
Committee Date:	06/08/2015	Application Number:	2014/09600/PA
Accepted:	12/01/2015	Application Type:	Full Planning
Target Date:	13/04/2015		
Ward:	Nechells		

73-75 Pershore Street, Former Ice Rink, Birmingham, B5 4RW

Erection of 11 storey building for 334 residential units, ground floor retail unit (A1 - A5) and associated facilities

Applicant: Hallmark - BY Development Ltd
c/o The Agent
Agent: Brooke Smith Planning
The Cloisters, 12 George Road, Edgbaston, Birmingham, B15 1NP,

Recommendation
Endorse

1. Report Back.

On the 11th June 2015 your Committee deferred this application pending the completion of a planning obligation agreement. This planning obligation was required to secure financial contributions towards off site affordable housing and public realm/public open space and a commitment to a local training and employment scheme for construction of the development. The resolution also identified that development should be completed within 24 months of implementation of the planning permission and that the legal agreement to secure these requirements should be completed by 6th August 2015.

- 1.1 However, whilst the applicant has indicated their willingness to commit to a local training and employment scheme they have advised that, due to the tender process for contractors, to include such a clause within the planning obligation itself would have significant financial implications. This, in turn, would have an adverse impact upon the schemes viability, and subsequently, their ability to make financial contributions towards off site affordable housing and public realm/public open space. Therefore in order not to compromise the financial contributions towards affordable housing and public realm/public open space I recommend that the employment clause is removed from the planning obligation and that a condition is attached to the planning permission instead which could secure the employment intent without the additional cost.
- 1.2 A financial report was submitted in support of the application, however due to value assumptions contained within the report and the site's location immediately adjacent to the Smithfield Market area, your Committee agreed that it was necessary to reduce the length of the planning permission from 3 years to 2 years and also require substantial completion within 2 years of the development starting. However, the applicant has advised that this would not provide sufficient certainty for the funder. Therefore in order to satisfy their funders they suggest that substantial completion is within 48 months (4 years) of the grant of consent. Effectively this would amalgamate the time period for implementation and substantial completion but result

in the same 'long stop' date of 4 years. I therefore raise no objection to the proposed wording alteration.

- 1.3 Finally, your Committee previously agreed that the agreement should be completed by 6th August 2015. However due to the discussions and changes identified above it is not possible to reach agreement within this timescale. I therefore recommend that the time period for completion of this agreement is extended to 27th August 2015.
- 1.4 Therefore, subject to an additional employment clause condition, alteration of substantial completion to 48 months from grant of planning permission and extension of time frame for the planning obligation I recommend approval as per the original approval.

Recommendation

- 1.5 That consideration of planning application 2014/09600/PA be deferred pending the completion of a planning obligation agreement to secure the following:-
 - a) A financial contribution of £270,889.50 (index linked from date of resolution) towards off-site affordable housing.
 - b) A financial contribution of £270,889.50 (index linked from date of resolution) towards the enhancement and improvement of public open space/public realm at Centenary Square or Hippodrome Square/Ladywell Walk.
 - c) Payment of a monitoring and administration fee associated with the legal agreement of 3.5% of the affordable housing and public open space/public realm sum subject to a maximum of £10,000
 - d) To identify that the planning obligation agreement should also secure that the development hereby approved should be substantially complete within 48 months of the grant of permission.
- 1.6 In the absence of the suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority by 27th August 2015 then planning permission be refused for the following reason(s):
 - a) In the absence of any suitable legal agreement to secure a financial contribution towards off site affordable housing the proposal conflicts with Policies 5.37 A-D of the Birmingham Unitary Development Plan 2005, Affordable Housing SPG and Policy TP30 of the draft Birmingham Plan 2031.
 - b) In the absence of any suitable legal agreement to secure a financial contribution towards improvements and enhancement of public open space/public realm at Centenary Square or Hippodrome Square/Ladywell Walk the proposal conflicts with Policies 3.53, 5.53 A and B, 5.20B and 5.20C and Public open space in new residential development SPG.
 - c) In the absence of any suitable legal agreement to secure local training/employment opportunities, the proposal conflicts with Policy 8.52 of the Birmingham Unitary Development Plan and Policy TP25 of the Draft Birmingham Plan 2031.
- 1.7 That the Director of Legal and Democratic Services be authorised to prepare, seal and complete the planning obligation.

- 1.8 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority by 27th August 2015, favourable consideration be given to this application, subject to the conditions listed below.

Original Report

2. Proposal

- 2.1. Proposal is for the erection of a 11 storey block for 334 residential apartments, 1 ground floor retail, ancillary gym, car parking and communal amenity space.
- 2.2. The building would comprise of 3 principal wings arranged in a 'H' shape to front Pershore Street and Dean Street. It would be 11 storeys in height with slight height increases on the two corners (to the south).
- 2.3. The building would be of a modern contemporary design with good reveals and regularised openings across all frontages. It would be built with traditional materials comprising mainly of brick with large scale glazed window openings, some of which would have the option to reduce due to inset brick panels, to form a colonnade to retail and residential frontages. Feature cladding would be used to emphasise the corners of the site. Specific details of the materials to be secured by condition.
- 2.4. The main residential entrance would be via a large reception area off Pershore Street with a secondary entrance off Dean Street. Future access would also be available via the southern terrace if/when Bromsgrove Street is extended. 266 one bed flats would be provided along with 68 two bed flats. The flats would primarily be single aspect, have an open plan kitchen/living area, bathroom and one or two bedrooms. They would range in size from 42.2 sqm – 70 sq m with bedroom sizes complying with guidance within Places for Living. Some of the flats would benefit from balcony areas.
- 2.5. Communal decked amenity spaces, totalling approx. 730 sq m, would be provided to the north and south of the site, shielded by the main perimeter blocks fronting Pershore Street and Dean Street. Both areas would be private communal space however the southern amenity space would potentially include access from the extended Bromsgrove Street.
- 2.6. A retail unit (flexible A1-A5 use) of approx. 123 sq m would be provided at ground floor to the Pershore frontage. A gym (D1) of approx. 192 sqm would be provided to the south eastern corner of the site, fronting Dean Street. Ancillary storage, meters, post room, refuse etc.. would be accommodated at lower ground level.
- 2.7. 70 car parking space would be provided at lower ground floor, accessed via Dean Street along with 65 bicycle spaces.
- 2.8. The application has been supported by a Design and Access Statement, Planning Statement, Flood Risk Assessment, Noise Assessment, Ground Contamination Report, Transport Statement, Archaeology Assessment and a Financial Appraisal.
- 2.9. [Link to Documents](#)

3. Site & Surroundings

- 3.1 The site is approx. 0.3 hectares on the eastern side of Pershore Street, opposite the Arcadian Centre. It is situated in a mixed use area, including residential, on the south eastern side of the city centre close to the Bullring markets, the Arcadian Centre and the Wholesale markets. To the West and East the site is bounded by Pershore Street and Dean Street. Immediately to the north is a large surface level car park, a 2 storey building in commercial use, a sheesha lounge and the Travelodge whilst immediately to the south are the wholesale markets.
- 3.2 The site is currently occupied by a large concrete building, equivalent to five-storeys in scale, previously used as the Silverblades ice rink, and is currently, unoccupied. The main access to the building was via an external staircase on the Pershore Street frontage. There are site level differences east to west across the site with ground level to Dean Street being below ground on Pershore Street.

[Location Plan](#)

[Street view](#)

4. Planning History
 - 4.1. 18th January 2007 - 2006/04805/PA Redevelopment to provide for leisure (Use Class D2), ancillary retail and commercial (Use Class A1, A2, A3, A4, A5, B1), and residential floorspace (Use Class C3) plus associated service, parking and amenity facilities (resubmission following appeal against non-determination of application reference C/02394/06/FUL). Refused.
 - 4.2. 21st June 2007 – Appeal against 2006/02394/PA dismissed for redevelopment for leisure (D2), ancillary retail and commercial (A1, A2, A3, A4, A5, B1) and residential floorspace (C3) plus associated service parking and amenity facilities.
 - 4.3. 7th February 2008 – 2007/06908/PA Redevelopment to provide for leisure (D2), ancillary retail and commercial (A1, A2, A3, A4 and B1) and residential (C3) floorspace, including parking provisions and means of access. Approved with S106 and conditions.
 - 4.4. 20th January 2011 - 2010/05998/PA Application to extend the time to implement an extant planning application 2007/06908/PA for redevelopment to provide for leisure (D2), ancillary retail and commercial (A1, A2, A3, A4 and B1) and residential (C3) floorspace, including parking provisions and means of access. Approved with S106 and conditions.
 - 4.5. 27th February 2015 - 2015/00522/PA Application for prior notification for proposed demolition of former ice rink and leisure facility building. Prior approval required and granted with conditions.

Adjacent site

- 4.6 23rd March 2015 – 2014/09503/PA Redevelopment of the site, including retention and conversion of 42-45 Upper Dean Street and the demolition of all other buildings, to provide a 323 student bed accommodation (SG) led mixed-use development with ancillary communal facilities and retail (flexible with A1-A5) within a building of between 2 and 10 storeys plus associated landscape and parking. Approved with S106 and conditions.
5. Consultation/PP Responses

- 5.1. Local residents' associations, neighbours, Ward Councillors, MP and District Director were notified. A site and press notice were also displayed.
- 5.2. 2 letters of objection were received on the basis that the proposal is out of scale, there is no need for additional retail or food shops and there is a severe lack of activity proposed at ground floor particularly in relation to the 'new road' frontage.
- 5.3. 1 letter of support was received on the basis that the proposal would turn an existing derelict building into a vibrant use.
- 5.4. 1 letter of comment received suggesting bird and bat surveys are undertaken due to presence of protected species in the vicinity.
- 5.5. Environment Agency – No objection subject to conditions.
- 5.6. Education – A financial contribution is required.
- 5.7. Local Services – A financial contribution of £322,400 would be required for the provision, improvement and or maintenance of public open space within the Nechells Ward.
- 5.8. Regulatory Services – Insufficient data has been collected in relation to air quality and concerns with regard noise from the existing wholesale markets. However subject to additional information being submitted suitable conditions could be attached. Other conditions with regard vehicle emissions, ventilation, insulation, site assessment, commercial hours of operation and delivery restrictions are required.
- 5.9. Severn Trent – No objection subject to drainage conditions.
- 5.10. Transportation Development – No objection subject to conditions.
- 5.11. West Midlands Police – Concerns raised with public accessibility to car park which is not overlooked, insufficient information with regard individual access to apartments, lighting, access control systems and cctv coverage but essentially suggests development should be designed to comply with Secured by Design 'New Homes 2014'.

6. Policy Context

- 6.1. Adopted UDP (2005), submission Draft Birmingham Plan (2031), Bull Ring/Markets Quarter, Places for Living SPG, Places for All SPG, Car Parking Guidelines SPD, Affordable Housing SPG, Public Open Space in New Residential Developments SPG, Archaeology Strategy, the National Planning Policy Framework and National Planning Practice Guidance.

7. Planning Considerations

Principle

- 7.1. Planning consent has previously been granted for mixed use development on this site, including residential apartments on the upper floors. The consent for this scheme expired in January 2014.
- 7.2. The adopted Birmingham UDP (2005) still forms the basis of the statutory planning framework. It contains policies to support City living (5.32b) as residential accommodation in the City Centre provides sustainable accommodation close to both public transports and places of work and reduces the pressure on greenfield sites.

7.3 The NPPF supports sustainable development, especially on previously developed land, within established centres and where sites are well located in terms of public transport.

7.4 Therefore, in land use terms I raise no objection to the proposed commercial and residential uses, subject to all other material considerations.

Loss of sports facility

7.5 The existing site comprises of the former Silverblades Ice Rink and bowling alley. An ice rink is considered to be an indoor sports facility and previous approvals on the site have retained the ice rink for public use, in line with local and national policies. However the existing ice rink has been poorly maintained and has been closed since early 2014. Policy 3.63 of the UDP identifies that "...where there is an identified demand for particular sports and physical recreation facilities, redevelopment of existing facilities for other purposes will not be allowed..." The applicants have submitted an assessment which draws attention to the limited prospect of reuse given its size and location and concludes that due to the close proximity of alternative facilities at Coventry, Cannock, Tamworth, Solihull and Telford there is no identified demand for ice skating within Birmingham City Centre. The report also recognises that compensation for the loss of the indoor facilities is required. I am satisfied with this report and accept there is no identified need at a city level, as such I raise no objection in policy terms to the loss of the ice rink subject to compensation for its loss.

Design

7.6 The building is a modern contemporary block expressed simply by virtue of its form and pallet of materials. It would be 11 storey's high, similar to that previously approved and reflective of the scale of development in this location, including the recently approved development site immediately to the north. It would be positioned to the back of pavement to Pershore Street and Dean Street to re enforce the urban grain and its mass would be broken up by good reveals and well-articulated, rhythmic sections of windows and glazing across all the frontages. In line with the city's aspirations for the extension of Bromsgrove Street (as part of the wholesale market redevelopment) the southern corners would be slightly higher, clad in different materials and feature external balconies, to mark their importance.

7.7 Active uses have been introduced to Pershore Street and Dean Street in the form of a retail unit and a gym as well as the residential entrances which is a significant improvement on the existing situation. However, due to the wholesale markets being in situ the market elevation is set back, approx. 9 m from the site boundary. Due to site level differences this would also mean that the residential accommodation would be recessed and at first floor level. Whilst this facilitates the provision of a terraced garden, improving future resident's amenity by virtue of noise and outlook, it would fail to re-enforce the urban grain and create a non-active landscaped frontage immediately adjacent to the future, extended, Bromsgrove Street. Clearly the existing site conditions need to be considered and as this elevation is not currently accessible or visible to the public, and planning permission does not exist for the wholesale markets redevelopment site, I do not consider the non-active frontage would be sufficient to warrant refusal. Further I note the applicant has submitted indicative plans that show how, subject to demand, active commercial units could be introduced along this frontage in the future. Communal amenity of approx. 730 sq m would also be provided across the site.

- 7.8 On balance therefore I consider the layout, design, scale and mass are acceptable, in accordance with policy and would result in a development which would significantly improve the quality of built environment.

Planning Obligations

- 7.9 The previous 2010 scheme secured a commitment to the employment of local people and local businesses, a requirement to make the ice skating rink available to the general public and a car club with 5 cars within the car park dedicated to residents use. There was no financial contribution towards public open space or affordable housing however this was due to the cost of a replacement ice rink facility.
- 7.10 A financial appraisal was submitted with the application. An independent appraisal has been commissioned which agrees that a policy compliant contribution, in terms of public open space, affordable housing and compensation for the loss of the sports facility, would render the scheme unviable. However it also confirms that without any financial contributions the scheme, with a developer's profit of 17.5% on open market housing, would have a surplus of in excess of £500,000. The applicant has therefore agreed to a contribution of £551,779. Given the nature of this city centre development this contribution would be used towards off site affordable housing and improving and enhancing public open space/public realm. This could include enhancements at Centenary Square or an improved space outside the Hippodrome/Ladywell Walk. There are insufficient monies to include a contribution towards education. I consider this contribution would accord with policy and comply with the CIL Regulations 2010.
- 7.11 However, given the value assumptions contained within the report and the site's location immediately adjacent to the Smithfield Market area I concur with the independent appraisers' advice that a review mechanism should be considered. This area is likely to significantly change in the coming years impacting on future sales values. The most clear, consistent and fair way to secure such a mechanism would be to reduce the time period for implementation and require substantial completion of the development within a specified time. I therefore recommend the time period for implementation of the permission is reduced from the usual 3 years to 2 years.

Air Quality

- 7.12 The whole of Birmingham falls within an air quality management zone (AQMA) where the introduction of new residential accommodation needs to be carefully considered. An air quality report, containing a minimum of 3 months of data, should therefore be submitted in support. Whilst the applicants have commenced air quality monitoring they do not have the minimum level of data and Regulatory Services are therefore not satisfied that new residential accommodation can be introduced in this location without having an adverse impact on future occupiers.
- 7.13 However the interim report indicates that although pollutant levels are high at the roadside they are within an acceptable level at the building façade from second floor and above. Therefore, subject to these results being confirmed by further data, mitigation is likely only to be required on apartments on the ground and first floor on Pershore Street. No mitigation is currently proposed but it may be that 'sealed' units are required. 'Sealed' units restrict the way future occupiers ventilate their property and do not, therefore, provide ideal internal accommodation. However, I note it would be likely that mitigation would only affect 8 of the 334 properties. I also note that the air quality management zone was in place when the previous applications

were considered and no air quality conditions were attached. I therefore consider that the incorporation of such mitigation would be acceptable in this instance and that it would be unlikely to adversely affect the visual appearance of the building, as such I consider it reasonable to condition. I do, however, also recommend a condition that ensures that if air quality improves, as expected, that these units have the option to introduce openable windows. This is consistent with the recent consent granted at Arena Central for residential units.

Noise/odour

- 7.14 The existence of the wholesale markets immediately to the south of the application site means that noise has historically been a key issue in relation to this sites development for new residential accommodation. Previous schemes were designed to ensure that accommodation that shared an immediate boundary with the markets were dual aspect, with their bedrooms on the quieter internal courtyard elevation.
- 7.15 In contrast, this current scheme contains mainly single aspect apartments and whilst most of the southern elevation to the markets is set back from the boundary, some bedrooms would overlook part of the wholesale market. Regulatory Services are therefore concerned that future occupiers would be adversely affected by noise from the markets during the early morning hours, when traders are moving vehicles and produce around. The City is committed to moving the wholesale markets and has launched the Smithfield masterplan, setting out the aspirations for the site. It is clear that this area will completely change in terms of noise and amenity impacts in the future. Given that there is a more than reasonable prospect of a timetable for the markets moving being agreed prior to the occupation of this development, I do not consider it would be reasonable to refuse this proposal on that basis. This is different to the previous proposals considered at this site, where no definitive plans for the market had been formulated. I recommend that acoustic glazing is installed into these apartments facing the market, with alternative means of ventilation to the bedrooms. It may well be that by the time this development is nearing completion, and before the glazing and ventilation is installed, the City will have more certainty about the timescales for the wholesale market, and the type of treatment could be revised. This scenario could be covered by condition.
- 7.16 Previous schemes have established that odour from the markets did not, in itself, justify the refusal of planning permission for a mixed use scheme on the site which included housing. I therefore raise no objection in respect of this matter.
- 7.17 Regulatory Services also require conditions with regard electric charging points, restriction on emissions, car parking charges in relation to emissions and a commitment to discouraging high emission vehicles none of which I consider reasonable. The other requested conditions are considered reasonable and recommended accordingly.

Transportation

- 7.18 The application proposals include the provision of 70 car parking spaces on the site, which would be ground/basement level accessed from Dean Street along with 65 bicycle spaces.
- 7.19 The site is extremely sustainable, being located within the city centre in close proximity to bus, train and metro links and within walking distance of a wide range of services. Therefore whilst the bike provision is below that of guidelines I concur with

Transportation Development who raise no objection to the proposal subject to conditions.

Other

- 7.20 An archaeological desk based assessment has been carried out which concludes that it is possible that archaeological remains relating to previous 19th century properties and courts have survived below ground within the site boundary, along with earlier features relating to the 18th century watercourse which flowed through the east side of the site. Therefore, as for the previous scheme, I recommend conditions to secure archaeological excavation, analysis and publication of results in order to safeguard the historic environment.
- 7.21 Neither the Environment Agency or Severn Trent raise objections to the scheme subject to conditions which I attach accordingly.
- 7.22 Amended plans regarding the entrance area have been submitted and a lighting condition is recommended to address concerns raised by West Midlands Police.
- 7.23 The proposal could generate a significant number of employment opportunities during construction. Therefore as for the previous application this should be included within the S106 legal agreement as it remains appropriate to encourage more local employment and training.
- 7.24 There are no detailed plans for the future redevelopment of the wholesale markets. I am satisfied nevertheless that this scheme takes account of the aspiration to reconnect Bromsgrove Street to Digbeth and that the layout and scale proposed would not prejudice the consideration of future options for the markets site.

8. Conclusion

- 8.1 In principle the proposed development is consistent with both local and national land use planning policies. An 11 storey building in this location is acceptable and the design is to a good standard. Therefore subject to safeguarding conditions and a S106 legal agreement to secure a financial contribution towards off-site affordable housing, enhancements to public open space/public realm and a commitment to local employment and training the proposal would result in a sustainable form of development. Proposal should therefore be approved.

9 Recommendation

- 9.1 That consideration of planning application 2014/09600/PA be deferred pending the completion of a planning obligation agreement to secure the following:-
 - a) A financial contribution of £270,889.50 (index linked from date of resolution) towards off-site affordable housing.
 - b) A financial contribution of £270,889.50 (index linked from date of resolution) towards the enhancement and improvement of public open space/public realm at Centenary Square or Hippodrome Square/Ladywell Walk.
 - c) A commitment to engage with the City Council and other agencies to enter into a local training and employment scheme for construction and operation of the development.

- d) Payment of a monitoring and administration fee associated with the legal agreement of 3.5% of the affordable housing and public open space/public realm sum subject to a maximum of £10,000
- 9.2 In the absence of the suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority by 9th July 2015 then planning permission be refused for the following reason(s):
- a) In the absence of any suitable legal agreement to secure a financial contribution towards off site affordable housing the proposal conflicts with Policies 5.37 A-D of the Birmingham Unitary Development Plan 2005, Affordable Housing SPG and Policy TP30 of the draft Birmingham Plan 2031.
 - b) In the absence of any suitable legal agreement to secure a financial contribution towards improvements and enhancement of public open space/public realm at Centenary Square or Hippodrome Square/Ladywell Walk the proposal conflicts with Policies 3.53, 5.53 A and B, 5.20B and 5.20C and Public open space in new residential development SPG.
 - c) In the absence of any suitable legal agreement to secure local training/employment opportunities, the proposal conflicts with Policy 8.52 of the Birmingham Unitary Development Plan and Policy TP25 of the Draft Birmingham Plan 2031.
- 9.3 That the Director of Legal and Democratic Services 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 by 9th July 2015, favourable consideration be given to this application, subject to the conditions listed below.

1	Requires the prior submission of a programme of archaeological work
2	Limits the hours of use 0700-2300 and 0700-2400
3	Limits delivery time of goods to or from the site 0700-1900
4	Requires the scheme to be in accordance with the listed approved plans
5	Secures minimum glazing and ventilation
6	Requires air quality monitoring and mitigation
7	Requires mechanical ventilation for noise
8	Requires the prior submission of a lighting scheme
9	Requires the prior submission of hard and/or soft landscape details
10	Requires the prior submission of noise insulation (variable)

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- 11 Secures rooftop extraction
 - 12 Requires the prior submission and completion of works for the S278/TRO Agreement
 - 13 Prevents occupation until the turning and parking area has been constructed
 - 14 Requires the provision of cycle parking prior to occupation
 - 15 Requires the prior submission of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan
 - 16 Minimum cumulative noise from plant and machinery
 - 17 Requires the prior submission of a contamination remediation scheme
 - 18 Limits the approval to 2 years (Full)
 - 19 Requires the prior submission of sample materials
 - 20 Requires the prior submission of extraction and odour control details
 - 21 Requires the prior submission of a CCTV scheme
 - 22 Secures an employment policy
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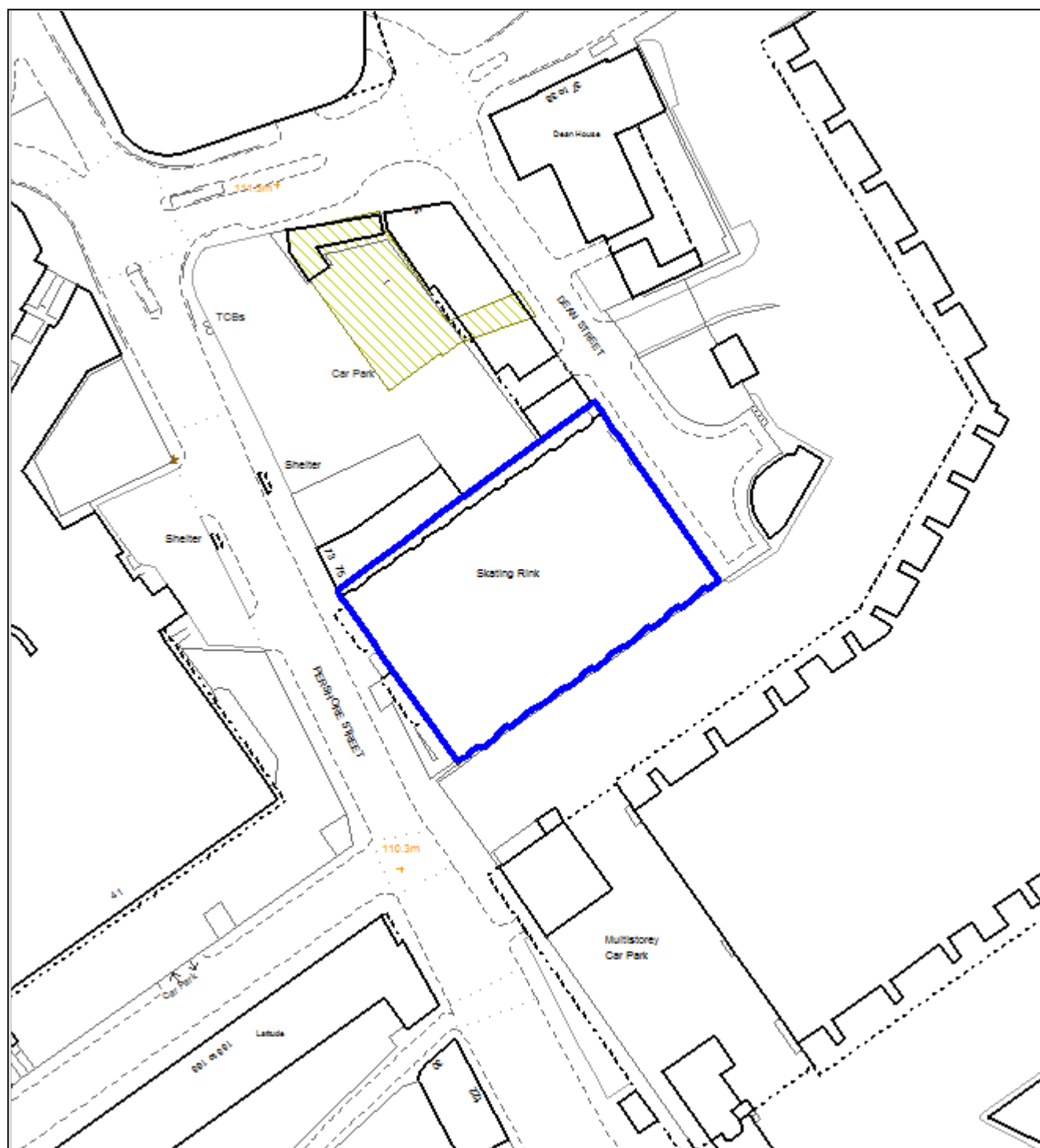
Case Officer: Joanne Todd

Photo(s)



Photo 1: Existing site from north west

Location Plan



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