) initiative.
- 7.4 The previous scheme was primarily a mix of offices and education with a small proportion of A class uses. This new scheme proposes a mix of offices (E(g)(i)), research and development (E(g)(ii)) and education (F.1) with a small proportion of E class uses at ground and first floor level, specifically a-f. It is therefore considered that the principle of the proposed education, office and research and development uses would comply with development plan policy at this location. The proposed

conditions would not place any restrictions on the amount of E(g)(i), E(g)(ii) or F.1 floorspace coming forward, acknowledging that the extant outline permission allows 68,500sqm of B1a/b floorspace with no such office floorspace implemented independent to BCU to date.

- 7.5 It does however need to be acknowledged that Eastside Locks is located outside of the City Centre Retail Core and is consequently not a preferred location for retail uses. Policy TP21 and the NPPF promotes the City Centre retail core as destination for retail or town centre uses in order to support and maintain its vitality and viability. However, with specific regard to the retail element of the development proposals, it is important to note that it would only form a small component of the overall development mix with the primary proposed uses of the sites being for offices, research and development, and/or education uses. It is envisaged that the ground and first floor E(a-f) class uses would cater for the growing number of students at BCU's City Centre campus and local employees at the new facilities and it is intended to serve the local area only. It is therefore considered appropriate to attach a condition to restrict the cumulative Class E(a-f) floorspace to no more than 2,499sqm gross to ensure that the proposed development would not harm the vitality of the City Centre Retail Core. This figure is the threshold set by the NPPF above which a retail impact assessment is required. Then within this 2,499sqm figure no single retail unit should exceed 625sqm gross internal area to ensure that the proposed retail units are ancillary to the primary education, research and development and office uses.
- 7.6 It should also be noted that the extant planning permission for the wider Eastside Locks area (Ref. 2009/00308/PA) allowed for the provision of 9,800 sqm of retail uses (A1-A5) within the wider 7.6ha site, including 2,499 sqm of A1 floorspace, with a maximum of 1,500sqm of A1 uses to be provided on Plot C. In this context, it is considered that the proposed retail uses are of an appropriate scale and subject to conditions, form an acceptable element of this mixed-use redevelopment proposal.
- 7.7 *Proposed Scale and Impact upon Heritage Assets***
- 7.8 It is deemed that the consideration of the proposed scale cannot be separated from the consideration of the impact that the proposed development would have upon the setting and significance of the heritage assets located close by.
- 7.9 Policy TP12 of the BDP states that great weight will be given to the conservation of the City's heritage assets whilst the historic importance of canals is acknowledged. Policy PG3 supports development that reinforces or creates a positive sense of place and local distinctiveness that responds to site conditions and the local area context.
- 7.10 Plot A includes prominent frontages onto both Jennens Road and Cardigan Street and is envisaged as a key entrance point to the City Centre Campus from the north. At 14 storeys the proposed scale would reach up to 5 storeys taller than the 9 storeys agreed under the 2018 outline approval. However, it is considered that the scale would fit in with the large scale character of Jennens Road which includes the frontages to BOA (7 storeys), Birmingham Metropolitan College (7 storeys) and the Glassworks Development approved under 2019/02161/PA which incorporates a 37 storey tower which is now under construction. It would also form a welcome architectural anchor to the Cardigan Street entrance to the wider Eastside Locks site.



Image 4: Indicative visual of Plot A looking from Jennens Road

- 7.11 Plot C occupies a central position within the BCU campus for the area, completing the remainder of this plot alongside the existing BCU Joseph Priestley building. The scale of this plot would vary between 6 and a maximum of 9 storeys which is just one storey higher than what was previously approved at outline stage in 2018. The proposed 6 storeys would align more closely to the 6 storey BCU Curzon Building on the opposite side of Gopsal Street than the 4 storey BCU Joseph Priestly Building that faces towards Gopsal Street and Cardigan Street. It is considered, in street scene terms, the proposed scale would be acceptable providing a stepped approach to Cardigan Street and an appropriate backdrop to the former Belmont works building when viewing Plot C from Jennens Road.



Image 5: Indicative visual of Plot C looking from Gopsal Street

- 7.12 The existing empty plots of land do not contribute to the significance of the surrounding heritage assets. Furthermore, due to the scale and massing of the buildings on the surrounding plots it is considered that the proposed scale of development can be designed in such a way that it does not detract from the significance and character of the surrounding assets nor would they fragment or adversely affect their setting. It is important to emphasise that Officers consider that there is a type of development possible that can be supported at reserved matters stage within the proposed parameters, but it does not mean that any or every form of development is acceptable. Furthermore, the impact upon the surrounding assets will be considered again at the reserved matters stage when the detailed layout of the plots and design including materials are determined.
- 7.13 The City Design Officer accepts the principle of 14 storeys on Plot A and 9 storeys on Plot C however he is concerned about the worst-case scenario of both plots being built out to their fullest extent. However, it is important to emphasise that Officers only need to be satisfied that some of form development within the parameters identified could be acceptable, which is the case here. Concerns were also raised by the City Design Officer over the lack of through routes however no such routes were provided on the previous outline approval and this is a matter of detailed layout that can be addressed at reserved matters stage.
- 7.14 The Council's Conservation Officer and Historic England have reviewed the scheme and Heritage Statement and considers the potential impact of the scheme on both designated and non-designated heritage assets nearby. Historic England have raised some concerns over the scheme, although they have not formally objected. Specifically, they are concerned how the scale and massing of the proposals may impact on the setting of the Conservation Officer and how it relates to its surroundings. However, such matters can be more accurately considered at reserved matters stage when the full details of the scheme are known.
- 7.15 The Conservation Officer considers the massing of the proposal would have a detrimental effect on the setting of the Warwick Bar Conservation Area through the introduction of an uncharacteristic mass and form. In terms of the Eagle and Ball P.H. (grade II listed), The Conservation Officer considers that the development would be a highly visible and uncharacteristic addition in principal views of the pub looking west on Gopsal Street. In addition, the introduction of such a large massed block onto Plot C would create a distraction within the visual and associative setting of the pub with the Lock Keeper's Cottage, the canal and conservation area and would completely sever any visual relationship it has with Belmont Works.
- 7.16 The Conservation Officer reaches the conclusion that the proposal would cause 'less than substantial harm' to the setting of the Warwick Bar Conservation Area and Eagle and Ball P.H. (grade II listed) with the level of harm considered to be moderate.
- 7.17 The Conservation Officer has also assessed the impact on nearby non-designated heritage assets including the Digbeth Branch Canal, Belmont Works (locally listed Grade A) and 34 Belmont Row, which is the former Lock Keepers Cottage (locally listed Grade B). The Conservation Officer considers that there would be a minor level of harm to the canal as Block C would dominate its setting and there would be a diminished ability to appreciate the relationship between the canal and other heritage assets. In terms of Belmont Works, the Conservation Officer considers that the proposed massing of the buildings would dominate over this prominent landmark building and block significant views of the building from the A47 causing a moderate level of harm. In relation to 34 Belmont Row, the Conservation Officer believes the massing proposed on plot C would dominate in views of the principal elevation of the cottage from Belmont Row and present a challenge to the inter-visibility between the cottage and the listed pub and Belmont Works causing a low level of harm.

- 7.18 In accordance with paragraph 202 of the NPFF, where less than substantial harm to designated heritages has been identified, this harm should be weighed against the public benefits of the proposal. Great weight should be given to a heritage assets conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. In this case the Conservation Officer has identified that there is a moderate level of 'less than substantial harm' to the Conservation Area and Eagle and Ball P.H. It is considered that there are a number of public benefits to this scheme which are set out below:
- 7.19 Expanding the City's higher education offer and delivering a skilled workforce
- 7.20 Birmingham City University is the second biggest University in Birmingham and the proposal will provide for the further expansion of the University as supported within policy TP36 of the Birmingham Development Plan. The growth of the University will expand access to higher education and help Birmingham to retain and attract talent to the city. A skilled workforce is essential to the city's economic strategy. Significant weight can be attached to this benefit.
- 7.21 Supporting the wider Birmingham Knowledge Quarter
- 7.22 The expansion of Birmingham City University is central to the wider Birmingham Knowledge Quarter (BKQ) initiative. This aims to build on the past success of Eastside to create a broader well-established district for innovation, knowledge sharing and further/higher education, supporting the economic development of Birmingham and the West Midlands. Significant weight can be attached to this benefit.
- 7.23 Economic investment and jobs
- 7.24 The University generates £270 million output into the regional economy per annum and supports thousands of jobs in the area. It is also investing £340 million in its real estate. The expansion of the University will only see these figures grow. The development itself will create jobs during both the construction phase and once operational. Significant weight can be attached to this benefit.
- 7.25 Health and social wellbeing
- 7.26 The University makes a very important contribution towards the social well-being of the City's communities by offering accessible opportunities for higher education and the expansion of the campus allows them to offer further opportunities. The University's key aim is to transform students' lives and enhance opportunities through education and advancement. The University has indicated that they are fully committed to equality, diversity and inclusion and given its students are predominately from Birmingham and the West Midlands, the University is a major conduit for change in delivering education and social improvement for the population of the City. Significant weight can be attached to this benefit.
- 7.27 Environmental benefits
- 7.28 The development will achieve BREEAM 'excellent' and the site will contribute towards BCU's ambition to be achieve net zero carbon across its estate by 2050. The site currently has very low ecological value meaning that the proposal will achieve biodiversity net gain. The increased density of the development has also enabled the University to commit to sustainable drainage principles within the site. Moderate weight can be attached to these benefits which meet other BDP policy requirements.

- 7.29 In summary, it can be seen that the proposal would deliver a wide range of economic, social and environmental positives which benefit the wider public in the City and beyond. Combined, significant weight can be attached to these public benefits which clearly outweigh the moderate level of 'less than significant harm' identified by the Conservation Officer.
- 7.30 It is also important to consider the harm identified to non-designated heritage assets which is considered to be between a minor and moderate level. Paragraph 203 of the NPPF indicates that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In this case, the level of harm is not considered to be high and none of the assets would be lost. Therefore, taking into account the significant benefits of the scheme identified it is considered that the level of harm caused is justified in this instance.
- 7.31 On balance, it is considered that it is possible for a scheme to be delivered within the parameters identified that ensures that the proposals accord with Policy PG3 and TP12 of the BDP and the NPPF.
- 7.32 The Heritage Assessment advises there is the potential for non-designated archaeological remains within the site resulting from previous 20th century industrial and commercial units, foundations of 19th century industrial and residential properties and prehistoric remains within the gravels. The report concludes that these remains are of low heritage significance at most but recommends a Written Scheme of Investigation (WSI) is submitted and implemented. A condition to require a WSI for each plot is attached.
- 7.33 *Transportation***
- 7.34 At outline permission stage detail of the building layouts has not been developed and as such the access requirements and the provision of any parking spaces are not confirmed. These would be subject to a later application when the final floorspace requirements are known that this will help to define the final layout of the two plots. Indicative service access points have however been identified showing the potential service access points from Howe Street and Cardigan Street for Plot A and from Gopsal Street and Belmont Row for Plot C.
- 7.35 Policy TP38 seeks to promote sustainable travel choices by, amongst other measures, ensuring that land use planning decisions support and promote sustainable travel.
- 7.36 BCU have commissioned a Travel Plan (TP) and Transport Statement (TS) in support of this application. The TS explains that due to their City Centre location there are a number of bus stops within a 400m walking distance from the plots, with the closest bus stops on Cardigan Street, Jennens Road, Lawley Middleway, Vauxhall Road and Park Street and the significant bus interchange located on Moor Street. The plots are also accessible to cyclists from the surrounding road network as well as from the local canal towpaths. Currently the closest rail station to the site is Moor Street located approximately 500m to the west. The site is also within walking distance of Birmingham New Street rail station (900m) and Birmingham Snow Hill (800m). Furthermore, the new transport hub for HS2 will sit in close proximity to the sites. The HS2 hub will also include a tram stop connecting to the wider tram and rail network.
- 7.37 Plot A is currently used as a surface level car park for 144 cars which leaves the existing 984 multi storey car park that adjoins plot A as the closest car park in the long term. The applicant is not proposing any additional parking at the current time. The Birmingham Parking SPD supports car free developments within the City Centre

and such an approach could be acceptable when considered in detail at reserved matters stage.

- 7.38 The submitted Travel Plan addresses the ongoing reduction of parking and promotes more remote working. It provides information on the University's strategy to encourage staff, students and visitors to use sustainable travel modes and is based on existing travel information from surveys of students and staff. The Travel Plan sets targets for reducing trips by private car and is to be reviewed every two years. Advantageously, as the TS demonstrates, the application sites have highly accessible City Centre locations that are well connected by public transport that will improve further in the future.
- 7.39 in light of the highly accessible location Transportation have raised no objection to the outline proposals. It is however considered appropriate to condition the submission of updated Travel Plans to promote trips to the application site and the wider BCU campus by a range of sustainable modes of travel.

7.40 Noise

- 7.41 Noise surveys were initially undertaken in October 2018 with further survey work completed in June 2022. The surveys sought to establish existing noise levels at the site and to determine firstly whether noise levels would be acceptable for the proposed uses on the site, and secondly whether the potential noise impacts arising from the development on near-by receptors including City Locks student accommodation would be acceptable.
- 7.42 The results of the noise survey show that the existing noise climate across the site is dominated by road traffic noise from Jennens Road, Cardigan Street, Lawley Middleway as well as other smaller roads in the local vicinity.
- 7.43 Regulatory Services are not unduly concerned about the noise environment for the proposed office and educational uses. As the application is an outline there is little detail upon which to evaluate noise from plant and equipment and noise associated with the proposed ground and first floor commercial uses. However, Regulatory Services are content that these can be adequately mitigated once details are available as part of future reserved matters submissions which can be secured by conditions to protect the amenity of nearby occupiers.

7.44 Air Quality

- 7.45 An air quality assessment has been submitted and explains that the main impact during the construction of the development relates to dust and particulate emissions arising from on-site activities including earthworks, construction and associated vehicles movements. The assessment shows that by adopting appropriate mitigation measures to reduce emissions and their potential effects, there should be no significant residual impacts.
- 7.46 Regulatory Services broadly agree with the findings of the Air Quality Assessment but acknowledge that there are a number of unknowns at this stage due to the outline nature of proposals. However, they raise no objection subject to a condition securing a further air quality impact assessment to evaluate measures to reduce emissions and offset any impacts to ensure compliance with policies TP6, TP7 and TP8 of the BDP.

7.47 Flood Risk and Drainage

- 7.48 Policy TP6 of the BDP sets out the Council's approach to flood risk management including a requirement that Sustainable Drainage Systems (SuDS) should form part

of all development proposals. The submitted flood risk and drainage strategy shows that the site is not at risk of flooding and that surface water drainage can be managed to ensure that the development will not increase the risk of flooding elsewhere.

- 7.49 A Sustainable Drainage Assessment supports the application and has been reviewed by the Lead Local Flood Authority (LLFA). The LLFA are satisfied that the proposal can fully accord with the guidance of Policy TP6 providing drainage conditions are attached to any approval.

7.50 Land Contamination

- 7.51 The application is supported by two phase one contaminated land assessments, with one relating to plot A and the other to Plot C. The assessment for Plot A evaluated data from previous site investigations in the vicinity and has concluded that a further phase 2 Intrusive investigation is required to characterise ground conditions including ground gas monitoring wells and an associated programme of ground gas monitoring events. The report for Plot C collates summary data from previous investigations of parcels of land within the plot and concludes that monitoring undertaken to date indicates that elevated ground gas levels are present which are likely to necessitate gas protection measures. Furthermore, low level metal and asbestos contamination associated with made ground would result in a requirement for clean cover for any soft landscaping. The report concludes that further investigation could be undertaken to reassess the linkages. Regulatory Services and the Environment Agency have reviewed the reports and raise no objections. Although both consultees have recommended the need for a detailed remediation strategy which can be secured via condition.

7.52 Ecology & Biodiversity

- 7.53 The Digbeth Branch Canal and associated basin on the opposite side of Belmont Row is a Site of Local Importance for Nature Conservation (SLINC), recognised for its aquatic flora and associated habitats. There are also 3 other SLINC's and 22 potential sites of importance for biodiversity within 1km of the application sites.
- 7.54 The submitted Ecological Assessment acknowledges that the two sites are vacant and are dominated by hardstanding with some areas of ephemeral vegetation. During the site survey low levels of bat activity were noted however as the site contains no trees or other suitable habitat the proposal will not impact on the local bat population.
- 7.55 The Assessment concludes that no adverse impacts are expected as a result of the proposed development on any designated statutory and non-statutory nature conservation sites or protected species and the Council's Ecologist agrees with these conclusions. Opportunities exist to provide a net gain to biodiversity through the inclusion of new landscaping areas as part of proposed layout via conditions and agreed at the reserved matters stage.

7.56 Sustainability

- 7.57 Due to the outline nature of proposals and the uncertainty over the proportion of each use the application is unable undertake a BREEAM Pre-Assessment or provide a Sustainable Construction Statement. However, the University is committed to delivering a building that achieves BREEAM 'excellent' and an EPC rating of 'A'. Planning Policy are satisfied that this matter can be satisfactorily addressed via condition to ensure compliance with Policies TP3 and TP4 of the BDP.

7.58 Planning Obligations

7.59 The previous outline approval on the site secured public realm improvements to the Eastside Locks area and the same contribution has been agreed on this scheme. As this is an outline application the final floorspace is at this time unknown. Therefore, a figure based on a pro rata figure of £80 per 100sqm gross floorspace is proposed for each plot. A number of possible public realm improvement scheme have been identified. These include environmental improvement and traffic control measures on Cardigan Street, access and environmental improvements along the canal corridor, Remodelling of Jennens Road to create a linear park and additional lighting, planting and seating within Eastside City Park.

7.60 ***Other Matters***

7.61 The Canal is relatively close proximity to the application site and consequently the Canals and Rivers Trust (CRT) have been consulted on the application. CRT have raised no objection to the scheme subject to conditions requiring the submission of risk assessment and method statement, lighting scheme and a programme of archaeological mitigation. It is considered that conditions regard lighting and archaeology are required however it is considered that the risk assessment and method statement is not necessary with the scheme over 20m from the canal at its nearest point. Furthermore, schemes approved recently which are closer to the canal have not had such a condition attached.

8. **Conclusion**

8.1 The application seeks to secure the long-term growth of BCU in the City Centre, an aim clearly supported by the BDP and the Curzon Masterplan. The proposals will enable BCU to provide creative, professional, practice-based and inclusive education to a growing number of students and thereby make a significant contribution to the economic prosperity of Eastside Locks and the wider City Centre. The impacts upon transportation, heritage assets, noise, air quality, land contamination and ecology have been considered and, subject to safeguarding conditions, have been found to be acceptable.

9. **Recommendation:**

9.1 That the consideration of planning application 2022/04934/PA should be approved subject to the completion of a planning obligation agreement to secure the following:

- a) A financial contribution of £80 per 100sqm gross floorspace on Plot A towards works to the public realm on the wider Eastside Locks site;
- b) A financial contribution of £80 per 100sqm gross floorspace on Plot C towards works to the public realm on the wider Eastside Locks site; and
- c) Payment of a monitoring and administration fee associated with the legal agreement of £3,326.

9.2 In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 23rd March 2023 or such later date as may be authorised by officers under delegated powers the planning permission be refused for the following reason:

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

- 9.3 That the City Solicitor be authorised to prepare, seal and complete the planning obligation.
- 9.4 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 23rd March 2023 or such later date as may be authorised by officers under delegated powers favourable consideration be given to this application subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

-
- 1 Requires the submission of reserved matter details following an outline approval
 - 2 Implement within 7 years (outline)
 - 3 Requires the scheme to be in accordance with the listed approved plans
 - 4 Requires the prior submission of a phasing plan
 - 5 Restriction of cumulative total retail floorspace (Class E(a-f) Uses) and individual retail units
 - 6 Restriction of height of buildings in accordance with approved plans
 - 7 Requires the prior submission of a programme of archaeological work for each plot
 - 8 Submission of a Construction Employment Plan for each plot
 - 9 Prior submission of Local Employment Strategy for each plot
 - 10 Requires the prior submission of a contamination remediation scheme for Plot A
 - 11 Requires the prior submission of a contamination remediation scheme for Plot C
 - 12 Requires the submission of a contaminated land verification report for each plot
 - 13 Requires the prior submission of a sustainable drainage scheme for each plot
 - 14 Requires the submission prior to occupation of each plot of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan
 - 15 Requires the submission of sample materials on phased basis
 - 16 Updated travel plan for each plot
 - 17 Updated Noise Assessment for each plot
 - 18 Details of lighting for each plot
 - 19 Submission of Air Quality Assessment for each plot
 - 20 Requires the prior submission of a construction method statement/management plan for each plot
 - 21 Requires the submission of extraction and odour control details for E(b) uses for each plot
 - 22 Requires the submission of details of plant/machinery
-

-
- 23 Requires the prior submission of a goods delivery strategy on phased basis
 - 24 Prior submission of BREEAM 'Excellent' details for each plot
 - 25 Submission of Energy Statement
 - 26 Requires the submission of hard and/or soft landscape details for each plot
 - 27 Requires the submission of boundary treatment details for each plot
 - 28 Requires the submission of a landscape management plan for each plot
 - 29 Requires the submission of a CCTV scheme for each plot
-

Case Officer: Andrew Fulford

Photo(s)

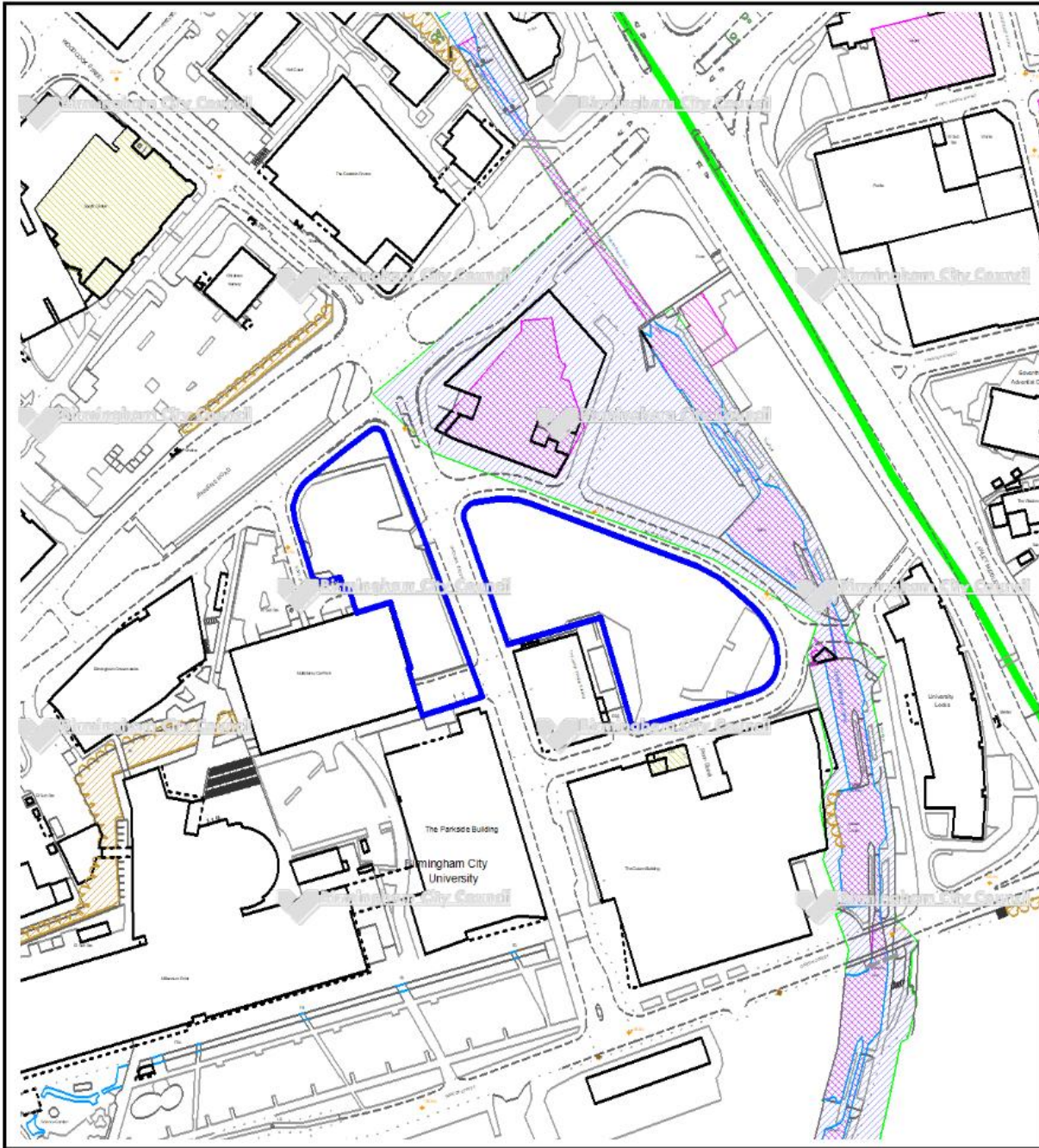


Photo 1: View from A47 looking southeast across Plot A



Photo 2: View from Cardigan Street looking southeast towards Plot C

Location Plan



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Birmingham City Council

Report to Planning Committee

23rd February 2023

Subject: Levelling-Up and Regeneration Bill – Changes to national planning policy – Draft Response

Report of Ian MacLeod - Director of Planning Transport and Sustainability, Place, Prosperity & Sustainability Directorate. Email Address: Ian.MacLeod@birmingham.gov.uk

Report author: Maria Dunn – Head of Development Policy
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Does the report contain confidential or exempt information? ☐ Yes ☒ No

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

1. Executive Summary

- 1.1 This report outlines the Government's current consultation on 'Levelling-Up and Regeneration Bill – Changes to national planning policy'. It provides an overview of the content of the consultation and the different timescales for the different elements taking effect. It then provides an overview of the key issues addressed in the proposed Birmingham City Council response. The full draft response forms appendix 1 to this report. The full consultation documents should be read alongside this report and they can be accessed here: [Levelling-up and Regeneration Bill: reforms to national planning policy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/levelling-up-and-regeneration-bill-reforms-to-national-planning-policy)

2. Recommendations:

- 2.1. That Planning Committee endorse the response, set out in Appendix A to this report to 'Levelling-up and Regeneration Bill: reforms to national planning policy'. The response will be considered by Local Plans Working group before a final response is signed off for submission by the Leader of the Council.

3. Background:

- 3.1 Government are undertaking a consultation on changes to the National Planning Policy Framework. They are also seeking views on the proposed approach to preparing National Development Management Policies; how policy might be developed to support levelling up and how national planning policy is currently accessed by users.
- 3.2 Government published a Planning White Paper for consultation in 2020, subsequently, the Levelling Up and Regeneration Bill (LURB) was laid before Parliament in May 2022. The LURB will set the legislative framework for changes to the planning system which will be implemented fully following its Royal Assent. Implementing the Bill requires changes to national policy and guidance, regulations and wider support for local authorities, communities and applicants. This consultation sets out how the Government propose to bring about this wider change through national planning policy.

- 3.3 The National Planning Policy Framework (the Framework) was introduced in 2012 to consolidate the government's planning policies for England. It guides local decision makers on national policy objectives, providing a framework within which locally prepared plans are produced, and clear national policies to be taken into account when dealing with planning applications and some other planning decisions. When a local planning authority brings forward a plan, they have a statutory duty to have regard to these national policies, and the Framework is therefore drafted with the expectation that plans will be consistent with the policies contained within it. The Framework is also a 'material consideration' in decision-taking.
- 3.4 The consultation sets out immediate, short-term changes to the National Planning Policy Framework, which are expected to take effect from Spring 2023. Specifically, this includes changes to:
- make clear how housing figures should be derived and applied so that communities can respond to local circumstances;
 - address issues in the operation of the housing delivery and land supply tests;
 - tackle problems of slow build out;
 - encourage local planning authorities to support the role of community-led groups in delivering affordable housing on exception sites;
 - set clearer expectations around planning for older peoples' housing;
 - promote more beautiful homes, including through gentle density;
 - make sure that food security considerations are factored into planning decisions that affect farm land;
 - and enable new methods for demonstrating local support for onshore wind development.
- 3.5 Alongside these specific changes, the consultation calls for views on a wider range of proposals, particularly focused on making sure the planning system capitalises on opportunities to support the natural environment, respond to climate change and deliver on levelling up of economic opportunity, and signals areas that we expect to consider in the context of a wider review of the Framework to follow Royal Assent of the Bill. The government will consult on the detail of these wider changes next year, reflecting responses to this consultation.
- 3.6 Finally, the consultation also sets out the envisaged role for National Development Management Policies (NDMPs). These are intended to save plan-makers from having to repeat nationally important policies in their own plans, so that plans can be quicker to produce and focus on locally relevant policies. National Development Management Policies should also provide more consistency for small and medium housebuilders, who otherwise must navigate a complex patchwork of similar but different requirements. Government are proposing that National Development Management Policies are set out separately from the National Planning Policy Framework, which would be re-focused on principles for plan-making. This document calls for views on how NDMPs are implemented. The Government will consult on the detail next year ahead of finalising the position.

4. Consultation Response - Key Issues

- 4.1 This section of the report outlines the key issues arising for Birmingham City Council which are raised in the proposed consultation response set out at Appendix 1 to this report.
- 4.2 The consultation asks a number of questions in relation to measuring housing delivery. On the whole, these changes bring about a simpler mechanism for measuring housing delivery, allow the consideration of previous over supply and reduce requirements around demonstrating a 5 year housing land supply, particularly where the Local Authority has an up to date Local Plan. The changes also increase the protection given to Neighbourhood Plans, extending it from 2 years to 5 years from adoption.

- 4.3 There are a number of issues around housing need which are addressed in the consultation. The current approach uses the 2014 based household projections, which are now out of date. The Government has made a commitment to looking at changes once the census data is published, however, the consultation is clear that the 35% uplift will remain in place for cities. Birmingham is faced with a particularly challenging housing need as a result of the standard methodology. Whilst the consultation makes it clear that the output of the standard methodology is only a starting point, there are concerns around how taking forward a lower number, with no clear strategy to meet unmet need elsewhere, would work in practice and how housing need would be met if any unmet need simply falls away.
- 4.4 Linked to the changes on housing need, the consultation makes it clear that authorities will not need to review Green Belts where this is the only way to meet housing need and also proposes the replacement of the Duty to Cooperate with an alignment test which will be subject to further consultation. Collectively, the changes are likely to make it harder to meet unmet housing need across the housing market area. It is also unclear why amendments to Green Belt policy only relate to meeting housing needs and not all development needs.
- 4.5 The changes propose removing the 'justified' test from Local Plan examination tests of soundness requirements. Whilst Local Plans would still be subject to SA/SEA (until this is replaced by Environmental Outcomes Reporting) and this requires the testing of reasonable alternatives, it is again unclear how removing the justified test would alter the evidence base requirements in practice.
- 4.6 The consultation makes it clear that the urban uplift will remain in place and asks a number of questions relating to this in the consultation. The principal of the urban uplift is still questioned. The requirement is not supported by capacity analysis within the areas affected and in Birmingham's case the output of the standard methodology, using the current inputs, cannot be accommodated without the 35% uplift. When combined with other changes, as well as the proposed changes to make it clear that the uplift should be met in the cities rather than the neighbouring areas, the changes risk an over reliance on the top 20 cities to deliver additional housing need and there is already limited capacity in these areas. Therefore, it is difficult to see how this need will be met.
- 4.7 The consultation proposes changes which move to an assessment of permissions as part of assessing whether housing need is being met. This is considered to be a positive step as it looks at a broader range of issues than just completions. This is also closely linked to proposed measures to address build out rates and include these as material considerations in determining planning applications.
- 4.8 The consultation includes a question on putting greater emphasis on social rent. Whilst this is a positive step in terms of recognising the role of this tenure, and the delivery of larger numbers of social rent would provide much needed accommodation within the city, it is unclear how this would work in practice.
- 4.9 The proposed changes place a strong emphasis on design quality and 'beauty'. Whilst the principal of supporting good design is welcomed, beauty is considered to be too subjective a term for inclusion within national planning policy. It is considered that it would be better to base policy on established principles of good design.
- 4.10 The consultation includes a number of changes relating to environmental protection, some of which, for example, not allowing artificial grass in landscaping, could be difficult to enforce. There are positive measures set out to put a greater emphasis on carbon assessment within the planning system and these measures being implemented nationally would provide support to achieving net zero carbon.
- 4.11 The consultation sets out transitional arrangements for moving to a new system and a timetable for doing so. This is particularly important for Birmingham as the current Local Development Scheme schedules the new Local Plan for submission to the Inspectorate in June 2025 and this is when the

Government have proposed the deadline should be for submitting current style Local Plans for examination. This would mean that there would be no room for any slippage in the Local Plan timetable and in order to adopt the Plan an examination would have to be completed by 21st December 2026. Whilst it is currently considered to be achievable for Birmingham, it should also be noted that the timetable nationally may change.

4.12 Lastly, the consultation asks a number of questions in relation to the introduction of National Development Management Policies. Whilst this could have merit in a number of areas, they would need to be limited to those areas which are relevant nationally and do not require a local interpretation. There needs to be considerably more detail on the policies and the specific wording of those policies; this will be the subject of further consultation.

4.13 Appendix 1 to this report sets out a full response to the consultation. This should be read alongside the consultation documents, available at [Levelling-up and Regeneration Bill: reforms to national planning policy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/levelling-up-and-regeneration-bill-reforms-to-national-planning-policy)

5. Next Steps

5.1 This draft response will also be discussed at Local Plan Member Working Group on 22nd February. Following discussion at Planning Committee, approval of the final response will be sought from the Leader.

Levelling-up and Regeneration Bill: reforms to national planning policy

Draft Consultation Response

Q.1: Do you agree that local planning authorities should not have to continually demonstrate a deliverable 5-year housing land supply (5YHLS) for as long as the housing requirement set out in its strategic policies is less than 5 years old?

Agree with the principle that a 5YHLS is not required to be continually demonstrated for plans that are up to date. Such plans will have had to have demonstrated at a recent examination that they are effective and have sufficient capacity to deliver the development needs of their area over the entire plan period. Further checks on the capacity of the area should only be required where the plan has been identified as being out of date.

Q.2: Do you agree that buffers should not be required as part of 5YHLS calculations (this includes the 20% buffer as applied by the Housing Delivery Test)?

The removal of buffers is supported.

Q.3: Should an oversupply of homes early in a plan period be taken into consideration when calculating a 5YHLS later on, or is there an alternative approach that is preferable?

Yes, oversupply should be permitted to be taken into account when calculating 5YHLS.

Q.4: What should any planning guidance dealing with oversupply and undersupply say?

The guidance should make clear that both oversupply and undersupply should be used in the calculation of 5YHLS. They should be consistent with each other. At the moment previous under delivery has to be added to the 5-year housing land supply requirement, but if this requirement is to be removed for up-to-date local plans then under delivery should be added to the requirement for the remainder of the plan period instead. The same should apply where there has been previous over delivery; i.e. it should be deducted from the requirement for the remaining plan period. The guidance should set out a clear approach for calculating 5YHLS, explaining how under supply and over supply should be taken into account, this is essential to ensure that the approach is consistent across all LPAs.

Q5. Do you have any views about the potential changes to paragraph 14 of the existing Framework and increasing the protection given to neighbourhood plans?

Support the proposed changes to paragraph 14 which gives neighbourhood plans greater protection. The change from 3 2= years to 5 years better aligns Neighbourhood Plans with Local Plans. At the

moment with recently made neighbourhood plans can be overridden and open to unplanned development because the local planning authority cannot demonstrate a sufficient supply of housing, or due to failure of the Housing Delivery Test. Where a Neighbourhood Plan is in place and housing delivery within the area covered is on track, greater protection should be afforded to the plan so that the community are not subject to speculative development as a result of failure to deliver across the wider LPA area.

Q.6: Do you agree that the opening chapters of the Framework should be revised to be clearer about the importance of planning for the homes and other development our communities need?

The NPPF should reflect the need to plan for all forms of development that community needs. Whilst housing delivery is a significant issue which the planning system needs to address, sustainable places will only be created when all forms of development are considered in a balanced way. The changes risk the NPPF being seen to further promote housing as the most important form of development which creates challenges in delivering sustainable communities where homes are supported by other types of development which are equally as important in place making.

The opening paragraph already requires local plans to provide for housing. Adding the word 'sufficient' would emphasise the importance of providing enough housing but it can equally be read as providing sufficiently for other development needs. The notion of sufficiency is caveated by meeting needs "in a sustainable manner".

"The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally-prepared plans can provide for **sufficient** housing and other development **in a sustainable manner** ~~can be produced~~. **Preparing and maintaining up-to-date plans should be seen as a priority in meeting this objective.**"

Q7. What are your views on the implications these changes may have on plan-making and housing supply?

It is important to use the most up to date data for calculating local housing need and not rely on out-of-date household projections. The Government should utilise the new household projections based on the 2021 Census in the standard method as soon as the data is available.

Whilst the 2021 Census outputs will be the most robust data to upon which to base a revised local housing need calculation, there should be an immediate revision of the methodology in advance of

2024. Continuing with the 2014-based sub-national household projections in the interim period is not a robust position. These projections are now long out of date, as evidenced by subsequent SNHP projection releases, mid-year population estimates and initial outputs from the Census 2021 itself. All of these data sources show a lower rate of growth than the 2014-based projections.

Paragraph 4 of the consultation states that the proposed changes respond to previous feedback received from stakeholders, which include that “some major urban centres are not meeting, or proposing to meet, their housing need in full, with the prospect of it being ‘exported’ to surrounding areas, contrary to the objective of delivering need in those areas with the best sustainable transport links and infrastructure, and with the greatest brownfield opportunities”. The government’s response to this feedback appears to be the proposed introduction of new paragraph 62 of the NPPF, which elevates to national policy the existing guidance in the PPG about the uplift to the standard method for the 20 most populous urban areas, but it also now includes the requirement that the uplift should be accommodated within these cities and urban centre themselves, unless it would conflict with the policies in the NPPF and legal obligations.

A significant reason why housing ‘needs’ are not being met in full within major urban areas is because of the 35% uplift to the top 20 largest urban authorities. There has never been any evidence or rationale provided by the government as to why the uplift has been set at 35% and why it has been applied to the top 20 largest urban areas. The majority of these urban areas were struggling to meet their needs without the 35% uplift and many were working to try and accommodate this in neighbouring areas under the Duty to Cooperate. The changes, when considered as a whole, make it much more difficult to accommodate this growth, whilst it is appreciated that the standard methodology should be treated as a starting point, if an authority such as Birmingham submits a capacity led plan, with little mechanism to accommodate shortfall in neighbouring areas, there is a significant risk that housing need will not be met. There needs to be much greater consideration of distributing growth in a way in which it can be met, with the role of new towns and areas with significant capacity for growth playing a part in the overall delivery of new homes.

Furthermore, the calculation of ‘need’ does not take account of the supply of land for development within the major urban areas which is highly constrained in many cities. There is an assumption that because they are ‘large’ urban areas (in population terms only, not in terms of land area) that there is a plentiful supply of vacant buildings and brownfield land to accommodate the housing in these authorities. In Birmingham’s case, the Housing and Economic Land Availability Assessment 2022 has

identified a supply of land to accommodate 70,871 new dwellings in the period to 2042. This results from a detailed review of all potential sources of land supply (in accordance with PPG paragraph 011 Reference ID: 3-011-20190722), including allocated sites, sites with planning permission and a detailed examination of all suitable land in the city through an urban capacity study. There has also been a concerted effort to maximise the capacity of potential development sites in the city by revising assumptions about densities, net developable areas and the identification of accessible locations within the City Council's new HELAA methodology, which was subject to public consultation in 2021 and applied for the first time in the HELAA 2022. These new assumptions accord with proposed new footnote 30 of the NPPF, and so Birmingham City Council has already sought to maximise the potential to accommodate future development within its administrative area, but this still falls a long way short of the standard methodology output.

The LHN calculation for Birmingham (together with the current plan target for the first two years) with the 35% uplift results in a 'need' figure of 149,286 new dwellings over the same period. When compared against our land supply, which as stated above has been identified through a thorough assessment in the HELAA 2022, there is a shortfall of 78,415 dwellings which cannot be physically accommodated within the city without very significant detrimental social, economic and environmental impacts arising as a result.

As an aside, it is notable that new footnote 30 only applies to the top 20 urban areas where the 35% uplift applies. The same principles within this footnote should apply to all urban area across the country.

Q8. Do you agree that policy and guidance should be clearer on what may constitute an exceptional circumstance for the use of an alternative approach for assessing local housing needs? Are there other issues we should consider alongside those set out above?

Any increased flexibility for pursuing alternative approaches would be welcomed, but the principle of 'exceptional circumstances that can be justified' means that the standard method will continue to apply by default unless there is strong evidence to suggest otherwise. This is the same situation as at present and therefore it is suggested that in reality, nothing would change. If the standard method is truly to become advisory, then it shouldn't be 'exceptional' to pursue an alternative approach.

If exceptional circumstances will apply then it may be helpful to provide examples (such as the high elderly and student populations referred to in the consultation) but these should not be prescriptive, as this will constrain local authorities almost as much as at present. Local authorities should be able

to pursue alternative approaches if they can demonstrate that these represent the true, realistic need for housing in their areas, and are not based on arbitrary political aspirations.

In setting out the circumstances in which LPAs may deviate from the standard methodology, consideration should be given to reasonable delivery rates within an area and how rapidly these might reasonably be able to be increased. Additionally, many sites in urban areas, could be delivered with a significant package of investment in remediation. Whilst there are currently programmes in place to address this, these are not sufficient to bring forward all of the sites that could be delivered.

Q.9: Do you agree that national policy should make clear that Green Belt does not need to be reviewed or altered when making plans, that building at densities significantly out-of-character with an existing area may be considered in assessing whether housing need can be met, and that past over-supply may be taken into account?

Agree, however, the reference to Green Belt boundaries not needing to be reviewed relates solely to housing, there needs to be more clarity on whether for example the same approach applies to meeting employment needs in particular.

Q10. Do you have views on what evidence local planning authorities should be expected to provide when making the case that need could only be met by building at densities significantly out-of-character with the existing area?

Local authorities already determine the most appropriate density assumption for their areas within their assessments of land availability. Where appropriate these are informed by design guides and design codes. Therefore, these documents should form the basis of any evidence to demonstrate what densities are and are not appropriate. Large scale regeneration opportunities should play a role – however, these changes take time to work through the planning system and whilst in theory there are many opportunities available for large scale regeneration, there is a limit to how much can be progressed within a plan period and any increase in density would need to be part of a long-term vision and masterplan for an area rather than an incremental change. The viability of increased density also needs to be considered, as well as the degree to which the type of housing provided meets the identified housing need for an area.

Q.11: Do you agree with removing the explicit requirement for plans to be ‘justified’, on the basis of delivering a more proportionate approach to examination?

A key feature of the ‘justified’ test of soundness is that plan strategies have to be based on *proportionate* evidence. If the evidence for preparing plans has become too onerous and unwieldy

then this is likely to be because evidence gathering is no longer proportionate. The reason that this situation has arisen is due to ambiguity in national planning policy, which means that there has been increased debate and challenge during Local Plan examinations in recent years. The consultation emphasises that removing this test is intended to allow a more proportionate approach to examination. It also states that this will allow examinations to assess “whether the local planning authority’s proposed target meets need so far as possible, takes into account other policies in the Framework, and will be effective and deliverable”. How will this be measured and tested at examination if there is no longer a requirement for Local Plans to be based on proportionate evidence?

Paragraph 26 of the NPPF still refers to states: “Effective and on-going joint working between strategic policy-making authorities and relevant bodies is integral to the production of a positively prepared and **justified strategy**.” Will this sentence need to be amended if justification is removed from Paragraph 36 to ensure consistency?

It would be helpful for guidance to be provided on what constitutes a proportionate and appropriate evidence base.

Q.12: Do you agree with our proposal to not apply revised tests of soundness to plans at more advanced stages of preparation? If no, which if any, plans should the revised tests apply to?

Agree. It would add further delay to the adoption of plans at late stages of preparation if they were to be revised to reflect the new tests of soundness. However there need to be protections for such plans to ensure that they aren’t subsequently considered to be out of date purely because of the proposed or future changes to national planning policy.

Q.13: Do you agree that we should make a change to the Framework on the application of the urban uplift?

No, it is not appropriate to embed within national planning policy the concept that the top 20 urban areas should be subject to a 35% uplift. As previously mentioned, no specific evidence or rationale has ever been given by the government for why this uplift applies only to the top 20 urban areas and why it has been set at 35%.

Sustainable urban locations are not limited to the top 20 largest urban areas, in fact there are many parts of the major urban areas that can be considered as unsustainable. There are many other small, medium and large settlements across the country that can be considered as highly accessible and sustainable locations, that contain significant brownfield development opportunities and are in need

of improved productivity, regeneration and levelling up. Whilst it would be preferable not to have an uplift, if there is to be an uplift then it should be applied more equally and fairly across all urban areas.

If there is still political ambition to have an uplift to increase the delivery of new homes, then a fairer and more realistic approach would be based on a sliding scale of all urban areas, with the same proportionate uplift applied to all areas. For example, applying a 10% uplift to all urban areas would see an authority with a calculated need of 500 new dwellings per year be uplifted to 550, while an authority with a calculated need of 3,000 new dwellings per year would see this uplifted to 3,300.

Q.14: What, if any, additional policy or guidance could the department provide which could help support authorities plan for more homes in urban areas where the uplift applies?

There is very little additional policy or guidance that the government could provide because the 35% uplift is unachievable when used applied to the current standard methodology calculations, using the current inputs.

The additional point requiring this growth to be delivered within the urban areas essentially suggests that the top 20 urban areas can't export growth – this makes the numbers unrealistic based on the current standard methodology and inputs.

Q.15: How, if at all, should neighbouring authorities consider the urban uplift applying, where part of those neighbouring authorities also functions as part of the wider economic, transport or housing market for the core town/city?

The government's proposed changes would mean that the uplift has to be contained within the administrative areas of the affected authorities. This would mean that those 20 urban areas would not be able to export any growth (how do you distinguish between which growth is the 35% where all growth including the 35% cannot be accommodated?). However, notwithstanding this, the numbers being planned for in a neighbouring area should always be considered as part of the preparation of any plan because infrastructure, economic growth and housing market issues do not stop at local authority boundaries. Therefore, even if there is no requirement for neighbours to take any housing growth, they will at least need to consider whether the growth across the wider area gives rise to any cross-boundary issues.

Q.16: Do you agree with the proposed 4-year rolling land supply requirement for emerging plans, where work is needed to revise the plan to take account of revised national policy on addressing constraints and reflecting any past over-supply? If no, what approach should be taken, if any?

Yes.

Q.17: Do you consider that the additional guidance on constraints should apply to plans continuing to be prepared under the transitional arrangements set out in the existing Framework paragraph 220?

Agree – assuming that this is in reference to Annex 1 of the NPPF and not paragraph 220 which relates to mineral extraction.

Q.18: Do you support adding an additional permissions-based test that will ‘switch off’ the application of the presumption in favour of sustainable development where an authority can demonstrate sufficient permissions to meet its housing requirement?

Agree.

Q.19: Do you consider that the 115% ‘switch-off’ figure (required to turn off the presumption in favour of sustainable development Housing Delivery Test consequence) is appropriate?

Agree.

Q.20: Do you have views on a robust method for counting deliverable homes permissioned for these purposes?

Deliverability should be measured in the same way as at present in the NPPF. The NPPF glossary describes deliverable sites as including all sites with detailed planning permission, non-major sites with any type of planning permission and outline permissions for major development where there is strong evidence that new housing can be completed within five years.

Will the counting of permissioned homes cover a number of years such as the HDT (e.g. rolling 3 year period)?

Q. 21: What are your views on the right approach to applying Housing Delivery Test consequences pending the 2022 results?

The HDT should be frozen to reflect the 2021 Housing Delivery Test results while work continues on proposals to improve it.

Q.22: Do you agree that the government should revise national planning policy to attach more weight to Social Rent in planning policies and decisions? If yes, do you have any specific suggestions on the best mechanisms for doing this?

Agree, that more emphasis should be given to social housing in the NPPF. There is a significant need for social housing across the UK and in Birmingham, but not enough social homes are being built. As a result, many households have been pushed into the private rented sector. Greater emphasis needs to be put on effecting the price paid for land to allow for social housing provision.

Q.23: Do you agree that we should amend existing paragraph 62 of the Framework to support the supply of specialist older people's housing?

Agree. As England's population ages and grows there will be a need to provide safe, accessible, suitable and affordable homes for older people. This can also be valuable in supporting the move of older people from larger homes, therefore, freeing up family homes.

Q.24 Do you have views on the effectiveness of the existing small sites policy in the National Planning Policy Framework (set out in paragraph 69 of the existing Framework)?

The policy is well intentioned but, as the consultation recognises, it has had a limited impact since it was first introduced. Many of the reasons for this are outside the remit of the planning system. In particular it is difficult for small and medium sized builders to compete with larger developers to procure and finance the delivery of smaller sites. High land values play a significant role in undermining the ability of smaller firms to deliver sites. Reform of the development finance industry is therefore required more urgently than reforms to the planning system.

Q.25 How, if at all, do you think the policy could be strengthened to encourage greater use of small sites, especially those that will deliver high levels of affordable housing?

The policy is well intentioned but, as the consultation recognises, it has had a limited impact since it was first introduced. Many of the reasons for this are outside the remit of the planning system. In particular it is difficult for small and medium sized builders to compete with larger developers to procure and finance the delivery of smaller sites. High land values play a significant role in undermining the ability of smaller firms to deliver sites. Reform of the development finance industry is therefore required more urgently than reforms to the planning system. The reform of land purchase transactions requires consideration of affordable housing requirements.

Q.26: Should the definition of “affordable housing for rent” in the Framework glossary be amended to make it easier for organisations that are not Registered Providers – in particular, community-led developers and almshouses – to develop new affordable homes?

Agree, but it needs to be very clear what groups and organisations are included in the new definition to avoid ambiguity and the potential for rogue organisations to exploit any loopholes that would subsequently deliver poor quality housing and reduce living standards. Such organisations should be properly regulated.

Q.27: Are there any changes that could be made to exception site policy that would make it easier for community groups to bring forward affordable housing?

No comment.

Q.28: Is there anything else that you think would help community groups in delivering affordable housing on exception sites?

A dedicated website providing advice and information would be helpful.

Q.29: Is there anything else national planning policy could do to support community-led developments?

No comment.

Q.30: Do you agree in principle that an applicant’s past behaviour should be taken into account into decision making? If yes, what past behaviour should be in scope?

Agree, but this should be limited to developers that have previously breached planning rules on multiple occasions. Developers that have failed to bring forward approved planning schemes will require more careful consideration as this might have resulted from a difficult financial period. In such cases refusing to consider any further planning applications might result in the developer going out of business, which would then put jobs, and housing delivery, at risk.

Q.31: Of the 2 options above, what would be the most effective mechanism? Are there any alternative mechanisms?

Option 1 is preferable as the particular circumstances of the developer can then be considered in more detail, rather than a blanket ban as proposed under option 2.

Q.32 Do you agree that the 3 build out policy measures that we propose to introduce through policy will help incentivise developers to build out more quickly? Do you have any comments on the design of these policy measures?

Agree. However, this does risk slowing down housing delivery in the short term.

Q.33: Do you agree with making changes to emphasise the role of beauty and placemaking in strategic policies and to further encourage well-designed and beautiful development?

Agree with encouraging well-designed development, but the words 'beauty' and 'beautiful' are very subjective and mean different things to different people and should therefore be avoided in policy. Instead policy should be based on established design principles.

Q.34: Do you agree to the proposed changes to the title of Chapter 12, existing paragraphs 84a and 124c to include the word 'beautiful' when referring to 'well-designed places' to further encourage well-designed and beautiful development?

Disagree. 'Beautiful' is very subjective and ambiguous. 'Well-designed' on its own is sufficient and can clearly be linked to design policies, established principles and design codes.

Q.35: Do you agree greater visual clarity on design requirements set out in planning conditions should be encouraged to support effective enforcement action?

Agree, but in the vast majority of cases the submitted application plans are already clear and legible. Where they are not clear enough the applicant is usually asked to submit revised plans, otherwise the application is likely to be refused. A model of what these would look like would be useful to understand how they would help achieve positive outcomes.

Q.36 Do you agree that a specific reference to mansard roofs in relation to upward extensions in Chapter 11, paragraph 122e of the existing Framework is helpful in encouraging LPAs to consider these as a means of increasing densification/creation of new homes? If no, how else might we achieve this objective?

Disagree. The consultation provides no evidence of specific examples of where local authorities have 'been reluctant to approve mansard roof development'. It is unclear why mansard roofs have been singled out as the type of upward extension that needs to be encouraged. In Birmingham, and probably almost all other non-London local authorities, there are very few mansard roof developments. The problem may be more evident within London, and so it would be inappropriate to include specific reference to mansard roofs within national planning policy. If specific reference is

required then it should be in Planning Practice Guidance, alongside other specific types of upward extension that the government seeks to encourage and which are likely to be more prevalent in locations outside London.

Q.37 How do you think national policy on small scale nature interventions could be strengthened? For example in relation to the use of artificial grass by developers in new development?

Consideration needs to be given to whether or not the planning system is the correct place to address these concerns. For example, the planning system can require that artificial grass is not used in new developments, but beyond completion it is not an effective mechanism to ensure that artificial grass is not added in by occupiers. Even if this change were to require planning consent, the resources to manage and enforce this are not currently available. Legislation to control the production and sale of products such as artificial grass would be much more effective in addressing this issue.

Q.38 Do you agree that this is the right approach to making sure that the food production value of high value farmland is adequately weighted in the planning process, in addition to current references in the Framework on best and most versatile agricultural land?

Agree in principle.

Q.39: What method and actions could provide a proportionate and effective means of undertaking a carbon impact assessment that would incorporate all measurable carbon demand created from plan-making and planning decisions?

A requirement for life cycle carbon assessments to be provided as part of the planning process, and a nationally agreed format for undertaking these would be helpful in supporting decision making. This could be based on work undertaken by LETI. A clear process for undertaking whole plan carbon assessments would also be useful, including model energy statements that reference the energy hierarchy.

Q.40 Do you have any views on how planning policy could support climate change adaptation further, including through the use of nature-based solutions which provide multi-functional benefits?

No comment.

Q.41: Do you agree with the changes proposed to Paragraph 155 of the existing National Planning Policy Framework?

Agree

Q.42: Do you agree with the changes proposed to Paragraph 158 of the existing National Planning Policy Framework?

Agree

Q.43: Do you agree with the changes proposed to footnote 54 of the existing National Planning Policy Framework? Do you have any views on specific wording for new footnote 62?

Agree. (N.B. the reference to footnote 54 is a typo. It should refer to footnote 63).

Q.44: Do you agree with our proposed new Paragraph 161 in the National Planning Policy Framework to give significant weight to proposals which allow the adaptation of existing buildings to improve their energy performance?

Agree.

Q.45: Do you agree with the proposed timeline for finalising local plans, minerals and waste plans and spatial development strategies being prepared under the current system? If no, what alternative timeline would you propose?

The proposed timetable is very challenging for adopting a plan under the current system. And delivery will depend on the capacity of the Planning Inspectorate to ensure all examinations are concluded in sufficient time to allow for Councils to adopt plans by 31 December 2026. An alternative is to allow plan makers to submit their plans by 30 June 2025 but not to put a deadline on the adoption as this will depend on the capacity of PINs, the complexity of the examination and the governance and process of Councils to adopt plans. In terms of the deadlines, should there be any delay in the legislation and policy being put in place then there should be a corresponding delay in the deadlines for transitional arrangements. It should be clear that the 31st December 2026 deadline is for the receipt of the Inspector's Report from PINS, given committee lead in times it may take a further 3-4 months to adopt plans.

Q.46: Do you agree with the proposed transitional arrangements for plans under the future system? If no, what alternative arrangements would you propose?

Agree. The timescale for producing and adopting new style plans (30 months) is very ambitious. Further information is required to understand how Supplementary Plans are expected to be prepared.

Q.47: Do you agree with the proposed timeline for preparing neighbourhood plans under the future system? If no, what alternative timeline would you propose?

Agree, once the system goes live it will be important for authorities to get plans in place. However, there is a risk that too many authorities will be trying to go through the system at the same time and that the parts of the system will be overwhelmed for example, statutory consultees, key stakeholders and infrastructure providers who will be under pressure to respond to multiple consultations at the same time, the private sector who will need to engage and promote sites across different plan areas, and the public sector who often draw on the same resources to bolster staffing levels in the short term to take forward plan reviews. Resources across the system will be essential to delivering the new system.

Q.48: Do you agree with the proposed transitional arrangements for supplementary planning documents? If no, what alternative arrangements would you propose?

Yes.

Q.49 Do you agree with the suggested scope and principles for guiding National Development Management Policies?

If the national DM policies only relate to matters in the NPPF that are generic and would apply in a consistent way to all, or most local authority areas then there is merit in them. The consultation states that the national policies *"would not impinge on local policies for shaping development, nor direct what land should be allocated for particular uses during the plan-making process"*. However, it is essential that the policies are subject to robust consultation before being adopted.

Q.50 What other principles, if any, do you believe should inform the scope of National Development Management Policies?

An additional principal should be added - to support the delivery of the NPPF.

A requirement for mandatory pre-app for strategic schemes (definition to be agreed). In those pre-apps, 'statements of common ground' agreed by specialist consultants in advance of submission to avoid constant 'back and forth' between consultants on either side

Q.51: Do you agree that selective additions should be considered for proposals to complement existing national policies for guiding decisions?

Yes, where there is an identified need for a national policy. Any such policies should be subject to consultation prior to adopting them. As national planning policies will have the same status as Local Plans, they should also be subject to an independent examination prior to adoption.

Q.52: Are there other issues which apply across all or most of England that you think should be considered as possible options for National Development Management Policies?

Air, noise, light and water pollution, Minimum Residential Space Standards, Accessible and Adaptable Dwellings, Wheelchair Accessible Dwellings, Development in the Green Belt, Digital infrastructure, Life Cycle carbon, Net zero in new buildings and conversions.

Q.53: What, if any, planning policies do you think could be included in a new Framework to help achieve the 12 levelling up missions in the Levelling Up White Paper?

Strengthening policies around the provision of infrastructure delivery.

A clear national planning approach on low carbon and sustainable development.

Q.54: How do you think the Framework could better support development that will drive economic growth and productivity in every part of the country, in support of the levelling up agenda?

Empower local areas with stronger regeneration powers and introduce measures to make the CPO process more streamlined and efficient.

Q.55: Do you think that the government could go further in national policy, to increase development on brownfield land within city and town centres, with a view to facilitating gentle densification of our urban cores?

No. There is too much variation in the availability of brownfield land and what would be considered as appropriate densities across different city and town centres. For example, Birmingham city centre is very different to Brighton city centre, even though they're both in the top 20 largest urban areas. National policy cannot understand what would be appropriate in each of these different centres and so any policies on these are best left for local authorities to address.

Q.56: Do you think that the government should bring forward proposals to update the Framework as part of next year's wider review to place more emphasis on making sure that women, girls and other vulnerable groups feel safe in our public spaces, including for example policies on lighting/street lighting?

Yes. Policies on these at all levels of government would be appropriate. Related updates to Manual for Streets should be delivered alongside any new national policies, as this is a widely recognised reference source for the good design of public places.

Q.57 Are there any specific approaches or examples of best practice which you think we should consider to improve the way that national planning policy is presented and accessed?

Support national policies being made more interactive. The PPG was intended to be interactive when it first launched and as it's web-based it still is to a degree, but there is now so much information in the PPG that it can be difficult to navigate to a specific paragraph within it. It will be important for any national policies to remain succinct and simple so that they do not become unwieldy like the PPG. While the NPPF and PPG are easy to find via a web search, they're not very easy to find via gov.uk. It's also difficult to access the most recent version of the NPPF as quite a few links on the website direct to the previous versions.

Q.58 We continue to keep the impacts of these proposals under review and would be grateful for your comments on any potential impacts that might arise under the Public Sector Equality Duty as a result of the proposals in this document.

No comment.