

Birmingham City Council

Planning Committee

06 August 2015

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	<p>2014/06775/PA</p> <p>The Former Endwood PH Hamstead Road Handsworth Birmingham B20 2RA</p> <p>Change of use from public house (A4) to community educational centre including prayer facilities (D1), repair and renovation of detached former stables to form associated funeral service and new boundary fencing and gate</p>
Approve – Conditions	9	<p>2014/06830/PA</p> <p>The Former Endwood PH Hamstead Road Handsworth Birmingham B20 2RA</p> <p>Listed Building Consent for internal alterations, restoration of existing windows associated with change of use from public house (A4) to community & educational centre (D1), renovation of detached former stables and new boundary fencing and gate.</p>
Approve – Conditions	10	<p>2015/04642/PA</p> <p>10 Digby Road Sutton Coldfield Birmingham B73 6HG</p> <p>Minor Material Amendment attached to approval 2014/04788/PA for repositioning of some windows on the front elevation, an increase in the height of the building by 0.5m, reduction in finished site level, reduction in ridge height at the rear and new retaining walls.</p>

Approve – Temporary	11	<p>2015/04801/PA</p> <p>Plantsbrook School Upper Holland Road Sutton Coldfield Birmingham B72 1RD</p> <p>Erection of two blocks of three storey temporary teaching accommodation and relocation of existing single storey temporary block for use as temporary offices</p>
Approve – Conditions	12	<p>2015/04589/PA</p> <p>Hydraforce Hydraulics Unit St Stephens Street Aston Birmingham B6 4RG</p> <p>Change of use from B2 to allow B1(c), B2 and B8 use</p>

Committee Date:	06/08/2015	Application Number:	2014/06775/PA
Accepted:	01/06/2015	Application Type:	Full Planning
Target Date:	31/08/2015		
Ward:	Lozells and East Handsworth		

The Former Endwood PH, Hamstead Road, Handsworth, Birmingham, B20 2RA

Change of use from public house (A4) to community educational centre including prayer facilities (D1), repair and renovation of detached former stables to form associated funeral service and new boundary fencing and gate

Applicant:	Mr Anjuman E Tabligh 6 Wye Cliff Road, Handsworth, Birmingham, B20 3TB
Agent:	Catalyst Regeneration (UK) Ltd Branston Court, Branston Street, Hockley, Birmingham, B18 6BA

Recommendation

Approve Subject To Conditions

1. Proposal
 - 1.1. This application seeks planning permission for the conversion of an existing vacant Grade II listed public house for a community educational centre with prayer facilities and an associated funeral service within a former stables located within the curtilage of the site. Planning permission is also sought for new railings and gates on the Hamstead Road frontage.
 - 1.2. The existing public house comprises a basement cellar, ground floor bar and store areas and w/c's, first floor function room, kitchens, office and w/c's, and associated living accommodation on the 2nd floor. The application proposed conversion of the building to provide a store and boiler room at basement, male prayer/function room with associated ablution area, ladies function room and ablution, special needs classroom/meeting room and w/c's at ground floor, school hall, 2 classrooms, office, kitchen and toilets at first floor, 5 classrooms, office, kitchen and w/c's at 2nd floor. The funeral service comprises a reception waiting area, body wash room and garage.
 - 1.3. The proposal involves the relocation of an existing mosque from 6 Wye Cliff Road. Due to a growing community a larger premises is required.
 - 1.4. The applicant's design and access statement explains that the education facilities will provide tuition for up to 150 students, with 8 tutors on weekdays only between 17:00 and 19:30 hours.
 - 1.5. In respect of the use as a Place of Worship, the statement advises that the maximum number of persons on site at any one time will be 190 during Friday

prayer between 12:30-14:00 hours. For morning prayer the site will attract up to 20 people and for all other prayers the maximum number will be 100 people.

- 1.6. The applicant advises that other than the usage for prayer, education and funeral services, no other community events, special activities, ceremonies or additional services will take place.
- 1.7. The existing car parking is proposed to be used providing 61 car parking spaces.
- 1.8. Minor external alterations are proposed to the listed building, including removal of a non-original timber lean-to at the rear, 2 new windows at the rear/side, with other works only consisting of repairs and repointing as required, removal of pub signage, lighting, and some minor internal works to remove some small sections of internal wall, block up door openings, and to remove some none original internal piers. In the main, the existing windows and doors are to be repaired and retained. The re-use of the garage building would keep the existing external walls with a new front elevation in timber cladding.
- 1.9. The application is accompanied by a Design and Access Statement, Heritage Statement, Transport Statement and Travel Plan.
- 1.10. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The site comprises a large detached former dwelling house and its curtilage dating from circa 1820, previously known as Church Hill House. It was the home of the Muntz family for many years around the 1880's. During the early part of the 20th century a rear subordinate wing was added to the rear.
- 2.2. The dwelling was later converted to a hotel in 1918 and then a Public House in the 1930's. There is a large tarmaced car park to the north west side of the building, with open grassed areas and landscaping to the east. Access is taken from Hamstead Road. The mini island junction where Hamstead Road meets Wellington Road, Church Lane and Handsworth Wood Road is located approximately 120 metres to the north west.
- 2.3. A railway line passes beneath the building through a tunnel, with St Marys Church and Handsworth Park to the south. St Marys Junior and Infant school is situated to the south east, with residential properties to the north.
- 2.4. [Site location and street view](#)

3. Planning History

- 3.1. 02/08/1962 – 22067000 – Car park extension – Approved.
- 3.2. 21/03/1974 – 22067001 - Extensions to public house – Approved.
- 3.3. 08/01/1976 – 22067002 – Extension to existing car park – Approved.

- 3.4. 18/08/1988 – 22067003 – Alterations to elevations and provision of fire escape from 1st floor – Approved subject to conditions.
- 3.5. 18/08/1988 – 22067004 – Alterations to elevations and provision of fire escape from 1st floor – Approved subject to conditions.
- 3.6. 27/01/2003 – 2001/06409/PA – Conversion of public house to 8 flats and 1 house, external alterations to elevations, erection of 7 flats and 15 houses within grounds, construction of parking spaces and access roads – Non determination appeal dismissed.
- 3.7. 27/01/2003 – 2001/06410/PA – Listed Building consent application for part demolition of the Endwood Public House, external and internal alterations in connection with change of use to create 8 flats and 1 house, and erection of 7 flats and 15 houses within grounds – Non determination appeal dismissed.
- 3.8. 22/06/2005 – 2004/00384/PA - Alterations and conversion of public house to 9 flats and erection of 14 houses – Approved subject to conditions.
- 3.9. 22/06/2005 – 2004/00385/PA – Listed Building Consent application for conversion of public house into 9 flats, external alterations to elevations and demolition of extension – Approved subject to conditions.
- 3.10. 2014/06830/PA – Listed Building Consent application for internal alterations, restoration of existing windows associated with change of use from public house (A4) to community and education centre (D1), renovation of detached former stables and new boundary fencing and gate – Reported elsewhere on the Committee agenda for determination.

4. Consultation/PP Responses

- 4.1. Press and Site notice erected. MP, ward members for Lozells and East Handsworth and Handsworth Wood wards, residents associations, and neighbouring residents/occupiers notified. 44 representations received objecting on the following grounds :
 - Existing traffic and parking problems will be made worse
 - There is a need for a pedestrian crossing
 - There are existing facilities nearby and so there is no need for this proposal. There are enough mosques in the area to meet local needs.
 - Loss of the pub which is an important local community facility
 - It is unclear whether this will be an education use or a mosque
 - Noise impact on residents including from the call to prayer
 - Funeral service is inappropriate so close to primary school and a nursery
 - Will have a detrimental impact on the listed building
 - Their existing premises is painted bright red, they should not be allowed to do the same to the listed building which should be kept white as existing. Any signs, emblems, decorative features would be out of character with the building and the area.
 - There have been works on site to remove trees, works to the roof, works to remove the internal features and an internal fire and there is concern that this was done wilfully to obtain support for these proposals.

- It would be better for the building to be acquired by Historic England and restored for the enjoyment of the whole community.
 - Impact on the railway tunnel
 - The existing trees are at risk of being cut down
- 4.2. One letter of comment from the Governors of St Marys Primary School has been received, stating that they welcome the potential restoration of the derelict building and its site, but raise a number of concerns regarding traffic and parking issues.
- 4.3. Two representations of support has been received commenting that the proposed use is a good idea that is needed by the community and would be far better than a pub.
- 4.4. In addition, representations of an inappropriate nature have been received which have not been reported, and are not relevant considerations to the determination of this application.
- 4.5. Transportation Development – No objections regarding the proposed use for prayer and education subject to conditions to agree an amended car parking layout and details of car parking management. Requests additional information in respect of the proposed funeral facility and advises that if this aspect is to be approved that a temporary permission for this activity should be considered in order to assess the impact of this.
- 4.6. Regulatory Services – No objections. Recommends conditions relating to no external amplification equipment for external use, electric vehicle charging points and noise levels from plant and machinery.
- 4.7. Fire Service – No objections.
- 4.8. Police – Makes detailed comments relating to provision of CCTV and lighting. Expresses concern about the impact of traffic and parking.
- 4.9. Network Rail – Makes detailed comments relating to regarding building works over the railway tunnel.

5. Policy Context

- 5.1. Adopted UDP, Draft Birmingham Development Plan, Places for Worship SPD, Car parking guidelines SPD, Development involving former public houses SPG, Places for All SPG, Regeneration through Conservation SPG, NPPF.

6. Planning Considerations

6.1. Policy

- 6.2. Paragraph 3.25 of the adopted UDP sets out that any development affecting a listed building should preserve or enhance its character. The change of use of a listed building should not have a detrimental effect on the character or appearance of the building.

- 6.3. The guidance in the NPPF sets out that the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation should be taken into account.
- 6.4. The Council's SPD on the Loss of public houses advises that consideration should be given to the impact which the loss of the public house would have upon the amenities available to the local population. Many public houses perform a valuable function as a focal point for local social/community activities. In assessing the impact which proposals involving the closure of a public house may have on local amenity, consideration will be given to a number of factors including the availability of alternative public houses to serve the needs of the local community, including their accessibility, and also the nature of the proposed use, and in particular whether or not the proposal provides for retention of a leisure/community use on all or part of the site.
- 6.5. The SPD advises that where it can be demonstrated that there are no other reasonably accessible public houses or other similar social facilities in the local area and the existing public house performs a valuable local community function, proposals involving the loss of the public house are likely to be resisted on the grounds that local amenity would be adversely affected.
- 6.6. The Places for Worship SPD sets out that such uses should be located in accessible locations to reduce the need to travel by car. This normally means locating such uses within established centres. If suitable sites cannot be found within designated centres then a site within easy walking distance of a centre, and on the fringe of residential areas should be identified. The guidance sets out that the impact on noise disturbance and traffic problems normally means that predominantly residential areas are not suitable for places of worship.
- 6.7. The size of the use, its floor space and numbers of users are factors to consider in assessing its impacts. Premises should be found that can adequately serve the need. Those serving a local need should be within a parade of commercial premises, easily accessible to the community, and if suitable premises cannot be found within a commercial parade, then a site within easy walking distance of a commercial parade, and/or on the fringe of residential areas should be identified. Larger facilities serving a wider population should be located within larger shopping centres with easy access to public transport.
- 6.8. Taking all of the above policies and guidance into account, I consider that the principle of the proposed use of the site for such a community/cultural use would be acceptable. The pub has been vacant for several years and has been vulnerable to damage. A fire was started in part of the ground floor bar area, and whilst this was isolated, the continued vacancy of the building makes the site vulnerable to further damage. The best way to secure the future of a listed building is to identify a suitable use that will ensure that the building is occupied.
- 6.9. In respect of the loss of the pub use, it is evident that the site has been vacant for some time indicating that there is no demand for this use any longer and that it is the appropriate time to consider alternative uses. As the proposed use would be a community use, providing a range of activities including, prayer, education and funeral services, such that a public use of the building would remain, and so there would be no loss of this function of the use of the site. In addition, there are other public houses in the area, including The Grove at corner of Grove Lane/Oxhill Road (1km from the site) and The Crown and Cushion at Birchfield Road/Wellington Road

(1.3km from the site) I therefore do not consider that the loss of the pub warrants refusal in this case.

- 6.10. The site is not located within a local centre, but is in an accessible location to the local community on a through road and in a mixed use area including residential properties, a school, church and a park. It is located relatively close to the existing facility at Wye Cliff Road in order to serve the same catchment. I consider that the proposal therefore accords with the guidance in Places for Worship SPD.
- 6.11. Traffic and parking
- 6.12. The submitted transport statement considers the trip generation for the extant use as a public house and compares this to the proposed D1 use. For the existing floor space the report sets out that the pub is expected to generate 21 trips to the site and 18 trips departing the site in the pm peak, with no trips generated in the am peak. Peak trip generation would be during the evening after the pm peak traffic period.
- 6.13. The Council's car parking guidelines provide standards for Prayer facilities that meet a local need at 1 space per 10 square metres of floor space, and where they meet a wider need a standard of 1 space per 4.5 square metres. Given, the proposed ground floor floorspace for prayer being approximately 180 square metres, the standard for facilities meeting a local need would equate to a maximum of 18 spaces and a maximum of 40 spaces for those meeting a wider need. In respect of the education use a standard of 1 space per 8 children equates to 19 car parking spaces for the proposed 150 children. The existing car park provides 61 car parking spaces.
- 6.14. The education facilities will provide tuition for up to 150 students with 8 tutors on weekdays only between 17:00 and 19:30 hours. The applicant therefore makes the case that the trips associated with this part of the use would occur either side of the pm peak period, though I consider that there is potential for parents to be dropping off and collecting children during the peak traffic period where more than one session is undertaken.
- 6.15. In respect of the use for prayers, the maximum number of persons to be accommodated at any one time will be 190 people during Friday prayer between 12:30 and 14:00 hours, outside the peak traffic periods. The use for morning prayer is likely to attract approximately 20 people and so there will be minimal impact from this aspect in terms of trip generation to and from the site. The report sets out that at all other prayer times it is expected that there will be a maximum of 100 people on site.
- 6.16. The applicant has surveyed existing users at Wye Cliff Road advising that the modal share is 46% by car, 39% walking, and 15% cycling. The applicant has used this to estimate the likely trip generation for these activities, advising that the education activity would generate 57 arrivals and the same departures by car. In respect of Friday prayer, the total trip generation by car would be 68 arrivals and the same departures. As the peak times for use as a place of worship on Friday lunchtime are unlikely to coincide with the education use that starts later in the day, it is evident that the existing 61 space car park will be sufficient to meet the needs of both of these activities.
- 6.17. The applicant advises that in respect of the funeral use, funeral prayers are likely to coincide with the lunchtime prayer period (typically at 1pm) and will tend to be

attended by the same group of people. The funeral use would therefore not coincide with the education use.

- 6.18. There are some known issues of queuing, particularly during peak traffic periods at the traffic island junction to the north of the site. Taking into account the lawful use of the site as a pub, and the permitted change of use to a shop or a restaurant that could take place without the need for planning permission, I consider that the impact on the local highway network is unlikely to result in a significant detrimental impact over and above the fall back position to warrant refusal of this application. I note that Transportation raise no objections.
- 6.19. The application includes a travel plan which sets out that a travel plan co-ordinator would be appointed to oversee the implementation of the travel plan, that they would sign up to Travelwise, and that an annual report would be undertaken to survey the travel behaviours of users and to evaluate the changes made to modal share. I have recommended a suitable condition relating to this. I have also recommended a condition regarding car parking management.
- 6.20. In conclusion, I consider that the traffic and parking impacts of the development are acceptable.
- 6.21. Impact of the character and appearance of the listed building
- 6.22. The submitted heritage assessment sets out that the proposal requires no significant changes to the exterior of the building, only general repairs and restoration of missing features.
- 6.23. The assessment considers that despite some serious deterioration of the fabric and evidence of fire damage and vandalism, the building is generally sound but is now in urgent need of substantial refurbishment and repair. Part of its historic character is the manner in which it has altered over the years from being a villa residence to a hotel and public house. The proposed alterations are justified in that they are minimal and create a new use for a listed building at risk.
- 6.24. My conservation officer advises that the alterations to the building itself are acceptable with conditions to secure details of the windows. The development of the stables to provide the funeral service building is acceptable with details of materials to be agreed by condition. The proposed boundary treatment is acceptable in principle though some further details are required. All these matters are addressed in the recommended conditions.
- 6.25. The non-original pub signage and other associated fittings are all proposed to be removed. There are no proposals for changing the colour of the building.
- 6.26. I consider that the proposed change of use and the associated works will have an acceptable impact on the character and appearance of the listed building.
- 6.27. Noise
- 6.28. In respect of noise, I note that Regulatory Services have no objections subject to a condition to ensure that there is no external amplification equipment installed for use related to the place of worship. I concur that this is necessary given the proximity to nearby residential properties and consider that the proposal will not have a detrimental impact on the amenity of nearby residents with regards to noise.

6.29. Other issues

- 6.30. Whilst I note residents comments regarding need, I do not consider that there is evidence to justify refusal on these grounds, nor do I consider that there is a case for refusal relating to the proximity of the school to the proposed funeral service. In respect of the comments raised by Network Rail, I have recommended an informative to ensure that the applicant is aware of the comments made regarding construction in proximity to the railway tunnel.

7. Conclusion

- 7.1. The proposed development accords with the relevant policies in the UDP, draft BDP, Places for Worship SPD, the development involving public houses SPG, and the NPPF and is therefore recommended for approval subject to conditions.

8. Recommendation

- 8.1. Approve subject to conditions.

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| 1 | Requires further details of proposed works to stables building |
| 2 | Requires the prior submission of hard and/or soft landscape details |
| 3 | Requires the prior submission of boundary treatment details |
| 4 | Requires the prior submission of a lighting scheme |
| 5 | Requires the prior submission of a parking management strategy |
| 6 | Requires the parking area to be laid out prior to use |
| 7 | Requires the prior submission of cycle storage details |
| 8 | Requires the prior submission of a commercial travel plan |
| 9 | Requires the applicants to join Travelwise |
| 10 | Prevents the use of amplification equipment |
| 11 | Limits the noise levels for Plant and Machinery |
| 12 | Requires the scheme to be in accordance with the listed approved plans |
| 13 | Limits the approval to 3 years (Full) |
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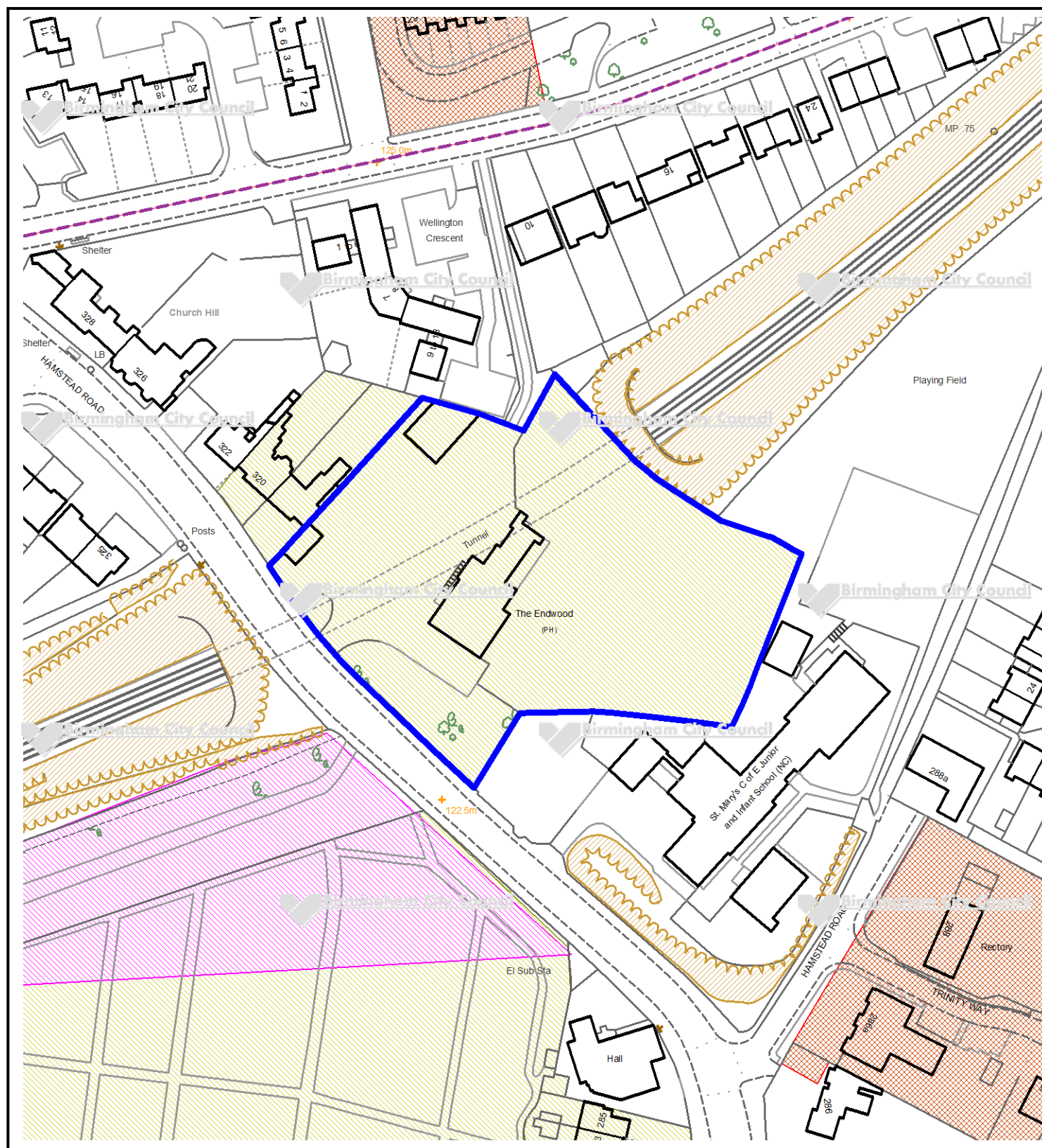
Case Officer: Stuart Morgans

Photo(s)



Figure 1: Existing front and side view.

Location Plan



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Committee Date:	06/08/2015	Application Number:	2014/06830/PA
Accepted:	01/06/2015	Application Type:	Listed Building
Target Date:	27/07/2015		
Ward:	Lozells and East Handsworth		

The Former Endwood PH, Hamstead Road, Handsworth, Birmingham, B20 2RA

Listed Building Consent for internal alterations, restoration of existing windows associated with change of use from public house (A4) to community & educational centre (D1), renovation of detached former stables and new boundary fencing and gate.

Applicant:	Mr Anjuman E Tabligh 6 Wye Cliff Road, Handsworth, Birmingham, B20 3TB
Agent:	Catalyst Regeneration (UK) Ltd Branston Court, Branston Street, Hockley, Birmingham, B18 6BA

Recommendation

Approve Subject To Conditions

1. Proposal
 - 1.1. This application seeks listed building consent for the conversion of an existing vacant Grade II listed public house for a community educational centre with prayer facilities and an associated funeral service within a former stables located within the curtilage of the site. Planning permission is also sought for new railings and gates on the Hamstead Road frontage.
 - 1.2. The existing public house comprises a basement cellar, ground floor bar and store areas and w/c's, first floor function room, kitchens, office and w/c's, and associated living accommodation on the 2nd floor. The application proposes conversion of the building to provide a store and boiler room at basement, male prayer/function room with associated ablution area, ladies function room and ablution, special needs classroom/meeting room and w/c's at ground floor, school hall, 2 classrooms, office, kitchen and toilets at first floor, 5 classrooms, office, kitchen and w/c's at 2nd floor. The funeral service comprises a reception waiting area, body wash room and garage.
 - 1.3. Minor external alterations are proposed to the listed building, including removal of a non-original timber lean-to at the rear, 2 new windows at the rear/side, with other works only consisting of repairs and repointing as required, removal of pub signage, lighting, and some minor internal works remove some small sections of internal wall, block up door openings, and to remove some none original internal piers. In the main, the existing windows and doors are to be repaired and retained. The re-use of the garage building would keep the existing external walls with a new front elevation in timber cladding.

1.4. The application is accompanied by a Design and Access Statement and Heritage Statement.

1.5. [Link to Documents](#)

2. Site & Surroundings

2.1. The site comprises a large detached former dwelling house and its curtilage dating from circa 1820, previously known as Church Hill House. It was the home of the Muntz family for many years around the 1880's. During the early part of the 20th century a rear subordinate wing was added to the rear.

2.2. The dwelling was later converted to a hotel in 1918 and then a Public House in the 1930's. There is a large tarmaced car park to the north west side of the building, with open grassed areas and landscaping to the east. Access is taken from Hamstead Road. The mini island junction where Hamstead Road meets Wellington Road, Church Lane and Handsworth Wood Road is located approximately 120 metres to the north west.

2.3. A railway line passes beneath the building through a tunnel, with St Marys Church and Handsworth Park to the south. St Marys Junior and Infant school is situated to the south east, with residential properties to the north.

3. Planning History

3.1. 02/08/1962 – 22067000 – Car park extension – Approved.

3.2. 21/03/1974 – 22067001 - Extensions to public house – Approved.

3.3. 08/01/1976 – 22067002 – Extension to existing car park – Approved.

3.4. 18/08/1988 – 22067003 – Alterations to elevations and provision of fire escape from 1st floor – Approved subject to conditions.

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- 3.10. 2014/06775/PA – Change of use from Public House (A4) to community educational centre including prayer facilities (D1), repair and renovation of detached former stables to form associated funeral service and new boundary fencing and gate – Reported elsewhere on the Committee agenda for determination.

4. Consultation/PP Responses

- 4.1. Press and Site notice erected. MP, ward members for Lozells and East Handsworth and Handsworth Wood wards, residents associations, and neighbouring residents/occupiers notified. 44 representations received objecting on the following grounds :

- Existing traffic and parking problems will be made worse
- There is a need for a pedestrian crossing
- There are existing facilities nearby and so there is no need for this proposal. There are enough mosques in the area to meet local needs.
- Loss of the pub which is an important local community facility
- It is unclear whether this will be an education use or a mosque
- Noise impact on residents including from the call to prayer
- Funeral service is inappropriate so close to primary school and a nursery
- Will have a detrimental impact on the listed building
- Their existing premises is painted bright red, they should not be allowed to do the same to the listed building which should be kept white as existing. Any signs, emblems, decorative features would be out of character with the building and the area.
- There have been works on site to remove trees, works to the roof, works to remove the internal features and an internal fire and there is concern that this was done wilfully to obtain support for these proposals.
- It would be better for the building to be acquired by Historic England and restored for the enjoyment of the whole community.
- Impact on the railway tunnel
- The existing trees are at risk of being cut down

- 4.2. One letter of comment from the Governors of St Marys Primary School has been received, stating that they welcome the potential restoration of the derelict building and its site, but raise a number of concerns regarding traffic and parking issues.

- 4.3. Two representations of support has been received commenting that the proposed use is a good idea that is needed by the community and would be far better than a pub.

- 4.4. In addition, representations of an inappropriate nature have been received which have not been reported, and are not relevant considerations to the determination of this application.

5. Policy Context

- 5.1. Adopted UDP, Draft Birmingham Development Plan, Places for Worship SPD, Car parking guidelines SPD, Development involving former public houses SPG, Places for All SPG, Regeneration through Conservation SPG, NPPF.

6. Planning Considerations

- 6.1. Paragraph 3.25 of the adopted UDP sets out that any development affecting a listed building should preserve or enhance its character. The change of use of a listed building should not have a detrimental effect on the character or appearance of the building.
- 6.2. The guidance in the NPPF sets out that the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation should be taken into account.
- 6.3. Impact of the character and appearance of the listed building
- 6.4. The submitted heritage assessment sets out that the proposal requires no significant changes to the exterior of the building, only general repairs and restoration of missing features. The internal changes are considered to be relatively minor and proportionate.
- 6.5. The ground floor room layout of the original building is only partially intact as other areas have previously been opened up for use as licenced premises. In the original villa, none original bar fittings have been removed which is considered to be acceptable. The works to re-arrange and refit the toilet areas are acceptable. In the rear part of the later building new toilets are proposed with the removal of a small section of wall and bricking up of two existing openings which are acceptable. Piers supporting a flat roof in the middle of the male prayer room are proposed for removal. This roof structure and incremental building are all thought to have been constructed in recent times and the so the removal of the piers have a minimal impact on the heritage asset.
- 6.6. The applicant proposes to restore missing joinery, architraves and decorative plasterwork to the same size and detail as original. Stairs and windows are to be refurbished/repared. A redundant food hoist is proposed to be removed, along with none original stud walls and suspended ceilings that created corridors and non-original bar fittings in the first floor function room, all of which are acceptable. The main staircase with its glazed and etched ceiling light well are the main features which are to be retained. The reinstatement of missing balustrades and repair of the light well glazing are all proposed. For safety reasons, the applicant proposes to glaze over the staircase well at first floor level, details of which are to be submitted and agreed by condition.
- 6.7. The assessment considers that despite some serious deterioration of the fabric and evidence of fire damage and vandalism, the building is generally sound but is now in urgent need of substantial refurbishment and repair. Part of its historic character is the manner in which it has altered over the years from being a villa residence to a hotel and public house. The proposed alterations are justified in that they are minimal and create a new use for a listed building at risk.
- 6.8. My conservation officer advises that the alterations to the building itself are acceptable with conditions to secure details of the stair balustrade, windows, and joinery and plasterwork. The development of the stables to provide the funeral service building is acceptable with some further details of materials to be agreed by condition. The proposed boundary treatment is acceptable in principle though some

further details are required. All these matters are addressed in the recommended conditions.

- 6.9. The none original pub signage and other associated fittings are all proposed to be removed. There are no proposals for changing the colour of the building.
- 6.10. I consider that the proposed change of use and the associated works will have an acceptable impact on the character and appearance of the listed building.

7. Conclusion

- 7.1. The proposed works to repair and renovate the listed building for the proposed change of use accord with the relevant policies in the adopted UDP, draft BDP and the NPPF, and so the application is recommended for approval.

8. Recommendation

- 8.1. Approve subject to conditions.

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|---|--|
| 1 | Requires steps to be taken to protection of historical features |
| 2 | Requires any damage to the listed building to be made good |
| 3 | Requires the prior submission of dormer window/window frame details |
| 4 | Requires the prior submission of fixtures and fittings details |
| 5 | Requires the prior submission of a schedule of existing and new internal joinery details |
| 6 | Requires the prior submission of new walls, railings & gates & gate posts/piers details |
| 7 | Requires further details of proposed works to stables building. |
| 8 | Requires the scheme to be in accordance with the listed approved plans |
| 9 | Limits the approval to 3 years (conservation/listed buildings consent) |
-

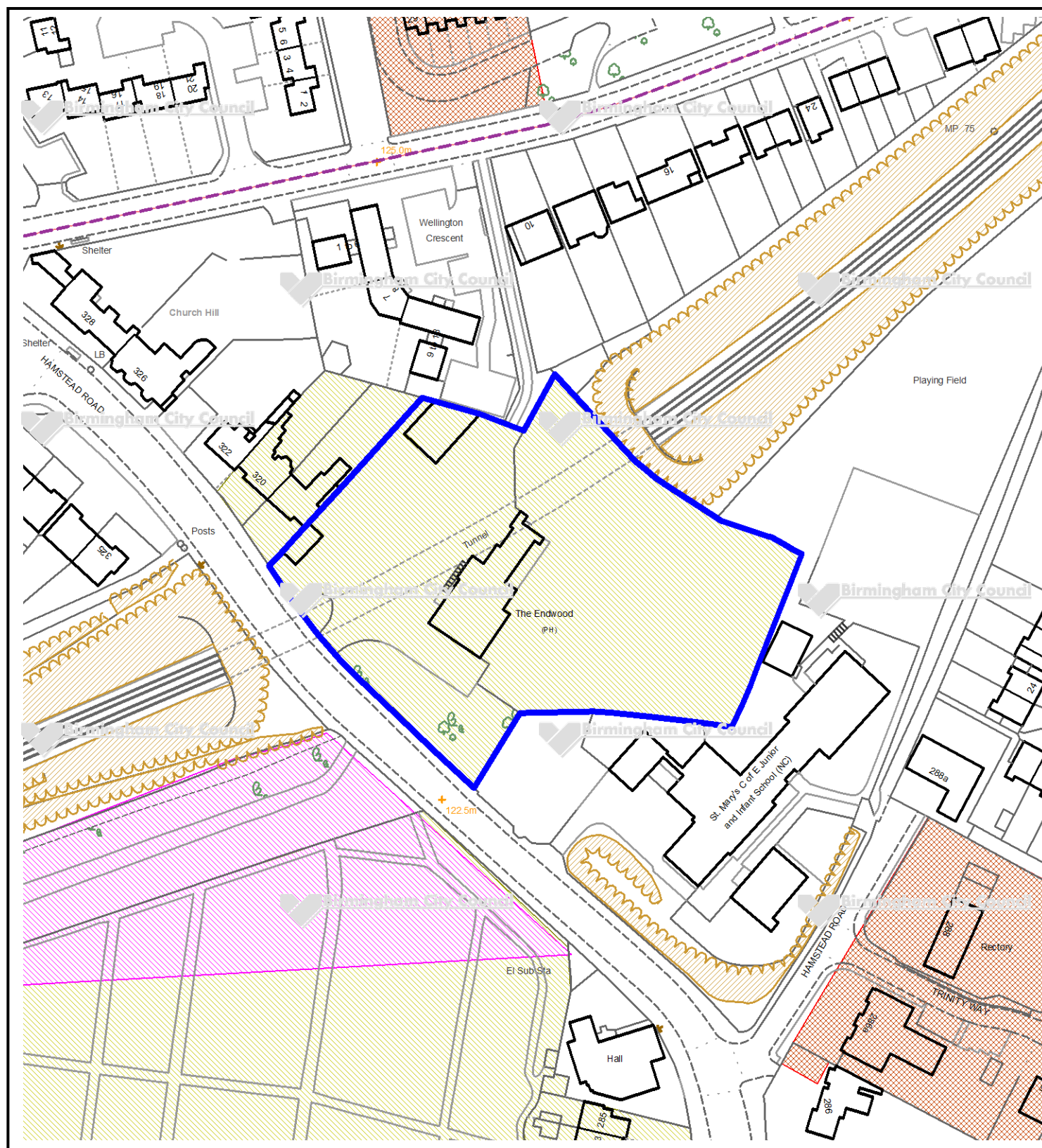
Case Officer: Stuart Morgans

Photo(s)



Figure 1: Existing front and side view.

Location Plan



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Committee Date:	06/08/2015	Application Number:	2015/04642/PA
Accepted:	11/06/2015	Application Type:	Minor Material Amendment
Target Date:	06/08/2015		
Ward:	Sutton Vesey		

10 Digby Road, Sutton Coldfield, Birmingham, B73 6HG

Minor Material Amendment attached to approval 2014/04788/PA for repositioning of some windows on the front elevation, an increase in the height of the building by 0.5m, reduction in finished site level, reduction in ridge height at the rear and new retaining walls.

Applicant:	Digby Road Developments Ltd 122 Colmore Row, Birmingham, B3 3BD
Agent:	BPN (Bryant Priest Newman) Architects 3 Mary Street, Birmingham, B3 1UD

Recommendation

Approve Subject To Conditions

1. Proposal

- 1.1. The proposal is for amendments to planning approval 2014/04788/PA the erection of 7 apartments, car parking and associated works, to allow for an increase in the height of the building, lower the finished site level, reposition 2 windows on the front elevation and reduce the ridge height at the rear.
- 1.2. The increase in height of the building by 0.5m is required to allow for adequate floor to ceiling heights to be achieved within the building. Following discussions with officers, the applicants considered the preferred solution was to lower the finished site level of the building by 0.5m to ensure the ridge height of the building did not increase in relation to the adjacent properties. The resultant finished site level would be 0.93m lower than no. 12 Digby Road and 0.65m lower than no. 8A Digby Road. The lowering of the building would require retaining walls to be constructed adjacent no. 8A Digby Road (1.9m in length x 0.7m high) and adjacent no. 12 Digby Road (4m in length x 1.2m high at the front and 6.6m in length x 1.2m high at the rear).
- 1.3. Other minor amendments include the repositioning of a first and second floor window on the front elevation so they would line up with the position of the ground floor window and a slight decrease (0.5m) in the height of the ridge of the roof at the rear of the building,

1.4. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site relates to a large detached dwelling, located on the southern side of Digby Road within a residential area. It is 3 storeys with a 2 storey wing to

rear on the western boundary and has been vacant for a number of years. The dwelling is derelict and the site is overgrown with a security hoarding on its front boundary with Digby Road.

- 2.2. To the east, No. 12 is a large detached dwelling with 2 listed buildings at No's. 11 and 14 on the junction with Driffold. Directly to the west are No's. 8 and 8a Digby Road which are smaller, more modern detached dwellings set forward of No. 10. There is a cul-de-sac with modern houses, Kirkby Green, to the west, and No's. 6, 8 and 10 Kirkby Green back directly onto the western boundary of the application site. To the rear of the site is Ashdene Close and beyond the Sutton Coldfield to New Street railway line in a cutting.

2.3. [Location plan and street view](#)

3. [Planning History](#)

- 3.1. 31 July 2003 - 2002/06598/PA – Erection of 7 apartments and car parking, and demolition of existing dwellinghouse. Approved subject to conditions following Planning Committee site visit.
- 3.2. 11 September 2008 – 2008/03092/PA - Erection of 7 apartments and car parking, and demolition of existing dwellinghouse. Approved subject to conditions.
- 3.3. 17 October 2011 – 2011/05400/PA - Application for a new planning permission to replace an extant planning permission in order to extend the time limit for implementation of 2008/03092/PA for the erection of 7 apartments, car parking, associated works and demolition of existing dwelling house. Approved subject to conditions. Approval expired on 17th October 2014.
- 3.4. 30 October 2014 – 2014/04788/PA. Demolition of existing dwelling house and erection of 7 apartments, car parking and associated works. Approved.

4. [Consultation/PP Responses](#)

- 4.1. Transportation Development – no objections subject to conditions.
- 4.2. Regulatory Services – no objections.
- 4.3. Severn Trent Water – no objections subject to condition.
- 4.4. West Midlands Fire Service – no objections.
- 4.5. West Midlands Police – no objections.
- 4.6. Councillors, Residents Associations and nearby occupiers notified. 5 letters have been received objecting to the proposal on the following grounds;
- Proposed increase in height change the 3 storey building to a 4 storey building which is out of character with the road.
 - Bin store would impact on roots of existing tree.
 - Proposal too significant to be considered as a minor amendment.
 - Plans do not show relationship with 8A and 12.

- Window on south east corner at property could be changed to a door so flat roof could be used as a balcony.
- Conflict with 45 degree code.
- Insufficient information provided.

5. Policy Context

- 5.1. UDP (Adopted 2005), Draft Birmingham Development Plan, Places for Living SPG, 45 Degree Code, Mature Suburbs Residential Guidelines SPD, Car parking Guidelines, NPPF (2012), NPPG (2014).

6. Planning Considerations

- 6.1. Planning permission was granted in 2003 for the demolition of the existing dwelling house and the erection of a 3 storey building to provide 7 apartments with car parking. The planning permission was renewed in 2008 and in 2011 permission was granted for an extension of time to implement the consent until 17th October 2014. This permission was never implemented. Your Committee granted planning permission for an amended proposal for 7 apartments and car parking on 30th October 2014 (2014/04788/PA). Subsequent to this the site was sold to the applicants who fully intend to develop the site, however, during the detailed design stage it became apparent that there were a number of inaccuracies in respect of levels and floor to ceiling heights which resulted in the approved scheme being unbuildable. The applicants discussed their options with officers and the current application has been submitted with the principal amendments that the finished site level has been lowered by 0.5m and the height of the building increased by 0.5m (11.7m to 12.2m).
- 6.2. I consider the proposed amendments to the approved scheme are acceptable. The design of the building remains essentially the same as the previous approval. The lowering of the finished site level and the minor increase in height would have no adverse impact on the visual amenities of the area or on the amenities of the adjoining occupiers at no's 8A and 12 Digby Road.
- 6.3. The ridge height of the building would not exceed the height of the ridge line on the approved scheme and would be below the height of the existing dwelling house on the site. The building would be set well back into the site behind the parking area and would be well screened by the existing wall and trees on the site frontage which are to be retained. The building would still have the appearance of 3 full storeys with additional accommodation in the roofspace.
- 6.4. The lowering of the building would not have any additional impacts on the adjoining occupiers. The building complies with the 45 degree code in relation to no. 12 Digby Road and the applicants have confirmed the flat roof adjacent to the boundary with no.12 has no direct access and would not be used as a balcony. The impact on no. 8A would be no greater than the approved scheme. The approved scheme breaches the 45 degree code in relation to no. 8A, however, this has previously been accepted by your Committee on the grounds that the existing dwelling house breached the 45 degree code and the most recently approved scheme breached the code to a lesser amount than the previous schemes approved in 2003, 2008 and 2011.

6.5. The Tree Officer has confirmed that she raises no objection to the location of the bin store within the Root Protection Area of a retained tree on the site frontage.

7. Conclusion

7.1. I consider the proposed amendments to planning approval 2014/04788/PA are acceptable subject to conditions.

8. Recommendation

8.1. Approve Subject To Conditions.

-
- | | |
|----|---|
| 1 | Requires the prior submission of an additional bat survey |
| 2 | Requires the prior submission of a scheme for ecological/biodiversity/enhancement measures |
| 3 | Requires the prior submission of details of bird/bat boxes |
| 4 | Requires the prior submission of hard and/or soft landscape details |
| 5 | Requires the prior submission of hard surfacing materials |
| 6 | Requires the prior submission of boundary treatment details |
| 7 | Requires the prior submission of sample materials |
| 8 | Requires the prior submission of level details |
| 9 | Requires the prior submission of drainage details |
| 10 | Requires the prior submission details obscure glazing for specific areas of the approved building |
| 11 | Requires vehicular visibility splays to be provided |
| 12 | Requires the provision of a heavy duty crossing |
| 13 | Requires the prior submission of cycle storage details |
| 14 | Requires the implementation of tree protection |
| 15 | Requires the prior submission of details of refuse storage |
| 16 | Requires the prior submission of window details |
| 17 | Requires the prior submission of entrance gate details |
| 18 | Removes PD rights for boundary treatments |
| 19 | Requires the scheme to be in accordance with the listed approved plans |
-

20 Limits the commencement of this development upto the 30th October 2017.

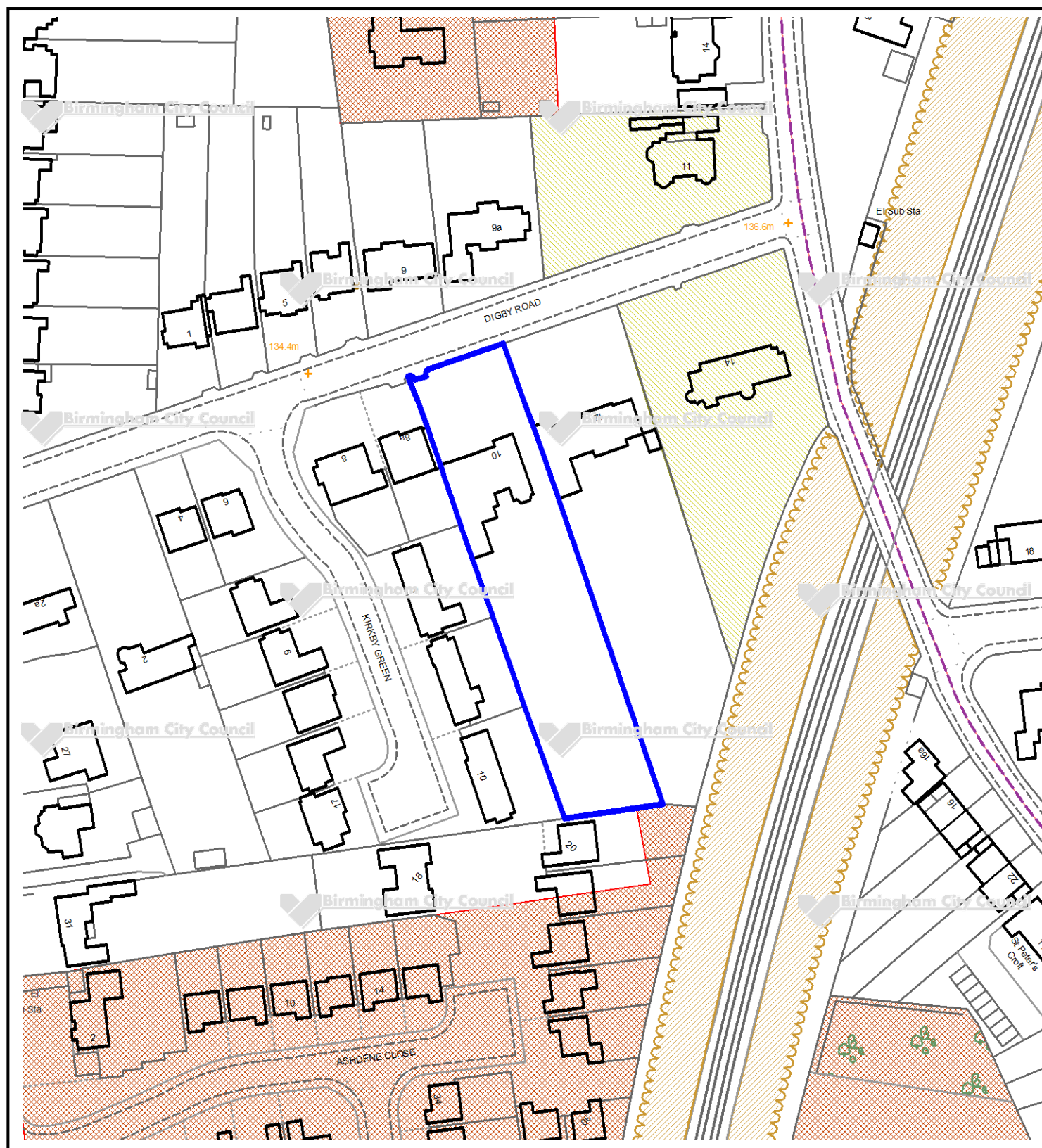
Case Officer: John Davies

Photo(s)



Figure 1 – Existing dwelling

Location Plan



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Committee Date:	06/08/2015	Application Number:	2015/04801/PA
Accepted:	15/06/2015	Application Type:	Full Planning
Target Date:	14/09/2015		
Ward:	Sutton Trinity		

Plantsbrook School, Upper Holland Road, Sutton Coldfield, Birmingham, B72 1RD

Erection of two blocks of three storey temporary teaching accommodation and relocation of existing single storey temporary block for use as temporary offices

Applicant:	Carillion Construction Ltd c/o Agent
Agent:	Tweeddale Limited 265 Tettenhall Road, Wolverhampton, West Midlands, WV6 0DE

Recommendation

Approve Temporary

1. Proposal

- 1.1. Planning permission was granted on 9th July 2015 for the demolition of the existing school buildings at Plantsbrook School and the redevelopment of the site with a new purpose built educational facility and associated works. The proposal is part of the second phase of the Priority Schools Building Programme (PSBP) for the redevelopment of secondary schools and sixth form colleges across England.
- 1.2. This proposal is for the siting of temporary teaching accommodation and offices (2,489sq.m) within the Plantsbrook School site for a period of approximately 2 years during the school redevelopment. The teaching accommodation would be split within 2, three storey temporary blocks and the single storey temporary building which would be relocated from the rear of the site to the Upper Holland frontage would be used as a site office. The playing fields on the opposite side of Plants Brook would be retained as existing.
- 1.3. Temporary block 1 (1,147sq.m) would be 3 storeys of a typical portacabin design and located on a hard surfaced area to the south of the existing school building. It would provide 12 classroom areas with internal staircases. Outdoor play area would be provided adjacent to the temporary block. This block would be in position from 7th September 2015 until 21st April 2017.
- 1.4. Temporary block 2 (1,287sq.m) would be 3 storeys of a typical portacabin design located on a playground area close to the Ebrook Road frontage. It would contain 16 classrooms and a store area. The staircases would be external. Outdoor play area would be provided adjacent to the temporary block. This block would be in position from 2nd November 2015 to 21st April 2017.

- 1.5. The site office building (70sq.m) would be required to be in position until 9th January 2015.
- 1.6. Car parking would be retained as existing on the Upper Holland Road frontage using the existing access points.

1.7. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site is located on the junction of Upper Holland Road and Ebrook Road and is approximately 3.85 hectares in area. The site is divided into two parts by the Plants Brook with the section to the north-east containing the school buildings which are a mix of single and two storey buildings dating from the 1930's, 60's and 90's including a standalone sports hall at the rear of the site. To the south-west of the brook are the playing fields.
- 2.2. There are two access points for vehicles from Upper Holland Road, an entrance and egress which are shared with pedestrians. On Ebrook Road there is a vehicular entrance/exit to a rear parking area and further along is a separate pedestrian entrance.
- 2.3. To the south-east of the school is Town Junior School with Sutton Coldfield Town Football Club to the south-west. There are residential dwellings opposite the school on Ebrook Road and Upper Holland Road with further residential adjacent to the site on Upper Holland Road and to the south-west of the school playing fields on Cole Lane.
- 2.4. [Site Location and Street View](#)

3. Planning History

- 3.1. 09/07/2015. 2015/02634/PA. Demolition of existing school and erection of new school, sports hall and multi-use games areas, energy centre and plant area with associated car parking and landscaping. Approved.

4. Consultation/PP Responses

- 4.1. Transportation Development – no objections subject to condition.
- 4.2. Regulatory Services – no objections.
- 4.3. West Midlands Police – no objections.
- 4.4. West Midlands Fire Service – comments awaited.
- 4.5. Severn Trent Water – no objections.
- 4.6. Environment Agency – no objections.
- 4.7. MP, Councillors, Residents Associations and nearby occupiers notified.

- 4.8. A petition with 19 signatures has been received objecting to the proposal on the following grounds;
- Block 2 will block out light to 17-31 Ebrook Road and devalue their properties.
 - During construction it will be like living in a building site.
 - Parking along Ebrook Road is at crisis level.
 - Increase in traffic will increase the risk of accidents.
- 4.9. 1 letter of comment has been received stating that the plans do not clearly show the proposed position of the temporary buildings.

5. Policy Context

- 5.1. UDP (Adopted 2005), Draft Birmingham Development Plan, Places for All SPG (2001), Car Parking Guidelines SPD (2012), NPPF (2012).

6. Planning Considerations

- 6.1. Planning permission for the redevelopment of Plantsbrook School was approved by your Committee on 9th July 2015. The redevelopment is being carried out under the Priority Schools Building Programme (PSBP) which is a Central Government initiative to renew secondary school facilities in England and was launched in 2011. The programme is administered by the Department for Education and managed by the Education Funding Authority to address the needs of schools most urgently in need of repair. The intention of the PSBP is to transform the provision of secondary educational facilities so they are fit for purpose in the 21st Century and can be enjoyed by the local community outside of normal school hours.
- 6.2. The proposed temporary buildings would be located on hardsurfaced areas of the school site which are not directly affected by the redevelopment of the school buildings. Block 1 would be sited to the rear of the existing school building well within the site and would raise no issues. The temporary site office building would be single storey and located on the Upper Holland Road frontage and again would raise no issues.
- 6.3. Objections have been raised to the siting of Block 2 from local residents in Ebrook Road who are of the view that they will lose light to the frontage of their properties as a result of the proximity of 3 storey temporary block. Following further discussions between the school, contractors and local residents, the block has been repositioned so that the windowed elevation would be approximately 45 metres from the front elevations of the nearest dwellings on Ebrook Road. I consider that, given the level of distance separation, the use of the proposed block would not result in a loss of amenity to residents through overshadowing, overlooking or loss of privacy.
- 6.4. Transportation Development raise no objections to the proposal and note the existing parking and access points off Upper Holland Road would be retained during construction. They have requested a condition requiring a construction phase management plan to be submitted showing full details of parking for school staff, visitors and construction staff along with vehicle routeing for construction traffic and delivery times.

6.5. No objections have been raised by Regulatory Services, West Midlands Police, West Midlands Fire Service and the Environment Agency. Severn Trent Water have raised no objections subject to a drainage condition.

7. Conclusion

7.1. I consider the proposed temporary accommodation is essential for the continued operation of Plantsbrook School and is acceptable for the temporary period of time required.

8. Recommendation

8.1. Approve Temporary.

-
- | | |
|---|---|
| 1 | Requires the prior submission of a scheme to show how the building would be removed by the 21st April 2017. |
| 2 | Requires the prior submission of a sustainable drainage scheme |
| 3 | Requires the prior submission of a construction phase management plan |
| 4 | Requires the scheme to be in accordance with the listed approved plans |
-

Case Officer: John Davies

Photo(s)

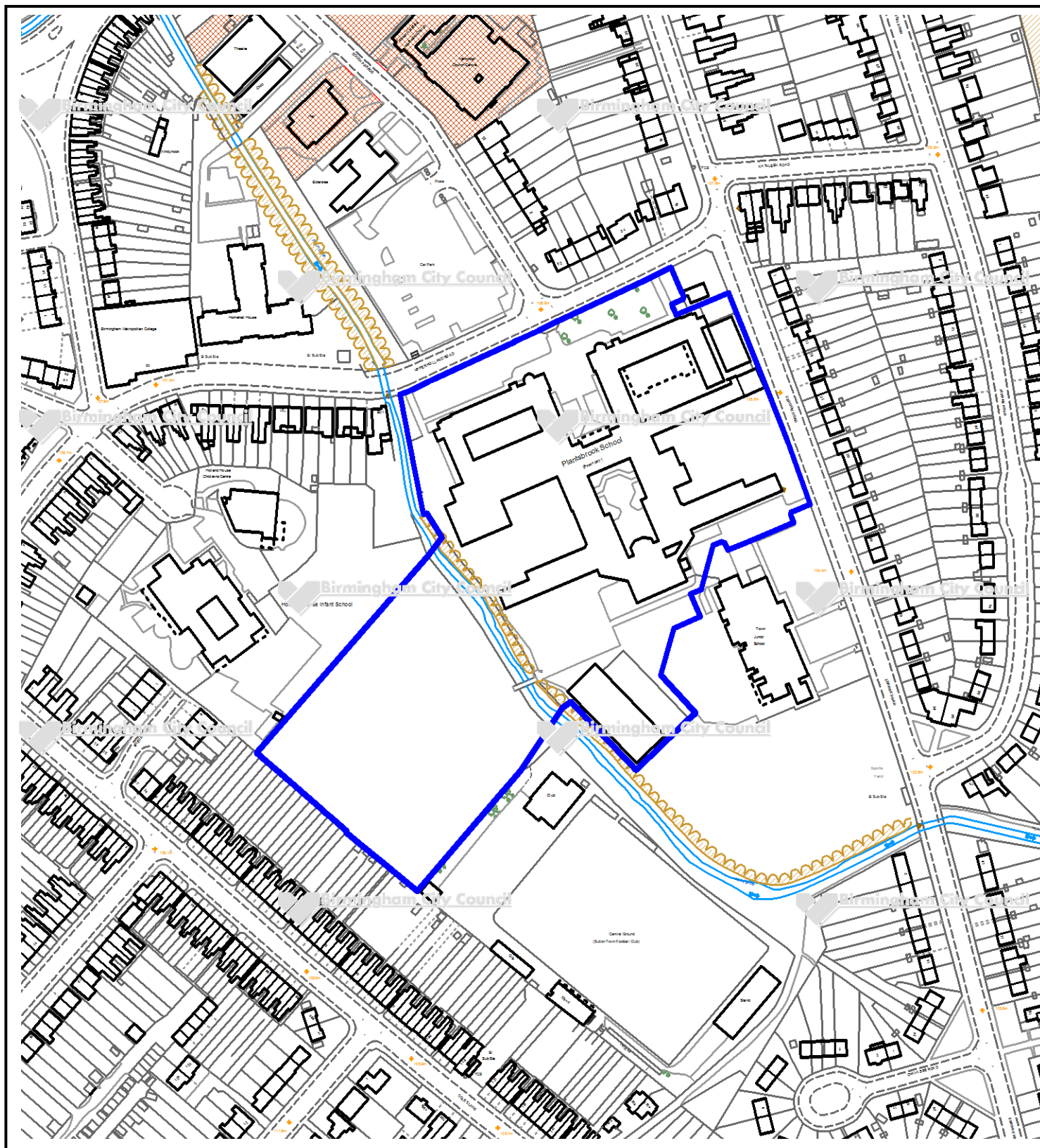


Figure 1 – Site of temporary block 1



Figure 2 – Site of temporary block 2

Location Plan



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Committee Date:	06/08/2015	Application Number:	2015/04589/PA
Accepted:	23/06/2015	Application Type:	Full Planning
Target Date:	22/09/2015		
Ward:	Aston		

Hydraforce Hydraulics Unit, St Stephens Street, Aston, Birmingham, B6 4RG

Change of use from B2 to allow B1(c), B2 and B8 use

Applicant: Hydraforce Hydraulics Ltd
c/o Agent
Agent: JLL
45 Church Street, Birmingham, B3 2RT

Recommendation

Approve Subject To Conditions

1. Proposal

- 1.1. This application seeks planning permission for the change of use of an existing B2 industrial premises to broaden the range of permitted uses to including B1(c), B2 and B8. The existing factory building comprises 4645 square metres of floorspace with associated service yards and car parking. The car parking area provides 126 car parking spaces.
- 1.2. The existing business is relocating to the Aston Regional Investment site.
- 1.3. The applicant has submitted a Transport Statement to consider the traffic and parking implications of the proposed change of use.

1.4. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The site is located within a wholly industrial area to the north of the ring road in south Aston. The premises comprises a modern industrial unit with service access taken from Moorsom Street and access to the car park from Elkington Street.

2.2. [Site location and street view](#)

3. Planning History

- 3.1. 6/09/2000 – 2000/03765/PA – Erection of industrial unit with two storey offices with parking facilities and service yard for goods vehicles and boundary railings. Approved subject to conditions.

4. Consultation/PP Responses

- 4.1. Press and Site Notices erected. MP, ward members, residents associations and neighbouring occupiers notified. No representations received.
- 4.2. Transportation Development – No objections.
- 4.3. Regulatory Services – No objections.
- 4.4. Lead Local Food Authority – No objections.
- 4.5. Environment Agency – No objections.

5. Policy Context

- 5.1. Adopted UDP, Draft BDP, Aston, Newtown and Lozells AAP, Car Parking Guidelines SPD, NPPF.

6. Planning Considerations

6.1. Policy

- 6.2. The site is located within an established industrial area, and is identified in the draft BDP and the adopted Aston Newtown and Lozells AAP as a Core Employment Area. The principle of the proposed change of use to allow B1(c) light industrial and B8 (storage and distribution) uses in addition to B2 (general industrial) use is therefore acceptable in principle.

6.3. Traffic and Parking

- 6.4. The car parking standard for B2 use is 1 space per 60 square metres of floorspace which equates to a maximum of 77 spaces. The standard for B8 uses is the same and so there would be no additional parking required for this alternative use. The existing car park has provision for 126 spaces, and whilst this exceeds the maximum standard, it is evident that it is well used by the existing B2 use. The existing business have 310 people employed at the site operating two shifts.
- 6.5. The Council's car parking standard for B1 uses is 1 space per 30 square metres of floorspace which equates to a maximum of 155 spaces. This standard applies to all B1 uses, though the applicant's transport statement makes the case that B1 (c) light industrial uses tend to generate the need for less parking than B1(a) offices, and that the existing car park is sufficient to meet the needs of a B1(c) light industrial use.
- 6.6. I concur with the conclusions reached and consider that the proposal is acceptable in respect of its proposed parking provision.

7. Conclusion

- 7.1. The proposed change of use accords with the Council's industrial land policies in the UDP, Draft BDP, the adopted AAP and the NPPF and is therefore recommended for approval.

8. Recommendation

8.1. Approve subject to conditions.

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

2 Limits the approval to 3 years (Full)

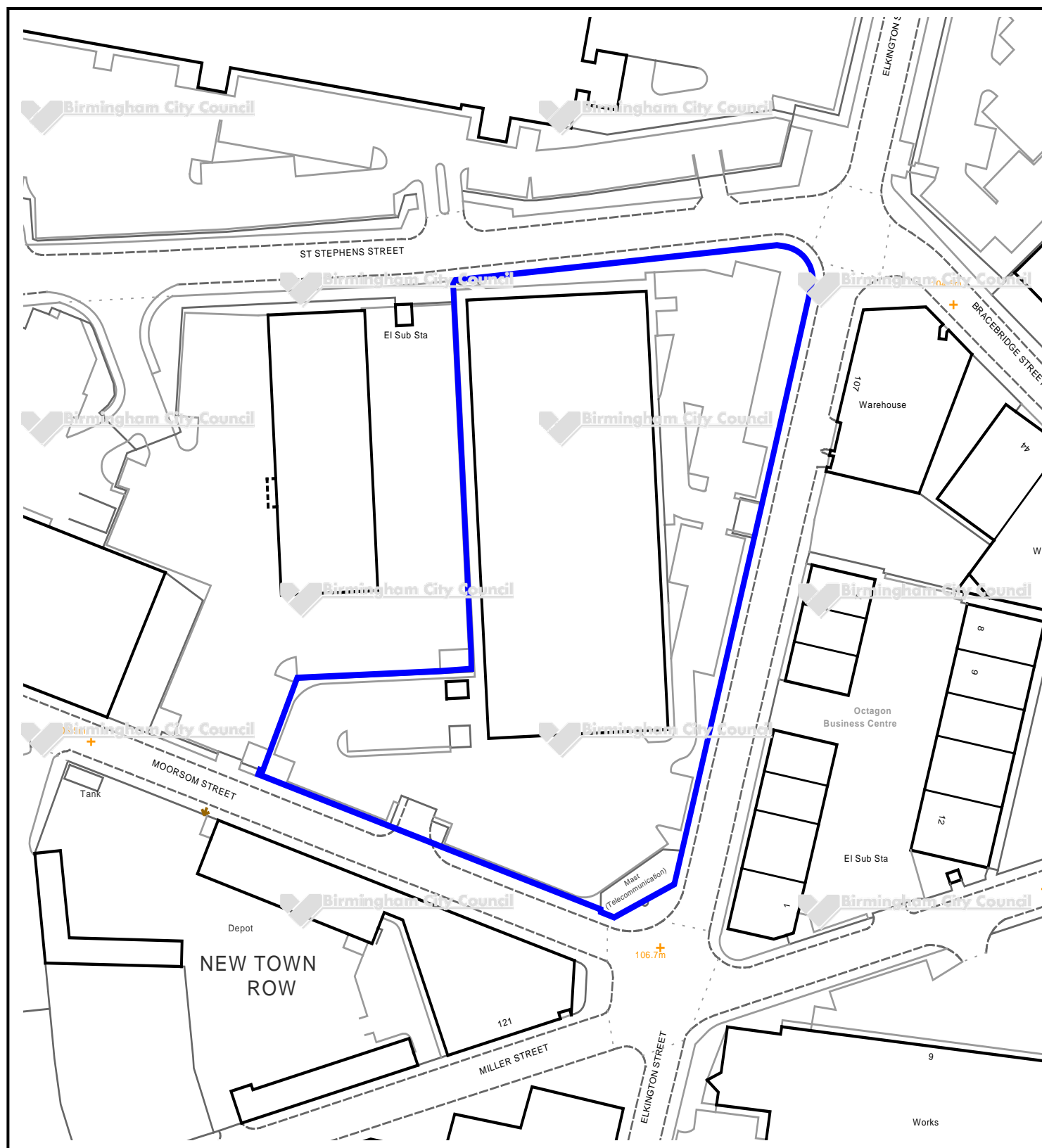
Case Officer: Stuart Morgans

Photo(s)



Figure 1 : Car park entrance

Location Plan



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Birmingham City Council

Planning Committee

06 August 2015

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	13	2015/03664/PA Bournville Care Village Bristol Road South Northfield Birmingham B31 2AJ Erection of health and wellbeing centre including pharmacy, optician, clinical consulting rooms for the Royal Orthopaedic Hospital, GP Surgery and Discharge to Assess accommodation for the NHS, car parking, landscaping and ancillary works
Approve – Conditions	14	2015/05347/PA New Chamberlain Halls Residence Off Church Road Edgbaston Birmingham B15 3AG Installation of 9 no. antennas and associated ancillary development

Committee Date:	06/08/2015	Application Number:	2015/03664/PA
Accepted:	08/05/2015	Application Type:	Full Planning
Target Date:	07/08/2015		
Ward:	Weoley		

Bournville Care Village, Bristol Road South, Northfield, Birmingham, B31 2AJ

Erection of health and wellbeing centre including pharmacy, optician, clinical consulting rooms for the Royal Orthopaedic Hospital, GP Surgery and Discharge to Assess accommodation for the NHS, car parking, landscaping and ancillary works

Applicant:	Bournville Village Trust 350 Bournville Lane, Bournville, Birmingham, B30 1QY
Agent:	P J Planning Regent House, 156-7 Lower High Street, Stourbridge, West Midlands, DY8 1TS

Recommendation

Approve Subject To Conditions

1. Proposal

- 1.1. Planning permission is sought for the erection of a health and wellbeing centre including pharmacy, optician, clinical consulting rooms for the Royal Orthopaedic Hospital, GP Surgery and Discharge to Assess accommodation for the NHS, car parking, landscaping and ancillary works on the remaining plot within Bournville Care Village, on the site of the former Bournville College.
- 1.2. The building would be 'L' shaped with the corner of the 'L' fronting Bristol Road South and new site access and would be part 4 storeys in height and part 2 storeys. The 'L' shaped building would measure a maximum 32.2m in depth fronting the access road, 35.6m in width fronting Bristol Road South and would be 14m in height for four storeys and 7m in height for the two storey element.
- 1.3. The ground floor would comprise an optician, pharmacy, café, toilets, 5 clinical rooms (primarily for use by the Royal Orthopaedic Hospital (ROH)), a waiting room, bookable activity room and a ROH gym along with supporting areas including storage, reception and staff areas. A large plant room would also be located on the ground floor away from public areas.
- 1.4. The first floor would comprise the proposed GP surgery including a large staff area of offices, training rooms, administration areas, kitchen and meeting room; waiting area and reception; 7 consulting rooms; two treatment rooms, stores, Records room and toilets. The surgery would combine the current Bunbury Road and Griffins Brook Medical Practices into one surgery.

- 1.5. The second and third floors would comprise the discharge to assess accommodation with 11 units located on each floor along with a shared communal lounge. The units vary in size from 20.8sq.m to 31.6sq.m and comprise bedroom, lounge with kitchenette and bathroom. The majority of the units accommodate a double bed with one unit on each floor accommodating a single bed.
- 1.6. The 'discharge to assess' units would provide intermediate living accommodation for patients who require medical treatment and surveillance for periods ranging from 1 night to a maximum of 8 weeks. The type of patients will vary depending on the individual circumstances, but a typical patient will consist of someone who has just come out of surgery and requires flexible living space with accessible medical care. Once discharged, patients will either go home or re-locate to another phase of the Care Village.
- 1.7. 11 visitor (discharge to assess) car parking spaces, 44 patient/customer (surgery, optician and pharmacy) spaces, 3 ROH staff spaces and 12 staff spaces for the surgery are proposed. 22 cycle parking spaces and 6 motorcycle spaces are also proposed. A small bin store adjacent to the north eastern boundary would also be provided next to an existing sub-station located outside of the application boundary.
- 1.8. A green roof is proposed on the two storey element of the proposal.
- 1.9. The application is accompanied by a Design and Access Statement, Planning Statement, Flood Risk Assessment, Transport Statement, Travel Plan, Tree Survey, Air Quality Assessment, Ecological Appraisal and a Noise Impact Assessment.
- 1.10. Site area: 0.34Ha.
- 1.11. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The site forms part of the land formerly occupied by Bournville College of Further Education and its associated playing field. The College relocated to Longbridge some time ago and the site has been cleared for redevelopment. Work is now well underway on the three previously approved phases of the new Bournville Care Village development, of which this proposal would form part.
- 2.2. The main frontage to the care village site is to the north-west of Bristol Road South, from which there are two vehicular access points. This application relates to the remaining plot fronting Bristol Road South adjacent to the main extra care facility and adjoining rear gardens of houses on Middle Park Road.
- 2.3. The surrounding area is predominantly residential in nature, with traditional semis and detached properties to the north and an estate of mainly 3 storey maisonettes to the west.
- 2.4. Mature trees mark the boundaries with existing residential properties. There is also a substantial belt of trees on the Bristol Road South frontage. There is a significant fall in levels from the north-western corner to the southern tip (approximately 13m difference).

[Site Location Map](#)

3. Planning History

- 3.1. 16 March 2009. 2008/06331/PA. Outline planning permission granted for the demolition of existing structures and redevelopment to provide approximately 99 residential units (Use Class C3) and associated access arrangements. The outline approval was subject to a S106 agreement to secure public open space, affordable housing and a £200,000 contribution towards improvement of existing pitches in the Weoley Ward.
- 3.2. 23 April 2012. 2012/00513/PA. Planning permission granted for the development of a care village comprising a 208 bed extra care facility, a dementia care home, a nursing home, and a health and well-being centre (C2/D1), with 224 car parking spaces, 51 cycle spaces, servicing and open spaces (outline application with consideration of access, layout and scale). Application approved subject to a S106 agreement to secure a financial contribution of £200,000 towards improvement and maintenance of sports, recreational and community facilities within the Weoley Ward and/or adjoining Wards and provision of the on-site area of open space and retention of access to the general public.
- 3.3. 13 June 2012. 2012/01952/PA. Application to extend the time of extant planning application 2008/06331/PA for the demolition of existing structures and redevelopment to provide approximately 99 residential units (use class C3) and associated access arrangements – approved subject to a S106 agreement to secure public open space, affordable housing and a £200,000 contribution towards improvement of existing pitches in the Weoley Ward.
- 3.4. 23 November 2012. 2012/05877/PA. Planning permission granted for the development of extra care facility comprising 212 apartments with 135 car parking spaces, associated landscaping and service areas and village green. Permission granted subject to a S106 agreement to secure a financial contribution of £200,000 towards improvement and maintenance of sports, recreational and community facilities within the Weoley Ward and/or adjoining Wards, provision of the on-site area of open space and retention of access to the general public, and provision of affordable housing.
- 3.5. 21 March 2013. 2013/00177/PA. Temporary advertisement consent granted for the display of 6 no. temporary flagpole signs and 12 no. non-illuminated temporary advert hoardings.
- 3.6. 17 July 2013. 2013/03617/PA. Planning permission granted for the erection of sub-station.
- 3.7. 31 October 2013. 2013/05870/PA. Planning permission granted for the development of 80 bed dementia care and nursing home (Phase II) at Bournville Care Village, Bristol Road South.
- 3.8. 21 August 2014. 2014/04245/PA. Planning permission granted for the erection of 35 independent living units (C2) associated with Phase III of the Bournville Care Village, including car parking and landscaping.

4. Consultation/PP Responses

- 4.1. Local residents, Ward Councillors, MP and resident associations notified. Site and Press notice posted. No response received.

- 4.2. Regulatory Services – no objection subject to safeguarding conditions relating to contaminated land, external plant noise, noise insulation and extract and odour control.
- 4.3. Transportation – no objection.
- 4.4. Environment Agency – site is located in Flood Zone 1, no comments to make as the site falls within the remit of the Lead Local Flood Authority.
- 4.5. Lead Local Flood Authority – No objection subject to SuDS safeguarding condition.
- 4.6. West Midlands Fire Service – comments awaited.
- 4.7. West Midlands Ambulance Service – comments awaited.

5. Policy Context

- 5.1. NPPF; UDP 2005; Draft Birmingham Development Plan; Places for All SPG; Car Parking Guidelines SPD; Nature Conservation Strategy SPG.

6. Planning Considerations

Background

- 6.1. Your Committee approved an outline application in April 2012 for the redevelopment of the former Bournville College site on Bristol Road South as a 'care village' (no. 2012/00513/PA). This proposal included a 208 bed extra care facility, a dementia care home, a nursing home and a health/well-being centre.
- 6.2. The first phase of this development – the extra care apartments and adjacent village green – was approved by your Committee in November 2012 (application no. 2012/05877/PA) and is currently under construction. The second phase was approved in October last year (under 2013/05870/PA) and is also under construction.
- 6.3. This second phase proposal deviated from the indicative scheme approved at the outline stage, in that it provided a combined nursing home and dementia care facility. The latter was originally intended to be provided as a separate unit (as phase 3) on the land the subject of this current application. This change was in response to the intended operator's requirements.
- 6.4. The third phase, approved by your committee under application reference 2014/04245/PA was for 35 independent living units. The proposal developed as a result of discussions between the applicant, the City Council and Mencap, which demonstrated a need to provide housing for people with learning difficulties that had some shared facilities but were essentially independent with their own front door.
- 6.5. This application is for the final, fourth, phase of development comprising of a health and wellbeing centre concluding the 'Village' approach to the care facility as a whole.

Policy

- 6.6. The NPPF includes a presumption in favour of sustainable development, requiring consideration of economic, social and environmental matters. It encourages the re-

use of previously developed land, requires that full advantage should be taken of sustainable locations (with access to public transport, walking and cycling) and refers to the promotion of a wide choice of high quality homes, and the need for high quality design. Paragraph 24 identifies a requirement for main town centre uses to be located in town centres.

- 6.7. The UDP encourages the redevelopment of previously developed sites.
- 6.8. Policies 3.14 A-E of the UDP relate to the design of new development, the key principles for consideration being:
- impact on local character,
 - scale and design of new buildings and spaces (to respect the surrounding area),
 - the need for free, easy and safe movement, and importance of links,
 - the encouragement of mixed uses in centres and areas where they can contribute towards meeting an identified local need,
 - creation of safe, pleasant and legible places,
 - the requirement for integral landscaping,
 - retention of trees and new tree planting.
- 6.9. Policy 3.16A emphasises the importance of landscaping and provides a commitment to tree protection.
- 6.10. 'Places for All' also emphasises the importance of good design, high quality environments, again with an emphasis on context.

Principle of Development

- 6.11. The application site is previously developed land located in a predominantly residential area, with good links to public transport and local services. The principle of the redevelopment of this site as a health and wellbeing centre within the overall site master plan for a care village was established through the outline application. As such, the principle of development has previously been established and the proposed development is in accordance with the outline approval. I note the inclusion within the proposed health and well-being centre of a pharmacy, optician, café and GP surgery, all of which would also be open to the wider general public. I consider their inclusion within the care village to be in accordance with the aims and objectives of the NPPF as the village as a whole provides for the needs of its residents alongside that of the wider local community. As such, whilst not located in an identified centre, the 'village' as a whole provides for the needs of its residents and in this instance, the needs include that of a Surgery, Optician and Pharmacy. In providing this within the village, the need to travel further afield is reduced and the site sustainable.

Transportation

- 6.12. The proposed development would provide a total of 70 parking spaces, 22 cycle spaces and 6 motorcycle spaces. A Transport Statement and Travel Plan formed part of the application submission. The proposed development would utilise the consented access arrangement for the site from the Bristol Road. The existing exit has been widened to enable it to become the main entrance/exit for the care village as a whole.
- 6.13. Service access to the site would be via Bristol Road South and tracking plans indicate that vehicles can be safely accommodated within the proposed layout. The

transport statement identifies that 1-2 vehicles per day would be associated with this development and would primarily comprise laundry services, refuse collection and food deliveries.

- 6.14. The proposed trip generation for the development would be broken down as follows:
AM Peak – 53 arrivals and 27 departures; and
PM Peak – 22 arrivals and 36 departures.
The statement concludes that the proposed development and the Care Village as a whole would result in a net reduction in vehicular traffic when compared to the previous College use, particularly in the AM peak hour. As such, the proposed development would have no material adverse impact on the safety or operation of the highway network.
- 6.15. Your Transportation Officer raises no objection to the proposals. The likely level of traffic generated would not be significant and any impact on the operation of the highway network would be negligible. Parking provision falls within the scope of the outline application. The submitted Travel Plan is the Framework document (2012) within which it concludes that as the site becomes occupied discussions are to be undertaken with the Smarter Choices. Transportation has recommended that a condition be attached to any approval requiring the Travel Plan to be updated. This condition is recommended below.

Design and Landscaping

- 6.16. Design advice was provided by your City Design Officer during pre-application discussions and this is reflected in the current submission. The outline application set out principles for layout, massing, scale, landscape and access. A Master Plan Design Guide was produced to ensure that a consistent, coherent and high quality development is achieved across all areas of the care village.
- 6.17. The proposal adheres to the principles established at the outline stage and responds positively to the site constraints and context. The development would have an acceptable relationship to the existing houses that back onto the site, with existing landscaped buffers maintained and enhanced where space is available to do so. The building proposes the two storey element to be nearest existing dwellings and this would be sited approximately 19m from the site boundary.
- 6.18. A landscaped garden would be provided to the rear of the building adjacent to the car park, through which access to the building would be provided. The car parking areas are located tight to site boundaries and as such, space for landscaping is limited. Specimen trees are proposed in front of the main entrance to the building adjacent to the access road and 6 are proposed to separate the patient car parking from the staff car parking area.
- 6.19. The key tree issues (mostly the successful retention of the belt of mature trees fronting Bristol Road) have been studied in detail with relation to the bulk of the Bournville Care Village site and have been addressed during the wider site redevelopment. The details of tree protection and methods will, however, need to be made specific to the application site and as such, my arboricultural officer has recommended a condition relating to the submission of an arboricultural method statement. I concur with this view and a condition is recommended below.

Flood Risk

- 6.20. A Flood Risk Assessment has been submitted in support of the application. The assessment identifies that the site sits within Flood Zone 1 and the development is of an appropriate use for the flood zone. The FRA has reviewed all sources of flood risk to both the proposed development and to the existing adjacent development as a result of the proposals including fluvial, tidal, pluvial, groundwater, sewers and flooding from artificial sources. The 1 in 100 year and 1 in 1000 year events do not extend into the application site.
- 6.21. Based on the ground conditions identified within the assessment, it concludes that infiltration drainage is unlikely to provide a suitable means of surface water disposal for the flows generated by the proposed development. It is proposed that the surface water flows generated are to discharge to the shared attenuation tank to the south of the proposed building with all flows stored/retained on site.
- 6.22. The Environment Agency has raised no objections to the development and Mains Drainage considers the proposal acceptable subject to a safeguarding condition. I concur with their view and consider that the proposal would have no impact on drainage/flood risk and the relevant safeguarding conditions are recommended below.

Ecology

- 6.23. An ecological appraisal has been submitted in support of the application. The report identifies that a Phase 1 Habitat Study was undertaken in March 2015. The study identified that the site comprises an area of disturbed bare ground currently forming the site compound and storage area. A small number of scattered trees are present along the north eastern boundary with additional trees overhanging the site boundary on the north eastern and south eastern sides.
- 6.24. The site provides negligible habitats for notable and protected species. The trees and other vegetation around the wider site provide foraging habitat and a commuting corridor for bats, and the trees also provide suitable nesting habitat for common garden birds. The site's suitability for other protected species (e.g. badger, great crested newt, reptiles) is assessed as poor. The boundary trees would be retained as part of the current proposals.
- 6.25. The ecological report sets out a number of recommendations for mitigation and enhancement, including:- provision of insect boxes in suitable locations; provision of bat boxes and bird nest boxes on buildings/trees; sensitive car park lighting; measures to avoid badgers/other mammals becoming trapped during excavation; and landscape planting to include native and 'wildlife-friendly' species. Your Ecologist has no objection to these recommendations; their implementation should be secured by condition along with details of the green roof. I concur with this view.

Residential Amenity

- 6.26. Specific Needs Residential Uses SPD requires that proposals "should not cause demonstrable harm to the residential amenities of occupiers of nearby properties by reason of noise and disturbance nuisance". The application is for a purpose-built facility, to form part of a wider development for an extra care village. There is substantial planting to boundaries with the closest residential properties and I would not anticipate any significant disturbance from a use of this nature. The proposed 'Discharge to Assess' accommodation ranges in size from 20.8sq.m to 31.6sq.m and would have either single or double bedrooms within. Given the stay would range

from 1 night up to a maximum of 8 weeks, I consider this size of accommodation to be acceptable.

Noise and Air Quality

- 6.27. An Air Quality Assessment has been undertaken and submitted in support of the application. This assessment identifies that the site is located in an Air Quality Management Area (AQMA) and on a busy A-road. The report identifies that there would be no significant emissions associated with the proposed development and that future residents of the site as a whole are unlikely to be exposed to unacceptable air quality. Regulatory Services have raised no objection to the proposal in relation to air quality and I concur with this view.
- 6.28. A noise assessment has been submitted that assesses the potential noise impact to and from the proposed development. The results indicate that a level of noise protection would be required for the Discharge to Assess accommodation and a number of measures are proposed. Regulatory Services have raised no objection to the proposal on noise grounds subject to appropriate safeguarding conditions which are recommended below. I concur with this view.

7. Conclusion

- 7.1. The application site is previously developed land located in a predominantly residential area, with good links to public transport and local services. The principle of the re-development of the site as an extra care village was established through the approval of outline application no. 2012/00513/PA in April 2012 and the provision of a health and well-being centre is in accordance with the outline approval.
- 7.2. The outline application included consideration of design principles to be adopted, along with parameters (floor areas/building heights) in respect of the various elements, and the current proposals broadly reflect the principles accepted at the outline stage. The detailed design has been developed in consultation with City Design and the resulting scheme is considered to be of a high quality design that would sit comfortably within its surroundings.
- 7.3. I note that the key principle in the NPPF is the presumption in favour of sustainable development and this is identified as having three stems of economic, social and environmental. I consider that the proposal would continue to support the wider site redevelopment with its associated significant economic and social benefits and would have a positive and significant environmental benefit. The proposal would also support the provision of further local employment in both construction and support employment within the building whilst supporting the provision of medical services within the City and specifically locally at the Royal Orthopaedic Hospital. As such, I consider the proposal to be sustainable development and on this basis, should be approved.

8. Recommendation

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

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|---|--|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Requires the agreed mobility access to be maintained |
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- 3 Requires the prior submission of a contamination remediation scheme
 - 4 Requires the prior submission of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan
 - 5 Requires the prior submission of a scheme for ecological/biodiversity/enhancement measures
 - 6 Requires the prior submission of extraction and odour control details
 - 7 Limits the noise levels for Plant and Machinery
 - 8 Requires the prior submission of hard and/or soft landscape details
 - 9 Requires the prior submission of boundary treatment details
 - 10 Requires the prior submission of details of green/brown roofs
 - 11 Requires the prior submission of a construction method statement/management plan
 - 12 Requires the prior submission of sample materials
 - 13 Requires the prior submission of a commercial travel plan
 - 14 Requires the prior submission of an Arboricultural Method Statement
 - 15 Limits the approval to 3 years (Full)
-

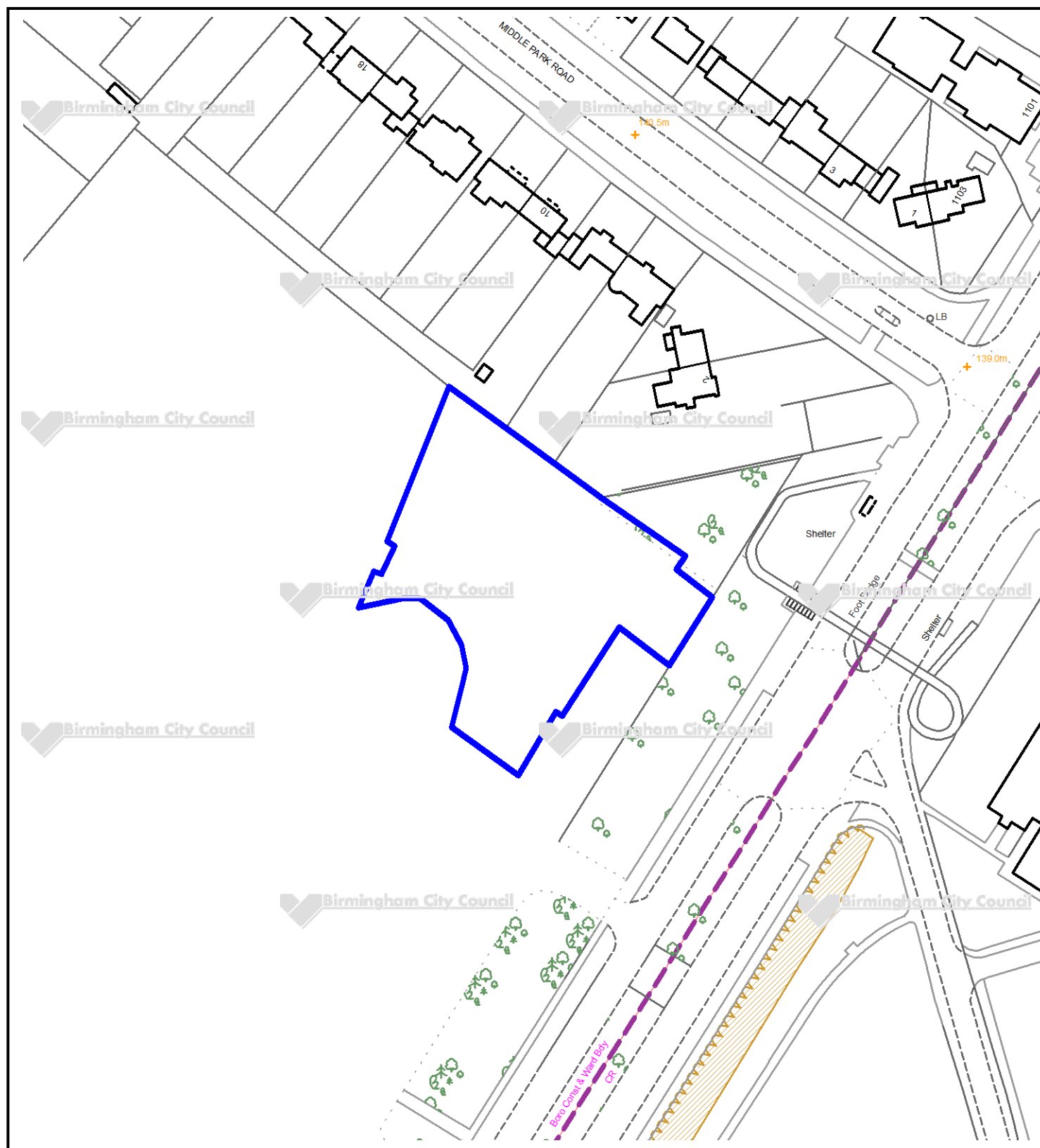
Case Officer: Pam Brennan

Photo(s)



View of site from new access road – Phase 1 under construction on left of photograph.

Location Plan



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Committee Date:	06/08/2015	Application Number:	2015/05347/PA
Accepted:	30/06/2015	Application Type:	Full Planning
Target Date:	25/08/2015		
Ward:	Edgbaston		

New Chamberlain Halls Residence, Off Church Road, Edgbaston, Birmingham, B15 3AG

Installation of 9 no. antennas and associated ancillary development

Applicant:	Wireless Infrastructure Group Cornwall House, Blythe Gate, Blythe Valley Park, Solihull, B90 8AF,
Agent:	Neale Property Services Holly House, Anstey, Buntingford, Hertfordshire, SG9 0BP

Recommendation

Approve Subject To Conditions

1. Proposal

- 1.1. Planning permission is sought for the installation of 9no. telecommunications antennas (sub-divided into three sets, each of 3no. antennas) and associated infrastructure mounted on top of the main roof level (which is 56m high) at the north east, north west and south west ends (behind the parapet wall) of the New Chamberlain Halls of Residence for students. The new Halls of Residence, currently being built, follows wholesale demolition of previous Halls, granted planning permission in 2013 under Planning Permission 2012/07252/PA. The new building incorporates an equipment room on top of the main roof.
- 1.2. There currently exists a temporary telecommunications mast (46.85m high) located adjacent to Chamberlain Halls (just 15m away) which was erected in order to provide continued mobile phone coverage and network connectivity, whilst the original Halls of Residence (on which the equipment was installed) was demolished and rebuilt. The above rebuilding is now sufficiently advanced, that the Applicant intends to dismantle this temporary structure and erect a new permanent installation on the new Halls building. This would require the mounting of 9 antennas on the roof of the new building. There would also be some ancillary works and cabling, but the majority of associated equipment would be installed internally within the equipment room.
- 1.3. The antennas would each measure 2m in height. They would be coloured light grey and installed on a 2m x 2m steel platform, which would result in a maximum height of 2.4m above the main roof level.
- 1.4. The Applicant confirms that the proposal is ICNIRP-compliant (International Commission for Non-Ionising Radiation Protection).

[Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site is the tallest block (21 storeys) amongst the New Chamberlain student accommodation redevelopment buildings, with access from Church Road, and which falls within The Vale.
- 2.2. The Vale is a Grade II Listed Registered Historic Park and Garden and is located within Edgbaston Conservation Area. The Vale has a parkland setting with buildings arranged around the edges that sit amongst the trees, providing a subtle and defused perimeter around the site. To the south, beyond the site there is an area of land subject to a group Tree Preservation Order (625).
- 2.3. The wider area of the Vale includes a Site of Interest in Nature Conservation (SINC) site at its centre (including the lake and surrounding land) and its designation stops just short of the south west boundary of the application site. Also a Site of Local Interest in Nature Conservation (SLINC) is located to the south of the site including Aiken Wing and its surroundings. A Site of Special Scientific Interest (SSSI) (Edgbaston Pool) is located 200m south of the site and includes the Chad Brook which also runs through the lake in The Vale.
- 2.4. To the immediate north, south and west of the application site lies other blocks of students' accommodation and institution buildings. To the immediate east along Church Road (including a group of Grade II Listed Buildings 10; 11; 12; 13; 14 Church Road), are detached large residential dwellings set within a leafy area.

[Location Map](#)

3. Planning History

- 3.1. 09/02/2006 – 2005/07798/PA – Installation of 6 antennae and ancillary equipment on existing plant room balcony –Approved by the Planning Committee subject to conditions.
- 3.2. 24/01/2013 – 2012/07252/PA – Erection of new student accommodation consisting of 725 bed spaces within four new buildings ranging in height from 5 storeys to 21 storeys, associated landscaping, car parking and access via Church Road. Wholesale demolition of site including Eden Tower, Hampton Wing, Chelwood Wing, Central Kitchen and Eden Wing domestic building (collectively known as Chamberlain Hall and consisting of 623 bed spaces) and removal of protected trees. Approved.
- 3.3. 24/01/2013 – 2012/07253/PA – Conservation Area Consent for the proposed demolition of Eden Tower, Hampton Wing, Chelwood Wing, Central Kitchen and Eden Wing domestic building (collectively known as Chamberlain Hall). Approved.
- 3.4. 14/11/2013 – 2013/07081/PA – Installation of temporary 46.85 metre telecommunications mast during the redevelopment of Chamberlain Halls. Approved for a two year temporary period.

4. Consultation/PP Responses

- 4.1. Local MP, Ward Councillors, Residents, and Resident Associations consulted. Advertised by site notice and press notice. An objection has been received from no.12 Church Road on the basis of health concerns, the excessive height of the building, and the likely visual obtrusiveness of the antennas.

4.2. Transportation – No objection.

4.3. Regulatory Services – No objection.

4.4. Historic England – No objection.

4.5. Garden History Society – No objection.

5. Policy Context

5.1. Birmingham UDP (2005), Draft BDP, Telecommunications Development: Mobile Phone Infrastructure SPD, NPPF (2012), Edgbaston Conservation Area and Character Appraisal (1998), The Vale Registered Historic Park and Garden (Listed Grade II), Grade II Listed Buildings on Church Road.

6. Planning Considerations

6.1. The NPPF states that “..local planning authorities should take into account ...the desirability of new development making a positive contribution to local character and distinctiveness (for Conservation Areas)” (para 126). The NPPF also sets out the importance of supporting high quality communications infrastructure, for economic growth and community facilities and services, whilst also considering how various site options and design have been evaluated and compared. Paragraph 3.27, of the adopted UDP, states that “..development [within conservation areas] should preserve or enhance the character or appearance of the area...the removal of trees or other landscape features which make a positive contribution to the area’s character or appearance will be resisted.” Paragraph 3.29 seeks for planning proposals to respect the historic park and gardens and to take full account of the historic significance.

6.2. The Telecommunications Policy (Paras. 8.55-8.55C) in the Birmingham UDP (2005) and the Telecommunications Development SPD state that a modern and comprehensive telecommunications system is an essential element in the life of the local community and the economy of the City but that in assessing applications for telecommunications equipment, account will be taken of the impact of radio masts, antennae and ancillary structures on existing landscape features, buildings and the outlook from neighbouring properties. In respect of new tall buildings, the Council’s SPD advises that the less sensitive ones should be specifically designed to incorporate telecommunication equipment, where telecommunications equipment should be sited and positioned to minimise the obtrusiveness against the skyline including views from the neighbouring properties and the street. Screening and backdrop opportunities should be maximised and supporting frames should be below the parapet level where possible.

6.3. The principle of re-locating the telecommunication antennas to the rooftop of the new replacement building, on a permanent basis, was established by the previous planning approval (reference 2013/07081/PA). This temporary planning consent enabled the provision of continued mobile phone coverage and network connectivity, whilst the permanent location (Chamberlain Halls) of the telecommunications equipment was redeveloped. Therefore the proposal is acceptable in principle subject to further consideration of visual impact.

6.4. Alternative designs and locations of the antennas (including positioning the antennas further back from the parapet wall or considering other elevations and

rooftops) have been explored by the Applicant during the pre-application discussions. The current location behind the parapet wall would offer the best combination in terms of height and the critical technical requirement in order to ensure a minimal visual impact. The alternatives explored have been detailed in the Applicant's planning statement. Photomontages for the chosen location are submitted as part of this application.

- 6.5. I consider that the proposed antennas would have a limited visual impact on the new building and the surrounding historic context especially noting that the previously demolished tower had broadly similar equipment on the rooftop. In addition, the height of the new tower would mean that views of the rooftop from the adjacent Church Road houses or any other distant tall buildings' across the city would be effectively lost in the wider skyline. The proposed antennas would be painted light grey colour (blending in with the sky) and installed on a 2m x 2m galvanised steel platform, which would result in a maximum height of 2.4m above the main roof level. This would be just above the height of the equipment room.
- 6.6. I therefore do not consider that the number and height of antennas would be materially different from the previously approved antennas on the old Chamberlain Hall, or substantiate a reason for refusal on visual amenity grounds given the national policy support for modern telecommunications systems.
- 6.7. My Conservation Officer supports the re-location of telecommunication antennas to the new location and understands the rationale for the proposed positioning. He states that there are no objections to the positioning of the antennas on this building as it would result in the removal of the existing temporary mast and they would now become integral to an existing tall structure, thereby consolidating utilities.
- 6.8. I concur with the comments made by my Conservation Officer and Historic England and find the proposed antennae acceptable. It is therefore considered that the character and appearance of Edgbaston Conservation Area and that of the Registered Historic Park and Garden would be preserved, as would the setting of adjacent listed buildings on Church Road.
- 6.9. One objection to the proposal has been received from No.12 Church Road on the basis of health concerns, the excessive height of the building, and likely obtrusiveness of the antennas. The visual impact of the proposal has been addressed above. The building's height is not a subject of the current application, as this matter was previously considered under Planning Permission 2012/07252/PA.
- 6.10. In respect to telecommunications equipment and health it is the Government's firm view that the planning system is not the place for determining health safeguards and that in their view if a proposed mobile phone station meets the ICNIRP guidelines for public exposure, it should not be necessary for a Local Planning Authority to consider further the health aspects and concerns about them. The Applicant confirms that the proposal is ICNIRP-compliant (International Commission for Non-Ionising Radiation Protection).

7. Conclusion

- 7.1. I consider that the siting and appearance of the proposed telecommunications equipment would not be detrimental to the visual amenity of the area and would preserve the character and appearance of the Registered Historic Park and Garden and Edgbaston Conservation Area, and the setting of adjacent listed buildings. In

the context of national and local planning policies, and given the previous approval on the site, there would be no substantive grounds to refuse this application. The proposal is a shared venture, which would assist in updating the mobile telecommunications network in a sustainable manner, and therefore the application is recommended for approval subject to conditions.

8. Recommendation

8.1. That Planning Permission be approved subject to conditions.

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| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Requires prior submission of details of the external colour finish of the antennae |
| 3 | Limits the approval to 3 years (Full) |
-

Case Officer: Stephen Ssejjemba

Photo(s)



View of the application site from the south



View of the application site from Church Road

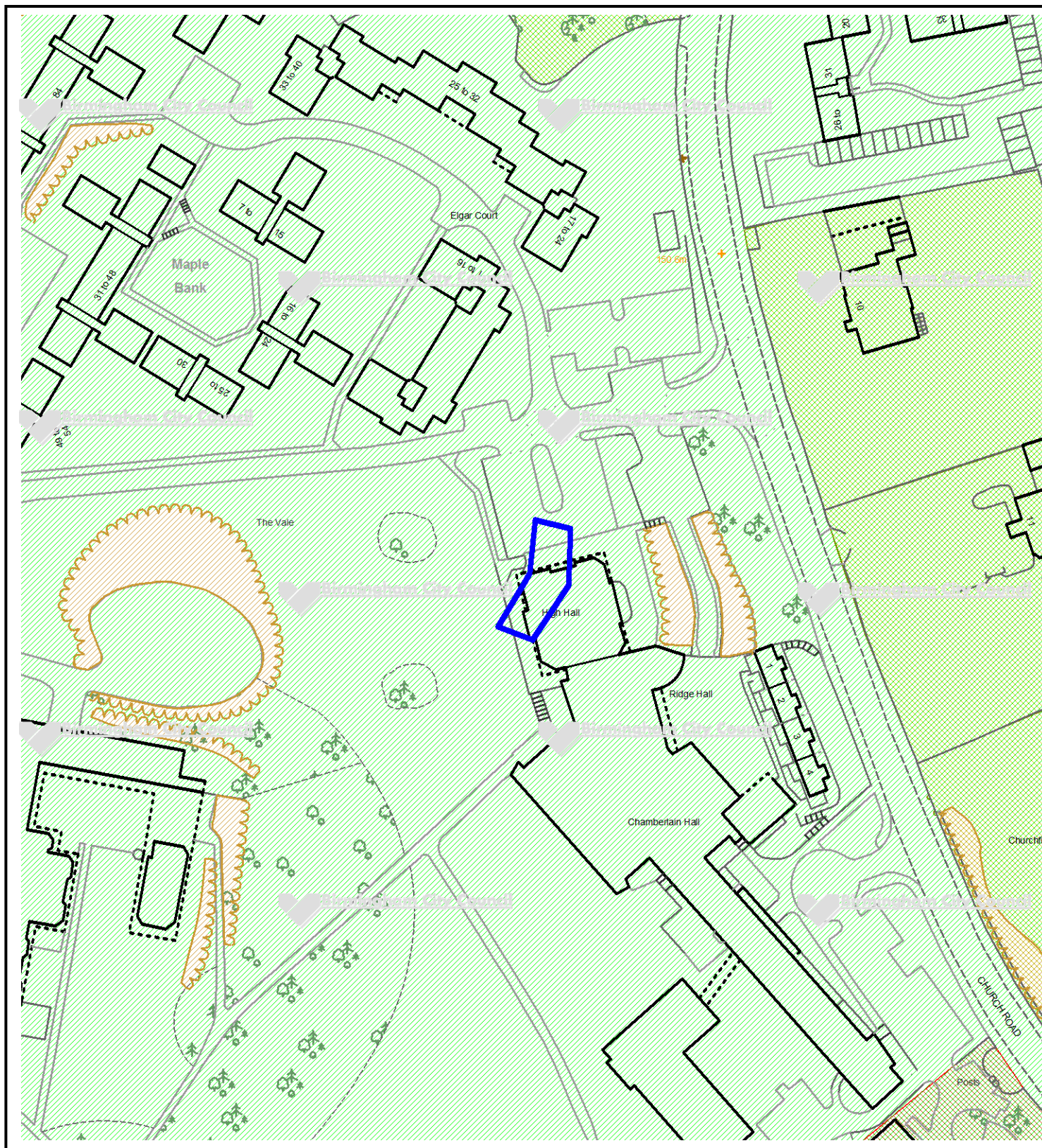


View of the application site from the Lake (The Vale)



View of the application site from Edgbaston Park Road

Location Plan



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Birmingham City Council

Planning Committee

06 August 2015

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	15	2015/01496/PA Land at Bordesley Green Road Saltley Birmingham B8 1BY Erection of three storey conference & banqueting hall building (Sui Generis) with associated works. Other works to include landscaping and boundary works to the adjoining builders merchant.
Approve - Conditions	16	2015/03138/PA Former Virgin Media Office Building Talbot Way Small Heath Birmingham B10 0HJ Erection of 3-storey extension and sports hall to Perry Beeches V free school to provide primary and secondary school facilities with football pitch, MUGA, parking and landscaping. Demolition of existing industrial building to the rear of the site.

Committee Date:	06/08/2015	Application Number:	2015/01496/PA
Accepted:	02/06/2015	Application Type:	Full Planning
Target Date:	01/09/2015		
Ward:	Washwood Heath		

Land at Bordesley Green Road, Saltley, Birmingham, B8 1BY

Erection of three storey conference & banqueting hall building (Sui Generis) with associated works. Other works to include landscaping and boundary works to the adjoining builders merchant.

Applicant:	HRA
	273 Bordesley Green Road, Saltley, Birmingham, B8 1BY
Agent:	PJ Planning
	Regent House, 156-7 Lower High Street, Stourbridge, West Midlands, DY8 1TS

Recommendation

Approve Subject To Conditions

1. Proposal

- 1.1. Consent is sought for the erection of a three-storey conference and banqueting hall building on vacant industrial land on Bordesley Green Road.
- 1.2. The proposal would result in the erection of a modern three-storey building (2700 sq. metres), which would be located parallel to Bordesley Green Road. The proposed building would have a maximum width of 38 metres and a maximum depth of 25 metres. The building would be 11.2 metres in height. The total site area is approximately 0.35 hectares. The broad palette of materials would include render, brick and glazing. The main centralised entrance feature fronting Bordesley Green Road would be curved, with a canopy to add further architectural interest to the proposed building.
- 1.3. The internal layout of the proposed building would comprise two access lobbies from the Bordesley Green Road frontage and the car park respectively that would lead to a function hall and communal internal staircases/ lift, large kitchen, store and w/c facilities at ground floor level. The first and second floors would provide two further function halls (a mezzanine) with office and communal kitchen and w/c facilities.
- 1.4. The proposal would cater for pre-wedding functions during Mondays to Thursdays and wedding events during weekends for the Asian community. There has been no information provided for the non-residential conference use that would operate at the site. The banqueting facility would not be licenced. The applicant has confirmed that the proposed venue would be restricted to a maximum of 550 people on site at any one time. However, the floor plans show a maximum seated capacity of 450 customer covers. The proposed opening hours would be 1200-2330 daily. The use would employ 43 full and part-time equivalent staff at the site. All food would be prepared off-site by external caterers and delivered to the site when required.

- 1.5. There would be a new footway crossing (minimum of 8 metres wide) proposed from Bordesley Green Road frontage. A total of 80 parking bays including 5 disabled bays and drop off/ pick up bays would be provided adjacent to the main access from Bordesley Green Road. There would be 30 additional parking bays proposed within an overflow car park on the adjoining Builders Merchants, which is in the ownership of the applicant. A total of 5 cycle parking spaces would be provided adjacent to the main entrance to the proposed building on Bordesley Green frontage. The proposal also shows 6.3 metres wide drop-off/ pick-up area at the side of the building adjacent to car park access arrangements. The plans also show a refuse storage area that would be situated to the side of the building.
- 1.6. Due to a ground level difference from the Bordesley Green Road frontage to the rear of the site, the proposal includes cut and fill at rear ground level (maximum 2.6m), with a retaining wall to ensure the car park is on one level.
- 1.7. There have also been detailed landscaping and boundary treatment plans submitted to include the rear retaining wall that would be provided for the adjoining builders merchant and the overspill car park at the junction of Arden Road and Bordesley Green Road. The Bordesley Green Road and Arden Road frontage would include trees, railings/ wall with low planning, turf and trip rail at the back of pavement to define boundaries. The new layout plan shows a 2.5 metre wide planting strip to the side of the overflow car park with elements of hardstanding and access gates/ railings to improve connectivity and safety of patrons to the proposed banqueting hall. The railings and planting strips adjacent to main access on Bordesley Green frontage have also been extended to tie in with the next phase of landscaping/ boundary treatment for the proposed banqueting/ conference building.
- 1.8. The following documents have been submitted in support of the proposal:
- Design and Access Statement
 - Planning Statement
 - Transport Statement
 - Noise Assessment Report
 - Desk Study and Land Contamination Study
 - Ecological Appraisals/ Surveys
- 1.9. [Link to Documents](#)
2. [Site & Surroundings](#)
- 2.1. The application site comprises a vacant rectangular piece of former industrial land that fronts onto Bordesley Green Road. The majority of the site is open, overgrown and in an untidy state. Part of the site is being used in an unauthorised manner to store top soil, timber and plant in association with the adjoining builders' merchants.
- 2.2. The surrounding area is predominantly commercial in character. To the north of the site is a builder's merchant, which is also in the ownership of the applicant. To the west of the site, there are a number of warehouse units that are accessed from Arden Road. On the opposite side of Bordesley Green Road (east) is Bordesley Green Trading Estate that comprises a number of small industrial and warehouse units. The former Station Hotel building, railway line and Adderley Station are situated to the south of the site. The signal controlled crossroads junction of Bordesley Green Road/ Arden Road and Ash Road is situated approximately 110 metres from the application site. The Draft Bordesley Park Area Action Plan preferred option allocates the application site and adjoining sites for mixed uses.

Alum Rock District Centre and Bordesley Green Neighbourhood Centre are situated approximately 650 metres and 750 metres respectively away from the application site.

[Location Plan](#)

3. Planning / Enforcement History

- 3.1. 04.10.2004 - 2004/03257/PA - Erection of a two storey building to accommodate a builder's merchant (trade only) with storage and distribution facilities (internal and outside of building), mezzanine floor providing ancillary offices, boundary walls, fencing, retaining wall, vehicular access and car parking (Use Class Sui Generis) – Approved with conditions.
- 3.2. 2012/0634/ENF & 2013/0359/ENF – Untidy state of site and non-compliance of conditions – Cases Closed.
- 3.3. Current - 2015/0476/ENF - Unauthorised expansion of builders merchants and untidy nature of site – awaiting determination of this application.

4. Consultation/PP Responses

- 4.1 Press & site notices displayed. Adjoining residents, Resident Associations, Ward Councillors and Liam Byrne MP consulted – No responses received.
- 4.2 Transportation Development – No objections subject to conditions to include construction of means of access, siting/ design of means of access, details of pavement boundary, maximum capacity of 550 people on site, amended parking layout plan, signage, parking area laid out prior to use, pedestrian visibility splays, cycle storage and maximum capacity reduced to 400 people if the overspill parking area within the adjoining builders merchant site ceases to become available.
- 4.3 Regulatory Services – No objections subject to conditions relating to the restriction of cumulative noise levels from plant and equipment, insulation to plant and machinery, no live music/ amplification, hours/ days of operations restricted to 1200 to 2300 hours daily, extraction/ ventilation system and land contamination investigations.
- 4.4 Severn Trent – No objections subject to a drainage condition.
- 4.5 Western Power Distribution – Advisory for the applicant/ agent to contact them prior to any excavation works as that there are cables are running along the footpath fronting the site and potential for disconnection.
- 4.6 Health and Safety Executive – No objections
- 4.7 City Ecologist – No objections subject to conditions to include a method statement for the removal of invasive weeds and ecological enhancement strategy based on recommendations contained within Section 4 of the Ecological Appraisal report.
- 4.8 West Midlands Fire Services – No objections.
- 4.9 The Access Committee – No objections.
- 4.10 West Midlands Police – No objections subject to the proposal incorporating Secured by Design and Designing out Crime Principles.

5. Policy Context

- 5.1. NPPF (2012), Adopted UDP 2005; Draft BDP (2013), SPD Car Parking Guidelines (2012), SPD Shopping and Local Centres (2012), SPG Places for All (2001), Draft Bordesley Park AAP (2013).

6. Planning Considerations

- 6.1. The main considerations within the determination of this application are:

- 6.2. **Planning Policy** – One of the core principles set out in paragraph 17 of NPPF is to “take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs”. Paragraph 19 of the NPPF states significant weight should be placed on the need to support economic growth through the planning system.

- 6.3. **Loss of industrial land** - Paragraph 22 goes on to state that “planning policies should avoid long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or building should be treated on their merits having regards to market signals and the relative need for different land uses to support sustainable local communities”. Furthermore, NPPF paragraph 216 emerging plan states that “from the day of publication, decision-takers may also give weight to relevant policies in the emerging plans” such as Draft BDP and Draft Bordesley Park Area Action Plan.

- 6.4. The application site comprises an open piece of industrial land that has remained vacant for a considerable number of years. Paragraph 4.24 of the adopted UDP refers to the application site to being within an area of regeneration, where land is safeguarded for predominantly industrial uses. Paragraph 4.31 states that “the loss of industrial land to other non-industrial uses will be resisted except in cases where the site is a non-conforming use”. However, it is noted that many of the industrial uses on Bordesley Green Road and Adderley Road are in relatively poor condition, vacant or in low intensity uses and considered to be unsuitable for modern industrial needs. The application site is situated within the Draft BDP (2013) and Bordesley Park Area Action Plan (Preferred Option 2013) area where a wider transformation proposal of the Adderley Park area towards a mixed use neighbourhood offers scope for a wider range of uses. These would include community and education facilities that create an attractive frontage to the park which are of high quality design, and contribute to the overall uplift of the environment. It should be demonstrated that any site constraints are appropriately addressed.

- 6.5. The application site has not been marketed but has been vacant for a number of years. The Draft BDP and BPAAP also offsets the loss of this industrial land by promoting additional industrial land through land assembly within the immediate area that are better located, more attractive, accessible to the market such as the Wheels Adventure Park and Vauxhall area sites. Consequently, the proposal would contribute to the regeneration of this area and would comply with aspirations of Draft BDP and BPAAP. Planning and Growth Strategy have raised no objections to the proposal.

- 6.6. **Impact on vitality and viability of the adjoining centres** - Paragraphs 23 and 24 of the NPPF state that planning policies should promote competitive town centre environments and sequential tests should be applied to planning applications for

main town centre uses that are not in an existing centre. The application site is not within a Neighbourhood or District Centre as defined by Shopping and Local Centres SPD, but it is on the fringes of the residential area to the north of the site. A sequential test was submitted which considered potential alternative sites for the location of the proposed facility. The potential sites that were explored both within existing Bordesley Green Neighbourhood Centre and Alum Rock Road District Centre and edge of centre with detailed reasons provided as to why they were discounted. Planning and Growth Strategy were consulted and have raised no objection to the principle of the proposed development.

- 6.7. **Design and impact on visual amenity** – There have been extensive pre-application discussions prior to the submission of this application that have taken into consideration key issues such as the siting of the proposed building, car parking, the changes in the ground levels and site boundaries, ground conditions and access points.
- 6.8. The proposed building would be modern in appearance with large glazing and coloured projecting staircases to define the main access as well as large windows to key elevations. Consequently, I consider that the proposed siting, scale and massing would be acceptable and would improve the character and appearance of the site and overall area. I also consider that the appearance of the building, subject to matching materials being used, could be satisfactorily controlled through the imposition of conditions to require samples to be agreed and implemented.
- 6.9. **Impact on residential amenity** – The nearest residential property (former Station Hotel PH), which is now a hostel is located approximately 20 metres to the south of the application site. Regulatory Services raise no objection to the proposals and are satisfied that residential amenity for existing residential occupiers would not be adversely affected by the proposed use. They have recommended safeguarding conditions regarding ventilation and extraction systems, restrictive plant and machinery, hours of operation etc. I concur with this view and have attached appropriate conditions.
- 6.10. **Impact on trees, ecology and landscaping** – The proposed plans show a 1.5 to 2 metre wide landscaping strip along the Bordesley Green Road frontage and side boundary to the adjoining builders merchants to the application site. There are no Tree Preservation Orders on site and my Tree Officer has raised no objections to the proposal. My Landscaping Officer has requested additional planting along the southern/ western boundaries adjoining emergency access/ car park to Blakemore Cash and Carry, and within the car park, which would be conditioned together with the site levels, boundary treatment and a retaining wall that would ensure that the proposal makes a substantial contribution to the building and overall area in amenity terms.
- 6.11. The submitted Ecology Survey identifies the site to be of low significance with limited potential to support nesting birds or mammal activity. Japanese knotweed, an invasive species was identified within the site and the City Ecologist has raised no objections subject to conditions for the proposed development to be implemented in accordance to the recommendations set out with Ecology Appraisal report and method statement for invasive weed removal on site.
- 6.12. **Impacts on highway safety** – Transportation Development have raised no objections to the proposal subject to conditions. I concur with this view. The proposal would provide a new access arrangement into the site and car parking provision of 110 spaces within the curtilage of the site and includes overspill parking within the

adjoining builders' merchant, which would comply with Car Parking Guidelines SPD. Also, cycle parking provision would be provided. The site benefits from good public transport links, with bus stops along Bordesley Green Road, Bordesley Green, Ash Road and Alum Rock Road. Adderley Park Railway Station is also situated to the south of the site. Amended red line plan has been provided that includes the Builders merchant/ overspill car park that would ensure parking within the adjoining builders yard parking be readily available to the proposed use. Consequently, the proposal is unlikely to have an adverse impact on highway safety within the immediate vicinity of the site.

- 6.13. **Adjoining builders merchant** – This is in the same ownership and a revised red edge plan has been submitted that allows the Builders Merchants to access and operate their site safely in conjunction with the proposed banqueting use. There are also conditions attached to ensure that storage only occurs within authorised areas only to avoid reduction in parking facilities.
- 6.14. Given the evidence of current/ previous breaches/ non-compliance of planning conditions attached to the builders merchants and the wider aspirations for environmental improvements as set out within Draft Bordesley Park Area Action Plan, I consider that it is reasonable to attach a condition to require all hard landscaping/ surfacing/ boundary treatment (including a retaining wall) scheme of works to be undertaken and completed within 3 months from the date of this permission. I also consider that for soft landscaping, it is reasonable to attach a 6 months implementation and completion condition so that any planting can be carried out in the first available planting season, which has been agreed by the applicant and agent.

7. Conclusion

- 7.1. The proposed banqueting hall building would be a catalyst for the regeneration of the wider area and is in compliance with both national and local policies, the emerging BDP and the Bordesley Park Area Action Plan. I am satisfied that the proposed development would not have a detrimental impact on residential amenity or highway safety. I recommend that this application is approved subject to conditions.

8. Recommendation

- 8.1. Approve subject to conditions

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|---|---|
| 1 | Requires the implementation and completion of soft landscape scheme for the builders merchants within 6 month time period. |
| 2 | Requires all hardstanding, surfacing, boundary treatments to include rear retaining wall for the builders merchants to be implemented and completed within 3 month time period. |
| 3 | Prevents storage except in authorised area of the builders merchant. |
| 4 | Limits the storage height to be below the boundary wall within the builders merchants. |
| 5 | Requires the prior submission of sample materials |
-

6	Requires the prior submission of a contamination remediation scheme
7	Requires the prior submission of a contaminated land verification report
8	Requires the prior submission of hard and/or soft landscape details
9	Requires the prior submission of hard surfacing materials
10	Requires the prior submission of boundary treatment details
11	Limits the hours of operation (0800-2300 hours daily)
12	Requires the prior submission of a landscape management plan
13	Requires the prior submission of level details
14	Requires the scheme to be in accordance with the listed approved plans
15	Requires the prior submission of a sustainable drainage scheme
16	Requires the prior submission of extraction and odour control details
17	Limits the noise levels for Plant and Machinery
18	Prevents the use of amplification equipment
19	Requires the parking area to be laid out prior to use
20	Requires the prior submission of cycle storage details
21	Requires the prior submission of a method statement for the removal of invasive weeds
22	Requires the prior submission of a scheme for ecological/biodiversity/enhancement measures
23	Requires the prior installation of means of access
24	Requires the prior approval of the siting/design of the access
25	Requires the prior submission of details of pavement boundary
26	Requires the prior submission of a parking management strategy
27	Requires the prior approval of an amended car park layout
28	Requires the prior submission of entry and exit sign details
29	Requires pedestrian visibility splays to be provided
30	Limits the approval to 3 years (Full)

Case Officer: Mohammed Akram

Photo(s)

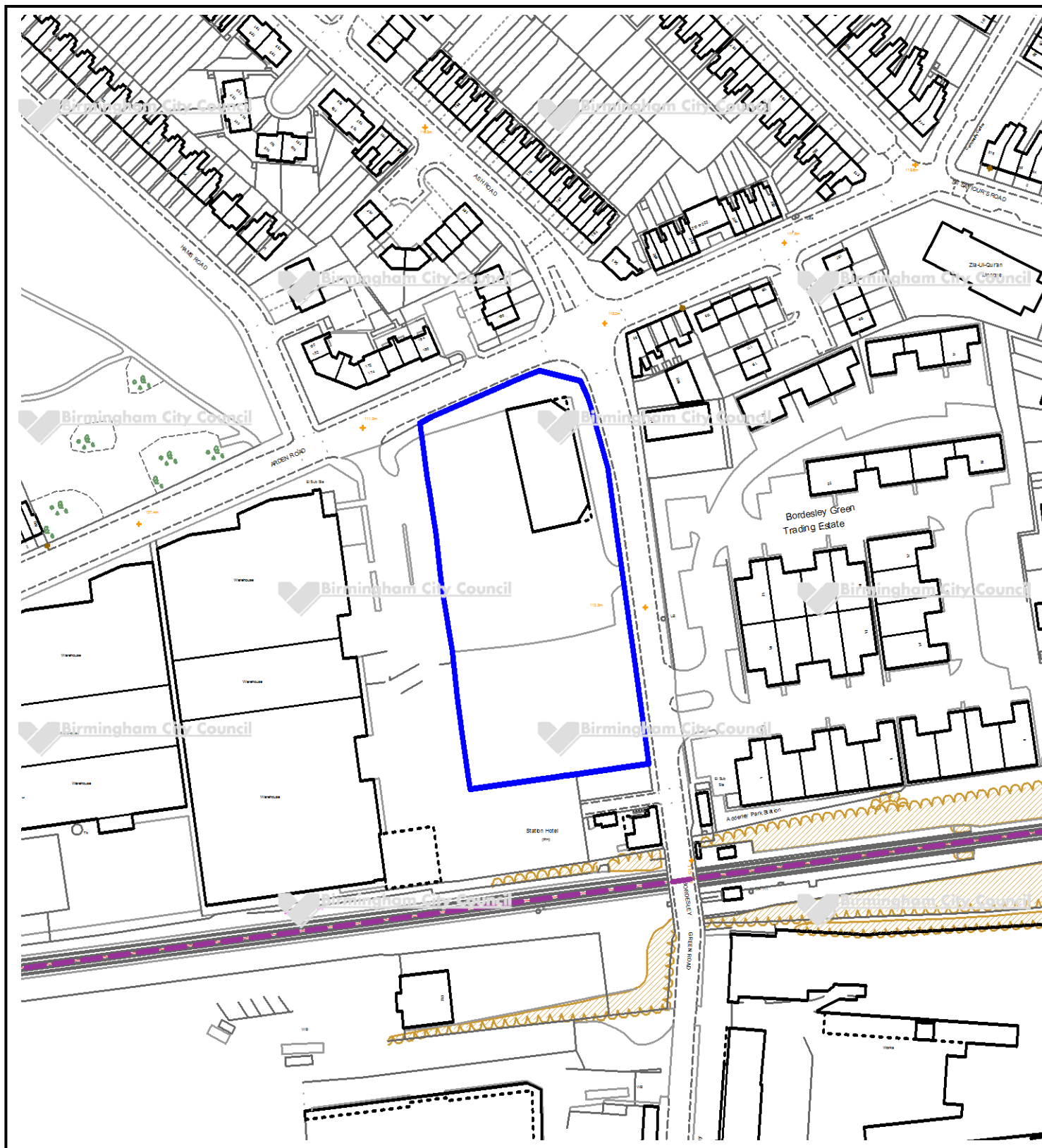


Figure 1 – Application site



Figure 2 – View from Bordesley Green Road

Location Plan



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Committee Date:	06/08/2015	Application Number:	2015/03138/PA
Accepted:	13/07/2015	Application Type:	Full Planning
Target Date:	12/10/2015		
Ward:	South Yardley		

Former Virgin Media Office Building, Talbot Way, Small Heath, Birmingham, B10 0HJ

Erection of 3-storey extension and sports hall to Perry Beeches V free school to provide primary and secondary school facilities with football pitch, MUGA, parking and landscaping. Demolition of existing industrial building to the rear of the site.

Applicant:	Perry Beeches Academy Trust Tame House, 156-170 Newhall Street, Birmingham, B3 1SJ
Agent:	Glancy Nicholls Architects The Engine Room, 2 Newhall Square, Birmingham, B3 1RU

Recommendation

Approve Subject To Conditions

1. Proposal
 - 1.1. Proposal for Phase 2 of the creation of an all-through free school. Prior Approval has already been granted for Phase 1 (2015/01158/PA), which consisted of the refurbishment of the former Virgin Media Building to provide accommodation for reception and primary school children, and is under construction. Phase 2 consists of a new building and therefore requires formal planning permission.
 - 1.2. Phase 2 consists of a new three-storey secondary school with a shared hall and sports facilities (2 or 4 court options) as well as external works including a football pitch, MUGA and outdoor play and areas. The application also includes the remodelling of the access off Coventry Road to create a shared surface for pedestrian and cycle movements as well as low level vehicular movements associated with 3no. disabled parking spaces. The existing trees currently lining this route would be retained to create a pedestrian friendly tree-lined boulevard leading from Coventry Road to the main entrance and the secondary school entrance. A new zebra crossing would be installed to Coventry Road in close proximity to this boulevard. 79no. staff parking spaces are proposed via the existing access off Talbot Way. To increase capacity for drop-offs and pick-ups on Talbot Way, new pavements would be installed where there are currently none and on-street parking is allowed as well as bollards installed to prevent parking on grass verges where there are parking restrictions.
 - 1.3. Phase 1 will accommodate approximately 300 pupils in September 2015 and Phase 2 would enable this number to eventually increase to a capacity of 1320 pupils.
 - 1.4. The layout would create a central spine corridor leading to class room clusters at ground, first and second floor levels. The hall and indoor sports facilities (either 2 or

4 court) would also be located off this central spine corridor on the ground floor. The MUGA would be located to the west of the sports hall and the football pitch to the northwest. Informal hard play area and external teaching areas surround the new building and also contained within the new internal courtyards.

- 1.5. The appearance of the Phase 2 extension adopts a contemporary approach, with the use a brick plinth to the ground floor and render with feature infill spandrel panels to the upper floors. The building would be naturally ventilated with inward opening ventilation panels. The external louvres would be coloured to offer a branded colour scheme. The sports block would be clad in vertical composite cladding panel, also in a branded colour scheme.
- 1.6. Phase 2 has been designed in a manner to complement Phase 1, with secure thresholds through the school from the foyer through to shared uses such as the Hall and Library.
- 1.7. The application has been accompanied by a Design and Access Statement, Loss of Industrial Land Statement, Transport Assessment, Flood Risk Assessment, Noise Impact Assessment, Arboricultural Survey and Land Contamination Report.
- 1.8. The proposals have been screened under the provisions of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and there is no requirement for an Environmental Assessment.

1.9. [Link to Documents](#)

2. [Site & Surroundings](#)

- 2.1. The 2.12ha site consists of 2 distinct elements, with first being the 3-storey former Virgin Media building, which is currently being converted to provide reception and primary school accommodation. To the rear is a large area of hardstanding and a single storey warehouse.
- 2.2. The site forms part of the Small Heath Business Park, which consists of a number of industrial/office uses to the northeast, east and south. To the southwest is the Sapcote Business Centre. To the northwest is residential terrace housing (Oldknow Road) as well as Oldknow Academy.
- 2.3. The site has existing vehicular access points via Coventry Road and Talbot Way both of which provide some on-street parking as well as parking restrictions along other sections.

2.4. [Site location](#)

3. [Planning History](#)

- 3.1. 10/04/15 – 2015/01158/PA. Prior Approval for change of use from offices (Use Class B1) to a free school (Use Class D1). Prior approval required and approved with conditions.

4. [Consultation/PP Responses](#)

- 4.1. Transportation Development – No objection subject to conditions relating to a school travel plan, cycle stores, parking management strategy, S278/TRO Agreement,

construction management plan, amended means of access off Coventry Road and entry and exit signs.

- 4.2. Regulatory Services – No objection subject to conditions relating to contamination, noise levels for plant and machinery, extraction and odour control, refuse stores and hours of use of MUGA.
- 4.3. Education & Commissioning – Object on the grounds of introducing additional school places in the wrong place at the wrong time, with significant negative impact and disruption for children in East Birmingham and at a very significant cost to the public purse.
- 4.4. Local Lead Drainage Authority – no objection subject to condition relating to a Sustainable Drainage Assessment and Sustainable Drainage Operation, and Maintenance Plan
- 4.5. West Midlands Police – No objection.
- 4.6. West Midlands Fire Service – No objection.
- 4.7. Severn Trent Water – No objections subject to a drainage condition.
- 4.8. Local properties, Councillors and MP consulted with site and press notices posted.
- 4.9. One Objection received on behalf on neighbouring premises raising the following matters:
 - Unacceptable disruption and serious safety concerns caused by traffic congestion.
 - Majority of pupils would be below the age of 11 and there would be a huge influx of cars and pedestrians.
 - Talbot Way is too narrow to accommodate this influx of additional vehicles.
 - Talbot Way is already busy with vehicles and parked cars.
 - Risk to staff and pupils with large articulated lorries making deliveries to surrounding industrial premises.
 - Industrial location is inappropriate for large influx of children and parents.
 - Disruptive and inconsiderate parking.
 - Cumulative impact on traffic with the expansion of Oldknow Academy.
 - Non-compliant with Policy 6.48 which seeks to prioritise traffic management schemes which, amongst others, improve safety, access and traffic flows.
 - Does not reflect the aims of Car Parking Guidelines SPD to minimise the impact of new developments on congestion and the access of new developments be properly provided for.
 - If minded to approve, request conditions S106 to ensure traffic remains free flowing or strictly enforced double red lines/TRO, with suitable crossing points and drop off points away from Talbot Way.
 - Recommend access it taken solely from Coventry Road rather than Talbot Way.
 - Not consulted on the Prior Approval application.

5. Policy Context

- 5.1. Birmingham UDP, Draft Birmingham Development Plan, Loss of Industrial Land to Alternative Uses SPD, Places for All SPG, Car Parking Guidelines SPD and the National Planning Policy Framework.
6. Planning Considerations
- 6.1. Provision of new education facilities:
- 6.2. The NPPF advises that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Furthermore, Local Planning Authorities should give great weight to the need to create, expand or alter schools.
- 6.3. An objective of the Draft Birmingham Development Plan is to strengthen Birmingham's quality institutions and role as a learning City and extend the education infrastructure securing significant school places. Policy TP35 of the Draft Birmingham Development Plan recognises that as the City's population grows there will also be a need for additional school and college provision. Adding that, proposals for the upgrading and expansion of existing schools and development of new schools in locations where additional provision is required will be supported subject to:
- Safe access by cycle and walking as well as by car.
 - Safe drop-off and pick-up provision.
 - Provide outdoor facilities for sport and recreation.
 - Avoid conflict with adjoining uses.
- 6.4. Education and Commissioning have made a strong objection to the proposal on the grounds that the Free School would "... introduce additional school places in the wrong place at the wrong time, with significant negative impact and disruption for children in East Birmingham and at a very significant cost to the public purse. Currently East Birmingham has ample secondary school places until 2018. Locating PBV on the Small Heath site will exacerbate inequality of access to strong provision in one of the most socio-economically deprived parts of the city... The proposed opening of PBV in 2015 will flood the area with excess primary and secondary places for the next three years. Revenue budget pressures will be created across the family of local schools including Oldknow Academy, St Benedict's Infants School, Cockshut Hill Technology College, International School, Starbank All-through. £20m Basic Need capital investment has been committed to the heavily over-subscribed and outstanding Starbank All-Through school, for which a new-build school is under construction to provide primary and secondary places serving the same locality as the proposed PBV".
- 6.5. Government Policy and Guidance is clear that there is a presumption in favour of the development of state-funded schools, to ensure that there is sufficient provision, as well as increased choice and opportunity. The strong objection from Education and Commissioning is noted and the matter of education provision, location and budgets are a matter for the relevant education bodies. Ultimately, it is not the role of Planning Legislation and the Planning System to make this strategic decision. On this basis, there are no planning reasons to object in principle to the proposed new education facilities on the grounds of need for provision.
- 6.6. Loss of industrial land:

- 6.7. 'Loss of industrial land to alternative uses' SPD seeks to safeguard an appropriate reservoir of industrial land and ensure no investment is lost to the City for the lack of a suitable site. When considering proposals for the loss of industrial to alternative use consideration also needs to be given to, non-conforming uses, active marketing, viability of industrial development as well as whether there are good planning grounds to depart from the policy. The protection of employment land is reiterated in the Draft Birmingham Development Plan and the application site falls within a Core Employment Area.
- 6.8. A Loss of Industrial Land report has been submitted in support of the application, which discusses the marketing undertaken to date and a market assessment as well as the need for education provision.
- 6.9. The site was marketed from May 2012 until late 2014, run on a professional and commercial basis. Interest was generated for educational uses from a number of parties. Three companies expressed interest in the site for industrial purposes but were ultimately discounted due to, amongst others, surrounding land uses (residential and educational), challenging access and insufficient need for office building. The report's market assessment suggests that take up of industrial units and office space of this nature in the local area are very slow and difficult as occupiers are choosing other preferential sites instead.
- 6.10. The report adds that the proposed school (in conjunction with Phase 1) would address a current shortage of primary school places and a prediction of increased pressure on secondary school places. It also adds that all the applicant's schools are in areas which are agreed with Birmingham City Council and the Department for Education as being in the most need. Attention is drawn to the Council's 'Birmingham Education Sufficiency Requirements 2014-2019' and that there are low vacancy rates at current schools and a 'medium risk of insufficient capacity' to meet forecast supply for Reception entry in 2015 in terms of primary education provision in South Yardley. This report also identifies that there is a medium risk of insufficient capacity to meet secondary school growth 2015-2016 (Year 7 in 2016) and a high risk of insufficient capacity from 2017-2019.
- 6.11. The marketing of the site is noted, though this ceased in late 2014, as are the findings of Birmingham's education sufficiency requirements as well as Education and Commissioning's comments. Also of relevance is the current conversion of the former Virgin Media Offices to provide reception and primary education accommodation, which as 'permitted development' was determined under the prior approval process for a state funded school. This restricted the consideration of the application to only transport and highway impacts, contamination risks and noise impacts. By linking the proposed secondary school to the under construction reception and primary school a large all-through school can be created, which will be able to share numerous facilities such as the sports hall and main hall. Providing the secondary school on a separate and physically detached site would not achieve many of the associated benefits. Furthermore, the conclusions of the market assessment is reasonable and it is recognised that the provision of Phase 1 would further limit any industrial interest in the vacant land, restricting its access to Coventry Road only with no scope to secure access off Talbot Way. Taking the above into account, as well as providing new sports and recreational facilities that are available to the wider community, it is considered that, on balance, all these factors together represent planning grounds that supports the loss of this industrial land in a core employment area in this instance. Planning and Growth Strategy raise no strategic objection to the proposal.

- 6.12. Design:
- 6.13. The appearance of the extension is modern and of an architectural language that is appropriate for this commercial context and for this education use. The extension would be constructed from a limited palette of materials of metal cladding, facing brick and render. Key features such as the vertical cladding to the sports hall and the external louvres would be finished in a branded colour scheme (blue) that would complement the blue coloured windows to the existing office building in Phase 1. The surrounding grounds would consist of a mix of hard/soft formal/informal play areas.
- 6.14. The entrance off Coventry Road would be a wide shared surface, which would be dominated by children on foot or bicycle with only limited vehicular movements, predominantly associated with a limited number of disabled spaces near the main school entrance. Existing trees along this route would be retained with new shrub planting to create an attractive tree-lined boulevard for children/visitors approaching from Coventry Road.
- 6.15. A proportion of the existing vegetation to the site's Talbot Road frontage would be retained with new fencing located behind. A new hedgerow with fencing behind would be planted closer to the boundary than existing where the reception classrooms (approved under Phase 1) would adjoin outdoor play areas. This approach would retain the overall open and landscaped character of Talbot Way.
- 6.16. Highways/parking:
- 6.17. A Transport Assessment has been submitted in support of the application and considers the impact of Phases 1 and 2 (700 Primary and 620 secondary pupils) on the local highway network. It identifies that the school is expected to attract the overwhelming majority of its catchment from residential areas to the north of the site. The catchment is anticipated to be in line with other local schools in the area (Small Heath Secondary School, Oldknow Primary and Holy Family Catholic Primary). The assessment also highlights that the A45 Small Heath Highway forms a natural barrier to the catchment. Furthermore, within a 4 minute walk of the site there is space on Talbot Way for approximately 60 cars to park on the carriageway in an appropriate and unrestricted manner.
- 6.18. The pupil trip generation for the proposed school has been determined from the mode share data from local primary and secondary schools. On this basis the Transport Assessment estimates that the school would generate up to 373 vehicular trips in each peak hour. The main mode of transport is likely to be walking with 905 pupils predicted to travel in this manner, whilst the only pupils to potentially drive to school are those from the sixth form. Staff trips are likely to be by car.
- 6.19. The Transport Assessment considers that the vast majority of parent dropping their children off will do so on their way to work, representing pass by or diverted trips that are already present on the local highway network but not specifically Talbot Way or Coventry Road. It concludes that taking into account existing traffic flows and those associate with the new school the impact on the wider highway network would not be significant and at a local level the junction of Coventry Road/Talbot Way has adequate capacity.
- 6.20. Transportation Development recognise that the proposal has the potential for impacts on the highway network such as increased pedestrian movements around the school entrances many of which would be by children. More importantly this

would lead to a significant increase in drop-off and pick-up trips by car which will take place within a focused period that is likely to have an impact on the operation of the highway in and around the school entrances.

- 6.21. The proposal includes a number of measures to assist with the new school in terms of highway safety and parking. The boulevard off Coventry Road would be used by the vast majority of children travelling to school by foot and would create an attractive shared surface that would have very minimal vehicular movements. The new zebra crossing over Coventry Road would particularly benefit those travelling from the direction of Heather Road. The creation of new pavement along sections of Talbot Way where there are no parking restrictions would improve capacity. Where there are current parking restrictions, the application includes the provision of bollards to prevent parking on grass verges and other forms of inconsiderate parking. Transportation Development is in general agreement with these measures and has identified some areas which will need to be addressed by condition and the relevant S278 and TRO agreements. These include greater lengths of new footpath on Talbot Way than currently indicated, introductions of 'No Loading' restrictions around the Talbot Way / Small Heath Highway and Talbot Way / Coventry Road junctions, reduction in the width of the Coventry Road access to single vehicle width and pedestrian guard railing and bollards around the Talbot Way / Coventry Road junction to protect visibility and ensure safe pedestrian movement. Furthermore, Transportation Development identify that there is no viable alternative pedestrian crossing location in the vicinity but the existing bus stop will need to be shortened or moved slightly to the northwest to accommodate zebra zig-zag markings. Relocating the bus shelter to the northwest would require the removal of a street tree, which the Highway Tree Asset Manager raises no objection to on the basis of two suitable replacement trees.
- 6.22. On the basis of the inclusion of these conditions, as well as others including a school travel plan, parking management strategy and construction management plan, it is considered that the impact on the highway network and highway safety is acceptable.
- 6.23. Neighbour amenity
- 6.24. The proposed building is located in the centre of the site and would have no adverse impact on neighbour amenity, including the residential properties to Oldknow Road in terms of loss of privacy and outlook.
- 6.25. Over recent years there has been little activity on the site and the proposed development of a 1320 pupil school would increase the potential for noise and disturbance. The submitted Noise Impact Assessment identifies that the noise climate is dominated by local road traffic on Talbot Way, Small Heath Highway, industrial noise from local units and students at the Oldknow Academy, and plant equipment associated with adjacent buildings. The assessment concludes that typical operational noise of a school should not adversely impact upon neighbour amenity. It does highlight that noise impact from outdoor sports areas has the potential for a minor impact on ambient noise levels within gardens of local residential properties. Typical maximum noise levels are expected to be similar to those currently experienced. However, the site has an established industrial use, located within a core employment area and in theory could begin to operate again as such. Within this context it is considered that any impact on neighbour amenity is within acceptable limits. Regulatory Services raise no objection subject to safeguarding conditions including restricting use of the MUGA to during school hours. However, in view of the desire to provide facilities to the wider community it

is considered that 0800-2000hours Monday to Saturday and 1000-1600hours Sundays and Bank Holidays is reasonable within this mixed use area.

7. Conclusion

- 7.1. Whilst Education and Commissioning have objected to the proposal the issues raised relating to pupil places, location and budget implications are not a matter to be resolved through the Planning System. The proposal would result in the loss of industrial land within a core employment area, however appropriate planning grounds have been demonstrated to support the provision of education facilities in conjunction with an education facility under construction to create an all-through school for up to 1320 pupils in this instance. The appearance of the new school building would improve the character and quality of the locality with no adverse impact on neighbour amenity. Furthermore, the scheme includes specific measures to the public highway that would improve highway safety in light of the anticipated travel modes and patterns.

8. Recommendation

- 8.1. Approve subject to conditions.

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| 1 | Requires the prior submission of a community access agreement |
| 2 | Requires the prior submission of a contamination remediation scheme |
| 3 | Requires the prior submission of a contaminated land verification report |
| 4 | Requires the prior submission of a drainage scheme |
| 5 | Requires the prior submission of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan |
| 6 | Requires the prior submission of a scheme for ecological/biodiversity/enhancement measures |
| 7 | Requires the prior submission of extraction and odour control details |
| 8 | Requires the prior submission of hard and/or soft landscape details |
| 9 | Requires the prior submission of hard surfacing materials |
| 10 | Requires the prior submission of boundary treatment details |
| 11 | Requires the prior submission of a lighting scheme |
| 12 | Requires the prior submission of a construction method statement/management plan |
| 13 | Requires the prior submission of sample materials |
| 14 | Requires the prior submission of level details |
| 15 | Requires the prior submission of details of refuse storage |
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|----|--|
| 16 | Limits the noise levels for Plant and Machinery |
| 17 | Limits the hours of use of the multi use games area (MUGA) and playing field to 0800 - 2000 Monday to Saturday and 1000-1800 Sundays and Bank Holidays |
| 18 | Requires the prior submission of cycle storage details |
| 19 | Requires the prior submission of a parking management strategy |
| 20 | Requires the prior submission and completion of works for the S278/TRO Agreement |
| 21 | Requires the prior submission of a construction method statement/management plan |
| 22 | Requires the prior approval of the siting/design of the Coventry Road access |
| 23 | Requires the prior submission of entry and exit sign details |
| 24 | Requires the prior submission of details of method of managing / preventing parking / waiting on section of shared private drive between Talbot Way and site parking area access |
| 25 | Requires a School Travel Plan within 3 months of the school first opening |
| 26 | Requires the scheme to be in accordance with the listed approved plans |
| 27 | Limits the approval to 3 years (Full) |
-

Case Officer: Peter Barton

Photo(s)



Figure 1 – Phase 1 and Talbot Way frontage

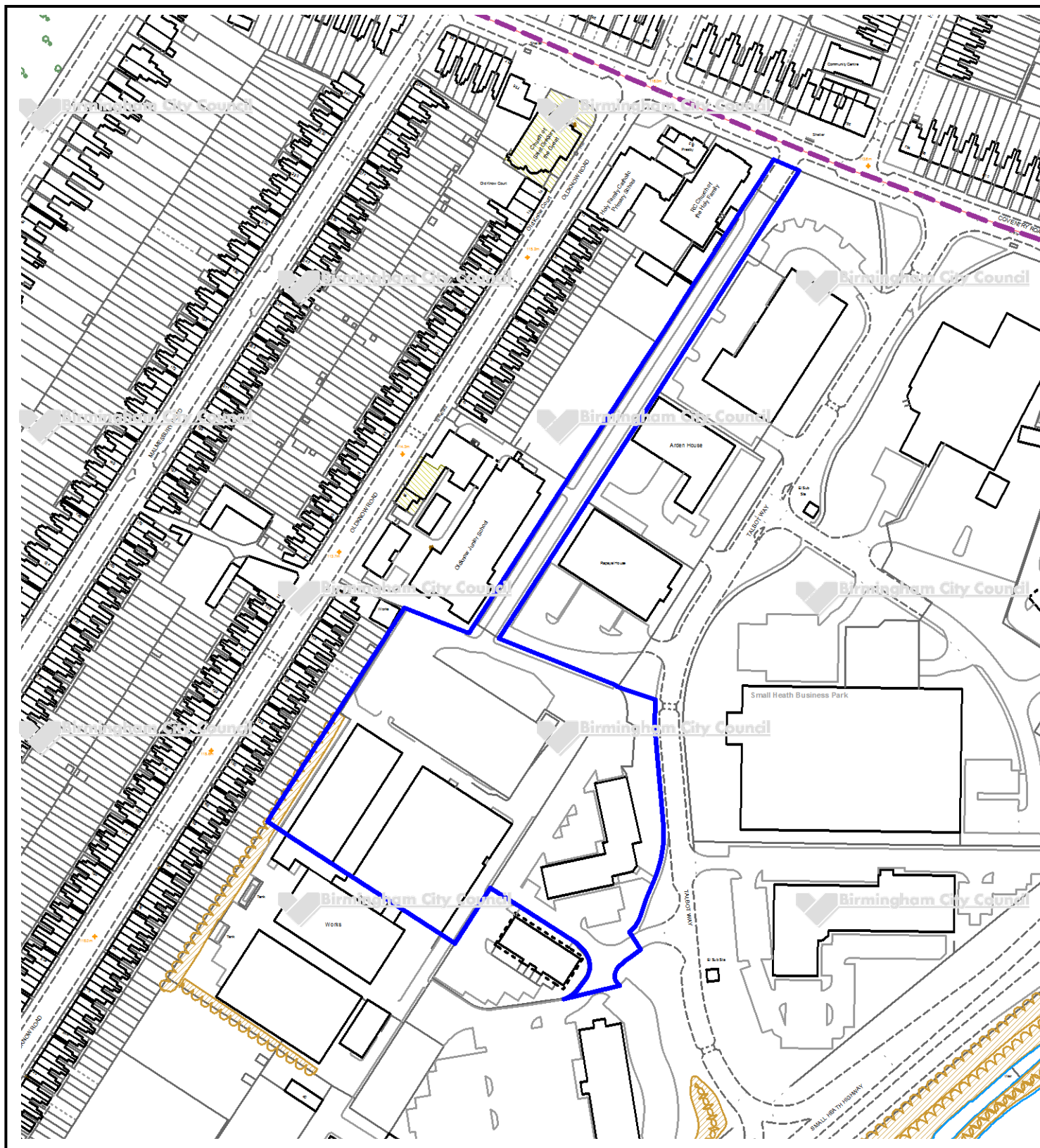


Figure 2 – vacant industrial land to rear of Phase 1



Figure 3 – Access off Coventry Road

Location Plan



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Birmingham City Council

Planning Committee

06 August 2015

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>
Defer – Informal Approval Endorse	17	2015/04428/PA 103 Colmore Row City Centre Birmingham B3 3AG Erection of a 26-storey office building with ancillary uses (within Use Classes A1/A2/A3).
Approve – Conditions	18	2015/04465/PA 103 Colmore Row City Centre Birmingham B3 3AG Demolition of existing building to ground floor level
Endorse	19	2014/09600/PA 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

Committee Date:	06/08/2015	Application Number:	2015/04428/PA
Accepted:	03/06/2015	Application Type:	Full Planning
Target Date:	02/09/2015		
Ward:	Ladywood		

103 Colmore Row, City Centre, Birmingham, B3 3AG

Erection of a 26-storey office building with ancillary uses (within Use Classes A1/A2/A3).

Applicant:	Sterling Property Ventures Ltd c/o Agent
Agent:	G W Planning Ltd 21 Norfolk Road, Sutton Coldfield, Birmingham, B75 6SQ

Recommendation

Approve Subject To A Section 106 Legal Agreement

1. Proposal

Scale and Massing

- 1.1. This is a detailed planning application for a 26 storey office tower, standing 246m AOD, 105.5m above Colmore Row footpath level. It is articulated as a series of four sliding planes that step down in height to give the building a distinctive profile. On the south side fronting Colmore Row the building steps down to 22 and 18 storeys, whilst on the north side it steps down to 22 storeys.
- 1.2. The building also staggers in plan to emphasis the sliding plans. The four sliding planes are most clearly expressed along the Newhall Street boundary. Each plane is extended to the boundary, apart from the plane fronting Colmore Row which is recessed to respond to day lighting constraints around the site. To the northwest the building footprint is defined by Barton Passage, whilst to the southwest it abuts 115 Colmore Row. Significantly, the building line is pulled back from the site boundary along Colmore Row at lower level to create a winter garden.

External Appearance and Materials

- 1.3. The stepping plan form creates a shadow between each of the planes, which is further emphasised by deep reveals. In addition, the facade design features fins to emphasise the scheme's verticality while attenuating solar gain and adding interest and texture to the elevations.
- 1.4. To echo the four-storey cornice line of the historic buildings along Colmore Row the fourth plane is suspended at the fourth floor level to create a winter garden signalling the main entrance to the building. The structural frame is then revealed and expressed over the lower four levels of the building creating a colonnade, to improve permeability around the base of the building between Colmore Row and Newhall Street.

- 1.5. The top of the building is expressed as a single projecting plane that would become a lantern at night and a clear signature for the building. This lantern could accommodate a restaurant with unique 360 degree views of the City. The stepping at the top of the building also creates the opportunity for amenity spaces and green roofs, as well as photovoltaic installations to capture solar energy.
- 1.6. Facades to the office areas would have reflective coatings to reduce solar glare. Privacy fritting would be applied to the glazed units at low level and internal blinds would adjust to limit unwanted solar gain and glare. Back painted glass would then be used to clad the buildings primary core to give a consistent even appearance across the west elevation.
- 1.7. Silver anodised aluminium would be used as an accent material to frame and articulate elements. This would be silver anodized where articulating an accent and graphite where defining a joint or scaling element including the louvres to the plant areas at high and low level. The expressed structural elements would be painted in dark grey.

Access and Internal Layout

- 1.8. At street level the building base is designed to front Colmore Row with the entrance located to the south of the building reception, accessed directly from the winter garden. The entrances facilitate step free building access via 2 revolving doors with adjacent swing doors. In addition to these primary entrances there is a step free entrance to the retail unit fronting Newhall Street.
- 1.9. Internally the layout is characterised by an offset core, which maximises the open plan floor area throughout the building and allows the maximum amount of usable space in the retained existing basement levels. The offset core is located adjacent to the western site boundary and comprises both low rise and high rise lifts in addition to service risers and building plant. The lifts are accessed from the entrance reception, which occupies the south eastern half of the ground floor.

Use and Amount of Development

- 1.10. The proposed development would provide for a 26 storey office tower of approximately 30,322m² GEA. The ground floor comprises mainly the entrance foyer and lift cores to the office floors above, in addition to retail uses on Colmore Row and Newhall Street.
- 1.11. Levels 1 to 19 inclusive would be used for offices. Levels 20 and 24 could also be used for office accommodation, although the application seeks to reserve the potential for this space to be used as a restaurant. There are 4 floors of plant at the top of the building set between level 20 and 24.
- 1.12. The four existing basement levels would be used for car parking, cycle parking and changing facilities in addition to building plant. At B1 level a café unit is proposed linked to the office space at ground floor level. A loading bay and associated service area would also be provided at basement level B1, accessed from Barton Passage.
- 1.13. Individual uses comprise:
 - Office Use (Use Class B1a). - up to 25,393sqm GIA;

- Retail Use (Use Class A1/A2/A3) - 1,479sqm, including the ground floor retail unit, basement Level 1 retail unit and the optional use of level 20 and 24 as a private restaurant; and
- Parking - 34 car parking spaces located over B1, B2 and B3 levels, including 3 disabled spaces and 2 spaces with electric charging points. In addition motorcycle and 92 cycle parking and associated facilities would be provided.

Supporting Information

- 1.14. The application is supported by a single Planning, Design, Heritage and Access Statement, together with a number of appendices:
 - a main plans appendix (containing the architects and landscape architects plans);
 - a detailed Landscape Statement;
 - a Visual and Townscape Assessment; and,
 - technical supporting documents including wind, shadowing, sunlight/daylight, solar glare, ecology, and construction method reports.
- 1.15. The main supporting document includes relevant information in respect of Access and Transport, Consultation and Community Involvement, and Sustainability.
- 1.16. In addition to the proposed “winter garden” off Colmore Row (which would be in private ownership but open to the general public), the applicant has offered £225,000 as a contribution to public realm and public transport works by the City Council in the vicinity of the application site. They are also willing to make a contribution of £40,000 to fund employment training.
- 1.17. Prior to submission of the planning application the applicant submitted a request for an Environmental Impact Assessment Screening Opinion. In response the City Council confirmed that an EIA was not required. An application for demolition of the existing building appears elsewhere on your Committees agenda.
- 1.18. [Link to Documents](#)
2. Site & Surroundings
 - 2.1. 103 Colmore Row occupies a site area of 0.175 hectare at the junction of Colmore Row and Newhall Street, in the core office area of the city centre and within the Colmore Row and Environs Conservation Area. It has street frontages to Colmore Row, to its south, and Newhall Street, to its east. To its north it is separated from the adjacent building on Newhall Street by Barton Passage, which provides service access to this site and adjacent sites. Immediately to the west it is bounded by the adjoining property at 115 - 119 Colmore Row.
 - 2.2. The site is located on the city centre ridge zone and is at one of the highest points in Birmingham. Levels fall slightly away from the site along Colmore Row towards Victoria Square, and more significantly towards the north-west along Newhall Street and south down Bennetts Hill. The site itself also has a significant level change from south to north, with the Barton Passage pavement level approximately 3.5 metres below the level of Colmore Row.

- 2.3. The application site is occupied by a 22 storey office building previously in use by the National Westminster Bank. The building, constructed in 1971-74 comprises a double height Banking Hall fronting Colmore Row, behind which is the main tower. The overall floorspace of the building is approximately 80,000 square feet, but due to the poor quality and size of the office floorplates and their inability to be reconfigured to meet current requirements, the building has been substantially unoccupied since 1998.
- 2.4. Adjoining buildings fronting Colmore Row to the junction with Eden Place are modern commercial properties. The opposite frontage to Colmore Row is occupied by a continuous row of nineteenth century and early twentieth century Grade II listed buildings, except 122-124, which is listed Grade I. The remainder of the street block bounded by Colmore Row, Bennetts Hill and Waterloo Street is occupied by listed buildings. The northern frontage to Colmore Row, beyond the junction with Newhall Street, is also occupied by a continuous row of Grade II listed buildings. St Phillips Cathedral, listed Grade I and its associated churchyard, is situated to the east of the site, with Victoria Square and surrounding listed civic buildings, including the Grade I listed Town Hall, to the west.
- 2.5. Heights of nineteenth century and early twentieth century buildings in the area are generally between 4 and 6 storeys. Post war buildings are generally between 7 and 11 storeys in height.

[Site Plan](#)

3. [Planning History](#)

- 3.1. The existing building was constructed in 1972. In its original form, the 'Colmore Centre' included a 5 storey block west of the tower on Colmore Row, separated from the tower by an open court. Planning permission to raise the 5 storey block by 3 storeys and re-clad it was implemented in 1996/1997.
- 3.2. 31 October 2008 Application 2008/02353/PA. Planning consent granted for demolition of building in connection with erection of a new 35 storey office building with ground floor retail (class A1), financial and professional services (class A2) and restaurants/cafes (class A3). Consent subject to a S106 agreement to secure public realm improvements, (including design and supervision fees) valued at £414,260, together with £50,000 for public art and a public transport contribution of £50,000.
- 3.3. 31 October 2008 Application 2008/02355/PA. Conservation Area Consent granted for demolition of office building.
- 3.4. 25 June 2010 Application 2010/01719/PA. Conservation Area Consent granted to extend the time limit for implementation of extant planning permission 2008/02355/PA for the demolition of the existing office building for a further 5 years.
- 3.5. 30 June 2010 Application 2010/01718/PA. Planning consent granted to extend the time limit for implementation of extant planning permission 2008/02353/PA for the demolition of the existing office building and erection of a 35 storey office building with ancillary retail (A1/A2/A3) uses for further 5 years.
- 3.6. 29 September 2014 Certificate of Immunity from Listing issued by English Heritage.
- 3.7. February 2015, Snow Hill Masterplan launched for public consultation. This Masterplan identifies the Natwest Tower as an opportunity for redevelopment.

- 3.8. 31 March 2015 Application 2015/00293/PA. Demolition of the existing office building and interim works to include a paved external space with boundary screen and ancillary covered storage area – withdrawn following Planning Committee deferring application minded to refuse.
- 3.9. 26 May 2015 Application 2015/04223/PA. Application submitted to extend the time limit for implementation of extant planning permission 2010/01718/PA for the demolition of the existing office building and erection of a 35 storey office building with ancillary retail (A1, A2, A3) uses – awaiting determination.
- 3.10. 4 June 2015 Application 2015/04465/PA. Application submitted for demolition of the existing building to ground floor level – a report about this application appears elsewhere on your Committees agenda.
- 3.11. 25 June 2015. The current planning application for demolition of the existing building and erection of a 26-storey office building with ancillary uses (within Use Classes A1/A2/A3) was considered by your Committee as an Issues Report. At the meeting Members made the following comments:-
 - there was no merit to the existing building and the new building would be a great improvement;
 - whilst Cllr Moore was concerned about the contemporary style of the building, overall members thought the new building attractive and made a positive statement. They liked the stepping of the building and rooftop restaurant. They also thought that the winter garden on Colmore Row worked well but asked that its wind tunnel impact be checked;
 - the existing banking hall doors should be incorporated into the new build and a new piece of art, perhaps something in the glass to represent the heritage of Birmingham, should be incorporated; and,
 - night time photographs would be helpful.

4. Consultation/PP Responses

- 4.1. Since purchasing the site at the end of October 2014, the applicants have undertaken consultations over a 6 month period from November 2014 to April 2015. An earlier version of the scheme was reviewed by the Design Council CABA Design Review Panel in February 2015. The Panel commended the initial design for its integrity but thought it missed opportunities for a more useable public space to Colmore Row possibly taking the form of a 'winter garden'. They also suggested a stepped rather than horizontal skyline.
- 4.2. Adjoining occupiers, residents associations, Colmore Row BID, local ward councillors and M.P. notified. Site and Press notices displayed.
- 4.3. Letter from Jones Lang LaSalle on behalf of the owner of the adjoining office building at 115 Colmore Row commenting that:-
 - the scale of the building is larger than the existing building, which will diminish the prominence their clients building as well as impacting on views and reducing sunlight;
 - support the proposed winter garden in principle as it should mitigate the loss of prominence to Colmore Row at ground level and it is important that this element of the scheme is retained. However, a condition should be

attached to ensure that the winter garden is effectively controlled, maintained and managed;

- there is an area of public realm between the winter garden and 115 Colmore Row, that is unlabelled. Full information should be provided as to what this area would be used for as it may become attractive to smokers, thereby detracting from their clients building. An outdoor smoking area elsewhere in the proposals should be provided;
- access to part of the application site's basement is through their clients adjacent access / basement and the applicant should consider rationalising the existing access/egress arrangements;
- the Daylight and Sunlight report notes that when compared with the existing building there could be a small potential loss of sunlight;
- there is potential for the winter garden to create a wind tunnel / turbulence. In addition the Wind Microclimate Study acknowledges that the proposed development may create windier conditions particularly along the northeast and south-east façade;
- the use, management and maintenance of the roof terraces should be controlled through the use of a planning condition to ensure the potential impact on surrounding occupiers is mitigated;
- the proposed ground floor retail / café and restaurant uses should be properly controlled. In particular there does not appear to be any information about how the associated extraction / ventilation would be provided and they would object to any fume extraction equipment directed towards their building;
- the use of the area to the west of the ground floor retail café restaurant is not labelled and full details should be provided as to what it is to be used for;
- the stairwells to the building do not appear to be accessible from the main reception area on the ground floor. This suggests that the area yet to be labelled could provide a main thoroughfare for occupants using the building. This should be clarified so that potential impacts can be properly understood;
- although a café / restaurant is proposed to the rear of the reception it does not have an access onto Newhall Street. The applicant should consider how this frontage can be enhanced to ensure that the opportunity to provide a more active frontage is not missed; and,
- full details of the proposed plant areas should be provided so that the full impact of these areas on the adjacent buildings can be properly assessed. Any plant provided on the top of the building should be out of sight, given the building's prominence and location within the Conservation Area.

4.4. BCC Transportation Development – no objection subject to conditions / S247 resolution/ S106 agreement to secure:-

- the off-site highway works to include footway alterations, lighting, signage and TRO modifications, with any lost revenue on removed pay and display bays, agreed to BCC specification at the applicants expense. No approval is given by BCC Highways to the footway and carriageway materials proposed, or the TRO modification to alter the existing on-street taxi rank and pay and display parking.
- a s247 resolution is required to stop-up land around the Colmore Row/Newhall Street frontage that may have attained status as public highway given the length of use by the public over this area

- a s106 contribution is required towards public transport improvements within the City centre such as New Street station, Midland Metro and bus services.
 - the applicants to affiliate to BCC Company Travelwise, which will then be applicable to any future occupiers.
 - a Construction Travel Plan
 - cycle parking, showers and related facilities as shown on plans to be provided prior to occupation and maintained thereafter.
 - service yard area on Barton Passage to remain clear for vehicle use.
- 4.5. BCC Regulatory Services - the proposal is a medium category air quality impact development and there is potential for adverse impacts on the amenity of local occupiers arising from noise and odour. Conditions should therefore be attached to secure vehicle charging points, details of any parking charges, designated parking spaces for low emission vehicles, a travel plan, details of high level fume extraction equipment, refuse stores and to limit plant noise.
- 4.6. Environment Agency – no objections provided the existing slab and foundations are left unaltered and there is no requirement for earthworks and/or new piling structures.
- 4.7. Historic England – accept the principle of a tower in this location but object to the current scheme and recommend refusal. They consider that the proposed building would cause harm to the significance of St Philip's Cathedral, the Council House and the Colmore Row and Environs Conservation Area. The harm lies in the scale and bulk of the proposed building and its dominance over the historic buildings through development in their setting. They characterise the harm as serious, verging on the 'substantial', because of the severity of the impact. In addition they do not consider it to be the landmark building of exceptional architectural quality prescribed by the conservation area policy. They also recommended the reuse of the distinctive doors to the former banking hall of the existing building.
- 4.8. Civil Aviation Authority – the maximum height (measured above ground level) of the proposed 26 storey building is 105.5m. That being the case, and noting that the CAA has no role in assessing the purely environmental implications of the project and therefore makes no comment on that specific aspect. However, they suggest that other aviation stakeholders such as Birmingham Airport be consulted. When the construction timeframes are known the developer will need to pass related details to the Defence Geographic Centre. Additionally, if the use of cranes on the site extends to 300ft or more then the developer will need to notify the CAA's Airspace Utilisation Section. Additionally, any crane of a height of 60m or more will need to be equipped with aviation warning lighting.
- 4.9. Birmingham Airport – the proposed development infringes upon the Obstacle Limitation Surface known as the Outer Horizontal Surface (OHS) established for Birmingham Airport. The OHS is set at 242.4m AOD and the proposed development would result in a minor infringement at its maximum height of 246m AOD. During construction it is anticipated that crane activity would result in a greater albeit temporary infringement of the OHS and this infringement needs to be managed. They therefore have no objections subject to conditions to:-
- limit the height of the proposed development including communications and other aerials to a maximum of 246m AOD;

- illuminate the highest points of the building with medium intensity steady red obstacle lights; and,
 - secure a crane management plan.
- 4.10. Conservation Heritage Panel - the existing tower is set back from the street, with a podium that continues the cornice line of the north side of the street. The new building departs from this approach and does cause a degree of harm. A substantial colonnade is proposed and this is less successful than the existing podium. The saw-tooth arrangement of the buildings plan is also harmful to the buildings relationship with Newhall Street and the solid to void ratio is in contrast with the buildings in the area. However, the panel, however, recognised that the existing building will not come back into use and its replacement is welcomed. Overall it was felt that the conservation area is 'preserved and enhanced' and the horizontal and vertical balance across the elevations is successful. It would be important to ensure that the existing street doors to Colmore Row are incorporated into the building in some meaningful location.
- 4.11. Victorian Society – object to the proposals on the following grounds:-
- 103 Colmore Row is at the heart of the Colmore Row and Environs Conservation Area. The character of the Colmore Row area is primarily derived from its eighteenth century street layout with a wealth of nineteenth and early twentieth century buildings developed to a consistent scale on regular plots and up to six storeys in height. Many of these are of national significance, listed at grade II and above, including those along Colmore Row in close proximity to the site at 103 Colmore Row, which give a continuous building line in a view along Colmore Row towards Victoria Square, and define the character of this part of the Conservation Area. There are similar views along the sections of Newhall Street and Bennett's Hill which meet at a crossroads adjacent to the application site.
 - the proposal is for a replacement twenty six storey tower, which will be considerably higher than the 1970s building, have a much greater massing, and be even more dominant in views across the conservation area than the present building.
 - whilst the "winter garden" along Colmore Row might respond to the cornice line of the mainly Victorian buildings in Colmore Row, the proposed design does not preserve or enhance the built frontage or the streetscape of historic buildings along Colmore Row, and will in any case be completely dominated by the massing of the structure rising directly above.
 - the character appraisal of the Conservation Area adopted by the City Council in 2006, states that "the new landmark building will be expected to reinterpret the character of the conservation area by means of a complementary yet contemporary design which should provide both a positive element to the streetscape and a distinctive addition to the city centre skyline." However, it is proposed to replace a late twentieth century building, part of which is set back from the street where it rises to twenty one storeys, with a twenty-first century building at predominantly twenty six storeys rising directly from the streets. The new building would also dominate historic streetscapes at the heart of a conservation area characterised by Victorian and Edwardian buildings, which are generally much lower in height and include several which are listed.
 - the current building at 103 Colmore Row does not contribute positively to the Colmore Row Conservation Area, and with its greater height and

massing the proposed building would have an even more negative impact on the surrounding listed buildings and the conservation area.

- the proposed development would have an unacceptable change to the character of Colmore Row and environs, which the conservation area status is designed to protect, and have a seriously detrimental effect on the setting of a large number of listed buildings.

4.12. Severn Trent Water - no objections subject a condition to secure drainage details.

4.13. West Midlands Police -

- the development should be to the standards within "Secured by Design".
- the site should be the subject of a full CCTV system and any lighting scheme should follow "Lighting Against Crime";
- the design of the car parking facilities should be to the standards laid out in the Safer Parking Scheme and the proposed access control into the underground parking area should be clarified;
- an access control plan should be provided to control movement into, and around, the site. Recommend that appropriate internal access control restrict movement throughout the building and only allow access into areas / floors where the person needs to be;
- due regard must be given to the location of any post rooms for the building and any refuse storage areas should be the subject of a robust lock to ensure that this area receives only legitimate visitors;
- any tree planting scheme should be sympathetic to the lighting and CCTV schemes; and,
- large buildings of this nature can interfere with the communications systems of the emergency services and conditions should be attached to secure pre-commencement and post completion telecommunication assessments.

5. Policy Context

5.1. National Planning Policy Framework; Birmingham Unitary Development Plan 2005; Draft Birmingham Plan 2031; Conservation Through Regeneration SPD; Places for All SPG; High Places SPG; Car Parking Guidelines SPD; Access for People with Disabilities SPD and Lighting Places SPD. The application site is identified as an Enterprise Zone site.

5.2. Building unlisted and Certificate of Immunity from Listing granted 2014. Within Colmore Row and Environs Conservation Area. Several nearby listed buildings on Colmore Row and Newhall Street.

6. Planning Considerations

Background Information

6.1. In 2008 planning and conservation area approvals were granted for a scheme to demolish the NatWest tower and replace it with a 35 storey landmark building. The permissions have since been extended in 2010 and remain valid but in recent economic conditions it has not proved practicable to deliver such an ambitious project. A further application to extend the existing permissions has recently been submitted in order to protect the fallback option of carrying out the previously approved scheme.

- 6.2. To bring forward completion of the new building by early 2018, the developer is keen to start demolition work as soon as possible. They have therefore submitted a separate planning application (2015/04465/PA) to demolish the existing building. A report about this application appears elsewhere on your Committees agenda. Following demolition, this current planning applicant seeks to redevelop the site with a new 26 storey office building with ancillary retail / café / restaurant use.

Land Use Policy

- 6.3. The UDP supports and welcomes office activity and growth. To realise this growth potential it seeks to ensure a portfolio of development opportunities is maintained capable of satisfying a range of office user requirements. It adds that offices are one of the core activities that make up the City Centre and the future prosperity of the centre is dependent on the continued growth of office and service sector employment. It then goes on to state that the core of Birmingham's office centre is characterised by a concentration of higher order financial services and that these have considerable scope for expansion which must be accommodated.
- 6.4. The Big City Plan also envisages growth in the provision of high quality office space within and adjacent to the Colmore Row Central Business District. Moreover, the emerging Birmingham Development Plan indicates that the City Centre has potential to accommodate in the region of 700,000sqm of office accommodation. This site is also identified as an Enterprise Zone site, because of its potential to make a substantial contribution to achieving the target of new office floorspace. In principle I therefore welcome demolition of the existing outdated building and construction of new high quality offices.
- 6.5. I also welcome the ground floor retail / café / restaurant unit fronting Colmore Row and the cafe fronting Newhall Street, which would both help create active frontages. I note that the scheme also includes potential for roof top restaurants at Levels 20 and 24 and would encourage the developer to pursue this option.

Tall Building Policy

- 6.6. As the proposed building is more than 15 storeys the City Council's SPG on tall buildings 'High Places' applies. It advises that this site falls within the Central Ridge Zone where tall buildings may be appropriate. The guidance goes on to say that tall buildings will not normally be acceptable next to listed buildings or within conservation areas unless there are exceptional circumstances. It advises that tall buildings should:-
- respond positively to the local context and be of the highest quality in architectural form, detail and materials;
 - not have an unacceptable impact in terms of shadowing and microclimate;
 - help people on foot to move around safely and easily;
 - be sustainable;
 - consider the impact on local public transport; and
 - be lit by a well-designed lighting scheme.
- 6.7. The application site falls within the Colmore Row and Environs Conservation Area, originally designated in 1971. In 2006 the City Council published the character appraisal of the Conservation Area, which advises that a careful balance needs to be struck between heritage considerations and the promotion of continued and

evolving economic activity, recognising the commercial nature of the area and its social and economic development roles at the heart of the City and Region.

- 6.8. In 2008 planning consent was granted for redevelopment of this site with a 35 storey tower. This application was renewed in 2010 and a further extension of time application was submitted in May of this year. The principle of redevelopment of this site for a replacement tall building has therefore previously been approved. The current application would be 26 storeys, taller than the existing 22 storey building, but not as tall as the previously consented 35 storey tower. In principle I therefore consider that a tall building in this location would be acceptable as it would meet the “exceptional circumstances” test set out in the High Places SPD. Moreover, although the building is slightly above the Obstacle Limitation Surface threshold, Birmingham Airport have not objected and as recommended safeguarding conditions are attached with respect to the building height, obstacle lighting and the use of cranes.

Impact on the Conservation Area and Nearby Listed Buildings

- 6.9. Under the NPPF it is a core planning principle to conserve heritage assets in a manner appropriate to their significance. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
- 6.10. The proposal would clearly impact upon the setting of designated heritage assets and paragraph 134 of the NPPF comes into play. It advises that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. It adds that LPA’s should look for opportunities for new development within the setting of heritage asset to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.
- 6.11. At a local level paragraphs 3.25 and 3.27 of the Birmingham Unitary Development Plan 2005, seek to ensure that any new development preserves and enhances the setting of listed buildings and character of conservation areas. Furthermore Policy TP12 of the Draft Birmingham Development Plan, states that applications for development affecting the significance a designated heritage asset will be required to provide sufficient information to demonstrate how the proposals would contribute to the asset’s conservation whilst protecting or where appropriate enhancing its significance and setting. It adds that where a Conservation Area Character Appraisal or Management Plan has been prepared, it will be a material consideration in determining applications for development.
- 6.12. The Colmore Row and Environs Conservation Area Appraisal and Supplementary Planning Policies (December 2006) provides guidance for development. It states that the Council will expect all new development to achieve a satisfactory visual relationship with its historic surroundings, demonstrating a regard for the character of the immediate street scene and the wider conservation area.
- 6.13. From this starting point the policies re-emphasise national and local planning policy that any new development should enhance the conservation area. For most new development it provides general design advice, in summary:-

- back of pavement on historic building lines;
- heights similar/ relevant to neighbouring buildings;
- consider roof forms and rooflines in context (including avoidance of or integral design for roof plant);
- attention to street frontage relationships and scale of ground floors/ entrances in street context;
- new buildings to have regularly spaced windows with deep reveals;
- compliance with the Council's shopfront design guide;
- high quality materials with preference for brick, stone and terracotta as characteristic of the area
- high quality of architectural detailing; and,
- preserving views or vistas characteristic of the conservation area.

6.14. The guidance however, provides specific guidance for this site:-

"The projected redevelopment of National Westminster House on Colmore Row will involve the removal of the landmark formed by the Natwest Tower. The Council will ensure that any future development on the site is of exceptional architectural quality. The new landmark building will be expected to interpret the character of the conservation area by means of a complementary yet contemporary design which should provide both a positive element in the streetscene and a distinctive addition to the city centre skyline"

6.15. The design of the building has been developed to address both national and local conservation policies:-

- to breakdown the massing of the building it is designed as a series of four sliding planes that step down in height to give the building a distinctive profile in the City Skyline;
- the building's plan is also staggered in plan to emphasis the sliding plans, and is pushed to the edge of Newhall Street and to Colmore Row. This breaks down the massing into a plot scale more appropriate to the conservation area setting and creates a more sensitive mid distance views;
- the stepping plan form creates a shadow between each of the planes, which is further emphasised by deep reveals. In addition, the facade design features fins to emphasise the scheme's verticality while attenuating solar gain and adding interest and texture to the elevations;
- this building form continues to ground level. At fourth floor level the fourth stepping plane closest to Colmore Row is suspended to define a "cathedral scale" subtracted volume. This echoes the four storey cornice line of the historic building lines along Colmore row. The structural frame is then revealed and expressed over the lower four levels of the building creating a colonnade, to improve permeability around the base of the building between Colmore Row and Newhall Street;
- The scheme provides for an active frontage along Colmore Row with an entrance to the office building and inclusion of a retail café, retail and commercial space. The scheme also includes an entrance to the second café (at B1 level) from Newhall Street. This café would be clearly visible with windows at the corner of Newhall Street and Barton Passage

- The top of the building is expressed as a single projecting plane that would become a lantern at night and a clear signature for the building. This lantern could accommodate a restaurant with unique 360 degree views of the City. The stepping at the top of the building also creates the opportunity for amenity spaces and green roofs, as well as photovoltaic installations to capture solar energy.
- 6.16. To understand the potential visual effects of the development the applicant has submitted a Townscape Assessment. The design has been developed to take account of the fact that the proposed development would result in townscape impacts at different levels of scale - local streetscape, mid-distance and in longer-distance views.
- 6.17. The prevailing characteristic of the change to the townscape resulting from the proposed building is that the new building would be more visually dominant than the existing one, but not excessively so. Compared with the building it replaces, the new building is of a higher standard of architecture and with better quality materials and finishes; and with a better relationship with its immediate townscape setting and the more distant views in which it appears. In comparison with the previously approved scheme the building has a reduced effect in terms of height but is more articulated at the top so that it achieves an interesting skyline, and more beneficial at street level with its winter garden which in use and visual terms would enhance Colmore Row.
- 6.18. The new building would have a landmark role and the adjoining property, 115 Colmore Row, would become less prominent. However, as demonstrated by the Townscape and Visual Impact Assessment the effects of the proposal on street views would be positive when compared to the existing situation.
- 6.19. Whilst I note the objection from the Historic England and the Victorian Society, I consider that the proposed new building is acceptable and complies with both national and local conservation policies. Clearly any building of the scale being proposed would impact on the setting of nearby listed buildings and the Conservation Area, as indeed the consented 35 storey tower would have done. However, I am of the view that there are public benefits that outweigh any harm to designated heritage assets:-
- firstly, this scheme secures demolition of the existing outdated vacant building and redevelopment of the site with a new Grade A office building, making good use of this highly accessible City Centre site;
 - secondly, the scheme delivers a new landmark building of high architectural quality. It contributes to a number of the objective of urban design: it provides active frontages with a mix of uses at ground level; it offers a high quality public realm at the local level; it contributes to the legibility of the city centre more widely; and it provides a striking new piece of architecture adding to the diversity, and quality, of the townscape of the City Centre.
- 6.20. Overall I am of the view that the building is well designed and that it makes a positive contribution to the townscape. I therefore consider that the scheme preserves and enhances the setting of nearby listed buildings and the character and appearance of the Conservation Area.

Environmental Impacts

a) Daylight and Sunlight

6.21. In support of the planning application a Daylight and Sunlight Report has been submitted to consider the potential effects of the proposed scheme on the surrounding buildings in terms of daylight and sunlight. The report considers two scenarios:-

- Scenario 1: Existing Site Conditions v Proposed Development; and
- Scenario 2: Consented Development v Proposed Development.

6.22. In accordance with the BRE Guidelines, the report considers that the consented development benchmark under Scenario 2 provides a more valuable position from which to assess the effects of the proposed development. It concludes that the proposed scheme does not result in any material changes to the daylight and sunlight effects when compared with the consented development. All potential changes are considered to be small or imperceptible and I therefore consider the overall effect of the proposed scheme to be acceptable.

b) Wind

6.23. A Wind Microclimate Study has been submitted in support of the planning application. It notes that as the existing site is situated in a densely-built environment surrounded by mid-rise buildings, it is reasonable well-sheltered from the prevailing south-westerly wind and as such, wind conditions at all areas are expected to be suitable for their intended usage, in terms of both pedestrian comfort and safety.

6.24. Within the context of the existing surrounds, the proposed development is relatively more exposed to the winds blowing unimpeded towards the site, thus conditions particularly along the northeast and southeast façade become slightly windier but remain within acceptable levels in term of pedestrian safety and comfort. Within the introduction of future developments, the proposed development is relatively shielded from the north-easterly and westerly winds, creating slightly calmer conditions throughout the proposed development. As such, all locations in the proposed development are expected to remain suitable for their intended usage. It is not therefore necessary to seek any mitigation measures.

c) Overshadowing

6.25. An Overshadowing Study submitted with the application indicates that there would be similar levels of shadow to the courtyard between the site and 115 Colmore Row. It adds that during certain times, access to sunlight would slightly improve with the proposed development. In comparison to the consented scheme, there would be similar levels of shadow with a slight improvement in sunlight access at certain times. Generally, the shadows cast from the proposed development are, in overall terms, shorter than the consented development. I therefore consider that the impacts are acceptable in planning terms. It should also be noted that loss of sunlight to commercial properties is not usually regarded as a material planning consideration; and the same applies to views for office workers over adjacent private land.

d) Solar Glare

6.26. A Solar Glare Assessment has been undertaken from two viewpoints located at the main junction surrounding the site. It notes that:-

- Viewpoint 1 - travelling Southwest along Colmore Row and stopping at traffic light. A number of instances of reflection are visible between 1.30pm and 3.30pm from the driver's line of sight. These reflections occur over large areas of the proposed elevation. However, none of them occur within 10 degrees from the driver's line of sight and the vast majority can be mitigated with the use of a car's sun visor. The few instances of reflection located below the line of the 5 degrees visor cut-off line correspond to very low solar altitudes and it is unlikely that they are strong enough as to cause a glare episode. As such the report considers these reflections to be of minor adverse nature.
- Viewpoint 2 - travelling Northwest along Benett's Hill and stopping at traffic light. A number of instances of reflection are visible from the driver's line of sight. These reflections are unlikely to cause a glare episode due to the large glare angle with the line of sight and the fact that they can be easily mitigated with the use of a car visor. Therefore, the report considers that these reflections to be of negligible nature.

6.27. The worst instances of reflection identified are of minor adverse nature and therefore I consider that mitigation is not necessary.

e) Noise, Disturbance and Fume Extraction

6.28. I note the concerns raised on behalf of the owners of the adjoining building, 115 Colmore Row. The representation notes that there is a strip of land to the west of the Winter Garden which is outside the building envelope. This strip arises partly due to the irregular boundary between the ownerships and in part from maintenance and boundary fire protection considerations. The landscape details indicate that this strip would be hard paved. The objection suggests this area might attract smokers and that an outdoor smoking area should be provided elsewhere. However, the boundary strip does not relate to any exit door so would seem less likely to be used by smokers than the surrounding streets. Furthermore there is no policy requirement to designate an external smokers' area within the application site. The objection letter also refers to an area west of the café, which is a fire exit corridor and would not be a principal pedestrian entrance to the building.

6.29. With regard to the winter garden and roof terraces, I consider that the operation and management of these areas is a building management issue and that it is not appropriate to control through a planning condition. Nevertheless, it is the applicants intention that the building would be covered by CCTV and that there would be 24hour security.

6.30. There are no residential properties immediately adjoining the premises and I do not consider it necessary to attach conditions to control the hours of use of the restaurant or outdoor music. However, as recommended by BCC Regulatory Services, a condition is attached to secure details of fume extraction equipment. The plant areas are clearly defined by the application at basement and high levels. An appropriate planning condition as recommended by BCC Regulatory Services is attached to set noise limits.

6.31. As within any major construction project there would be some impact on neighbouring properties, in terms of deliveries, noise, dust and vibration. A condition to secure implementation of the submitted construction management plan is therefore attached.

f) Water and Drainage

- 6.32. The applicant has confirmed that no new piling is intended through the basement foundation slab. However some new piles would be needed to support parts of the building structure outside the existing basement area and close to the street frontages of Newhall Street and Colmore Row. No new ground conditions information has been provided in specific relationship to the current application but the baseline assessment previously provided in 2008 as part of the British Land scheme assessed and validated the principles of more intrusive below ground changes than are now envisaged. I therefore suggest a condition requiring details of proposed piling with a supporting assessment of any effects on groundwater.
- 6.33. As recommended by Severn Trent Water a condition is attached to secure drainage details.

Public Realm and Transportation Issues

- 6.34. The scheme includes for the creation of wider footways (in excess of 3m width) for the site frontages to Colmore Row and Newhall Street and a strip of the applicants land along Newhall Street is to be dedicated as highway accordingly. The applicants are also seeking to alter the pay and display spaces on Colmore Row, to remove two bays and relocate these on a taxi rank on Newhall Street. The space on Colmore Row is then seen as a time limited drop-off and pick-up area. No agreement from BCC highways has yet been agreed and a condition is attached to secure the off-site highway works. A resolution is also attached to stop-up land around the Colmore Row/Newhall Street frontage that may have attained status as public highway given the length of use by the public over this area.
- 6.35. When compared to the existing building the proposed building would increase the amount of floorspace from around 10,000sqm up to 24,835sqm. Ground floor retail is included with uses proposed from A1 to A3 with a floor area 1,479sqm. The site has existing basement car parking with 106 spaces but this would be reduced due to the redevelopment plans and provision of cycle parking. The car park would retain 34 parking spaces and provide 92 new cycle spaces. The car park is accessed in the same location from Barton Passage (private) off Newhall Street, and access is controlled with a management office at the site entrance. This access also provides limited service vehicle access able to be used by small HGVs only.
- 6.36. The City Council's Car Parking Standards SPD seeks to ensure that: the access needs of new developments are properly provided for; the needs of different road users are balanced; the impact of new development on congestion minimised and Birmingham continues to be an attractive place for new investment and development. The SPD therefore sets maxima car parking standards, which for the amount of development proposed would equate to 423 spaces. The proposed level of car parking is therefore well below this figure and complies with it. Given that the development is within the city core and easily accessible by bus, rail and metro, I consider that a low level of car parking is appropriate in this location. Moreover, the development floor area is less than the consented scheme with a lower level of impact of person trips, and vehicle trips.
- 6.37. Vehicles access would be via Barton Passage and in part via shared basement areas. This is consistent with the existing access arrangements and with the similar

arrangements that were approved for the previous 35 storey tower. I therefore consider that the access arrangements are acceptable.

- 6.38. BCC Transportation Development have raised no objections and I concur with this view. As recommended by them conditions are attached to secure the off- site highway works, the applicants to affiliate to BCC Company Travelwise, cycle parking facilities and the service yard on Barton Passage to remain clear for vehicle use. The scheme proposals specifically include electric vehicle charging points in the basement and it is not therefore necessary to attach a condition to this effect.

Planning Obligations

- 6.39. The Birmingham UDP at paragraphs 8.50-8.54 advises that the City Council will take all appropriate opportunities to negotiate planning obligations to enable development to proceed, and to secure the proper planning of the area. Subsequently, new Community Infrastructure Levy Regulations have been introduced, which set out tests that planning obligations must meet. These tests are that they are necessary, directly related to the development and reasonably related in scale and kind to the development.
- 6.40. In addition to the proposed “winter garden” off Colmore Row (which would be in private ownership but open to the general public), the applicant has offered £225,000 as a contribution to public realm and public transport works by the City Council in the vicinity of the application site. Given the increase in office floorspace and increased number of staff, I consider that it is reasonable to seek to secure a financial contribution toward public realm and public transport enhancements in the vicinity as the new occupiers would put additional pressure on infrastructure. In this instance I consider that a contribution of £225,000 is appropriate.
- 6.41. Additionally on larger developments the City Council seeks to encourage developers to support local employment and training. I therefore welcome the contribution of £40,000 to fund employment training.

7. Conclusion

- 7.1. There is an extant planning consent to demolish the Natwest tower and to replace it with a 35 storey landmark building. The principle of replacing the existing building with a tall building has therefore already been established. Replacing the existing outdated office building with a new high quality Grade A offices is also consistent with land use planning policy.
- 7.2. Whilst I note the objection from Historic England and the Victorian Society, I consider that the proposed new building is well designed and when compared with the existing building makes a positive contribution to the townscape. I therefore consider that the scheme is acceptable and preserves and enhances the setting of nearby listed buildings and the character and appearance of the Conservation Area.
- 7.3. In terms of environmental effects, the proposed scheme has less impact than the 35 storey tower and suitable safeguarding conditions are attached. In addition, the scheme would generate less vehicle movements than the previous consented scheme.
- 7.4. I therefore consider that subject to safeguarding conditions and completion of a suitable legal agreement, that the application is acceptable and will help deliver redevelopment of this key city centre Enterprise Zone site.

8. Recommendation

8.1. That consideration of application 2015/04428/PA be deferred pending the completion of a planning obligation under Section 106 of the Town and Country Planning Act to secure the following:-

- i) a financial contribution of £225,000 toward public realm and transport enhancements along Colmore Row, Bennetts Hill and Newhall Street to be index linked from the date of this committee resolution and paid upon commencement of development;
- ii) a financial contribution of £40,000 toward to local employment and training; and
- iii) a financial contribution of £9,275 for administration and monitoring to be paid upon completion of the legal agreement.

8.2. In the absence of the planning obligation being completed to the satisfaction of the Local Planning Authority by the 1st September 2015, planning permission be refused for the following reasons:-

- i) In the absence of a legal agreement to secure financial contributions to public realm and public transport enhancements and a contribution to local employment and training, the proposal conflicts with Policies 8.50-8.54 of the adopted Unitary Development Plan.

8.3. That the Director of Legal and Democratic Services be authorised to prepare, complete and seal the appropriate planning obligation via a unilateral undertaking or an agreement under section 106 of the Town and Country Planning Act.

8.4. That no objection be raised to the stopping up of land around the Colmore Row/Newhall Street frontage that may have attained status as public highway and that if necessary the DCLG be requested to make an order in accordance with the provisions of Section 247 of the Town and Country Planning Act 1990.

8.5. That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority by the 1st September 2015, favourable consideration be given to this application, subject to the conditions listed below:

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- | | |
|---|--|
| 1 | Limits the building heights |
| 2 | Requires the implementation of the submitted mitigation/enhancement plan |
| 3 | Requires the prior submission of extraction and odour control details |
| 4 | Limits the noise levels for Plant and Machinery |
| 5 | Requires the prior submission of piling details |
| 6 | Requires the prior submission of a drainage scheme |
| 7 | Requires the prior submission of a lighting scheme |
-

8	Requires the prior submission of sample materials
9	Requires the prior submission of details of public art
10	Requires the scheme to be in accordance with the listed approved plans
11	Requires the prior submission of an obstacle lighting scheme
12	Requires the prior submission of a CCTV scheme
13	Requires the prior submission of a crane management plan
14	Requires a pre commencement telecommunication reception assessment
15	Requires a post completion telecommunications reception assessment
16	Requires the prior submission of details for re use of the Banking Hall doors
17	Requires the implementation of the submitted landscaping plan
18	Requires the implementation of the submitted construction method statement
19	Requires the provision of cycle parking prior to occupation
20	Requires the delivery and service area prior to occupation
21	Requires the applicants to join Travelwise
22	Requires the prior submission and completion of works for the S278/TRO Agreement
23	Limits the approval to 3 years (Full)

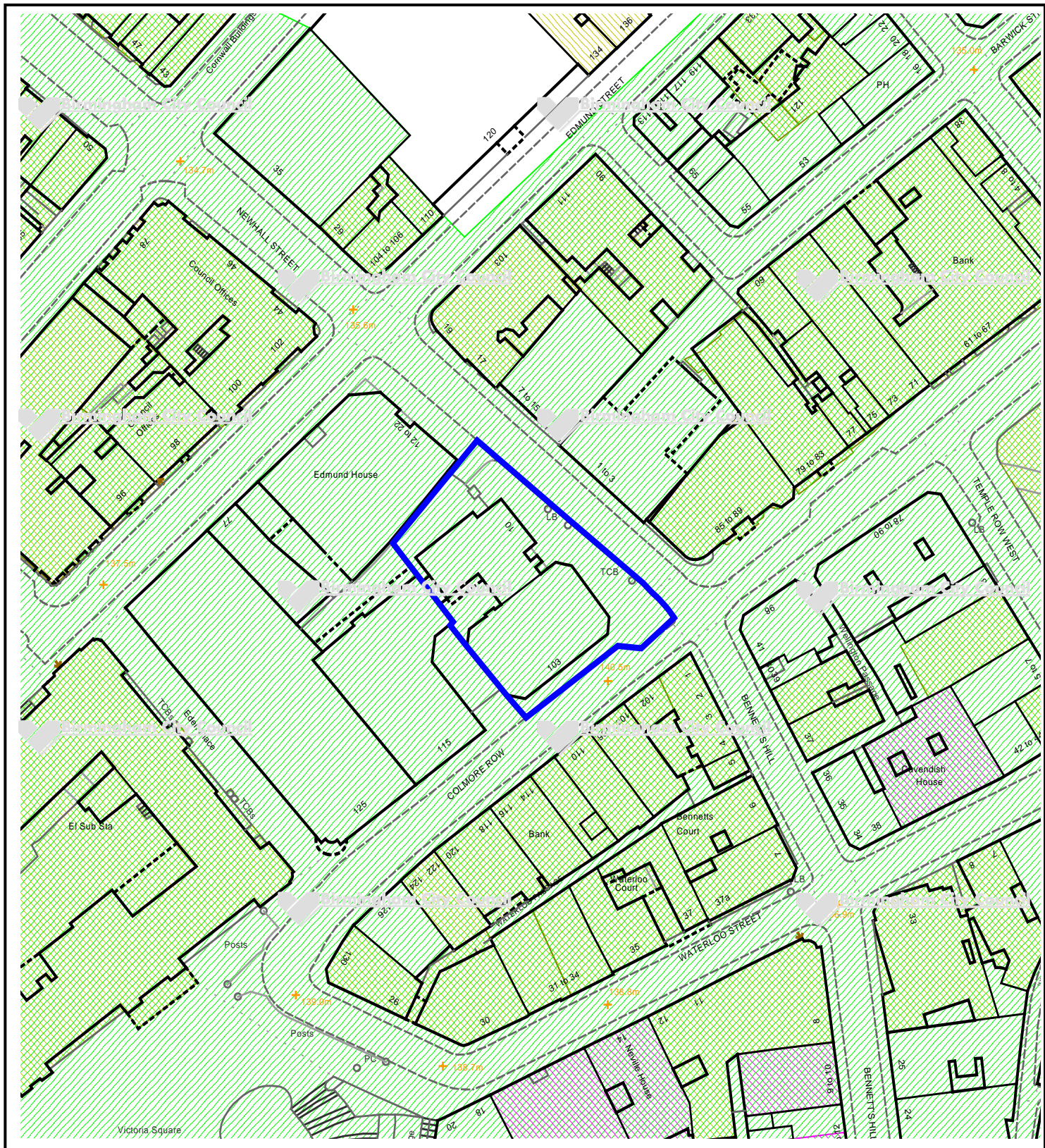
Case Officer: David Wells

Photo(s)



Natwest Tower view from St Philip's Churchyard

Location Plan



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Committee Date:	06/08/2015	Application Number:	2015/04465/PA
Accepted:	04/06/2015	Application Type:	Full Planning
Target Date:	30/07/2015		
Ward:	Ladywood		

103 Colmore Row, City Centre, Birmingham, B3 3AG

Demolition of existing building to ground floor level

Applicant:	Sterling Property Ventures Ltd c/o Agent
Agent:	GW Planning Limited 21 Norfolk Road, Sutton Coldfield, Birmingham, B75 6SQ

Recommendation

Approve Subject To Conditions

1. Proposal

- 1.1. This application is for demolition of the existing Natwest Tower and associated banking hall to ground floor level. The application is supported by a Planning and Heritage Statement, Demolition Method Statement and Ecology Report. A report about the new development appears elsewhere on your Committees agenda.
- 1.2. Demolition of the existing building would be a substantial engineering contract, taking 10-12 months to complete. However, whereas the previous scheme for a taller tower involved digging out new basement areas, the current proposal retains the existing basements, significantly reducing the work and volume of excavation below ground.
- 1.3. It is proposed to demolish part of the lower banking hall element nearest Newhall Street first, to allow a larger working area for crane positioning, access and storage. Next the tower would be progressively dismantled by lowering component parts to the ground with a tower crane. Scaffold and crane height would reduce progressively floor by floor as the building is dismantled top down.
- 1.4. The existing vehicular access via Barton Passage serving the adjacent building, No. 115 Colmore Row, would be retained and protected during the demolition process with a drive through scaffold gantry. It would however be necessary to intermittently close off up to 5 parking bays on Colmore Row and also reduce the taxi rank on Newhall Street during the works. A street trading site on Newhall Street would also need to be temporarily relocated. Lorry movements to and from the site would be managed so as to avoid congestion on bus services via Colmore Row and other traffic passing the site.
- 1.5. Measures to control noise, dust and vibration effects on adjacent office premises are specified by the Demolition Method Statement. These reflect 'considerate contractor' standards, controlled working hours, regular liason with neighbouring occupiers, and the use of full scaffold screening to contain demolition material within the site.

- 1.6. The existing building is currently linked to No. 115 Colmore Row by a stairwell structure. When the tower is demolished this would leave a vertical strip of exposed 'party wall' which would be weatherproofed but no external propping of the exposed wall is required.
- 1.7. At the end of the demolition contract the Colmore Row frontage of the site would be level with the pavement. At the rear of the site the current basement structure would be left. Due to the falling ground levels on Newhall Street this existing retained structure would be up to 4m high at the rear corner alongside Barton Passage. Void areas into the tower basements would be covered over for safety.

1.8. [Link to Documents](#)

2. Site & Surroundings

- 2.1. 103 Colmore Row occupies a site area of 0.175 hectare at the junction of Colmore Row and Newhall Street, in the core office area of the city centre and within the Colmore Row and Environs Conservation Area. It has street frontages to Colmore Row, to its south, and Newhall Street, to its east. To its north it is separated from the adjacent building on Newhall Street by Barton Passage, which provides service access to this site and adjacent sites. Immediately to the west it is bounded by the adjoining property at 115 - 119 Colmore Row.
- 2.2. The site is located on the city centre ridge zone and is at one of the highest points in Birmingham. Levels fall slightly away from the site along Colmore Row towards Victoria Square, and more significantly towards the north-west along Newhall Street and south down Bennetts Hill. The site itself also has a significant level change from south to north, with the Barton Passage pavement level approximately 3.5 metres below the level of Colmore Row.
- 2.3. The application site is occupied by a 22 storey office building previously in use by the National Westminster Bank. The building, constructed in 1971-74 comprises a double height Banking Hall fronting Colmore Row, behind which is the main tower. The overall floorspace of the building is approximately 80,000 square feet, but due to the poor quality and size of the office floorplates and their inability to be reconfigured to meet current requirements, the building has been substantially unoccupied since 1998.
- 2.4. Adjoining buildings fronting Colmore Row to the junction with Eden Place are modern commercial properties. The opposite frontage to Colmore Row is occupied by a continuous row of nineteenth century and early twentieth century Grade II listed buildings, except 122-124, which is listed Grade I. The remainder of the street block bounded by Colmore Row, Bennetts Hill and Waterloo Street is occupied by listed buildings. The northern frontage to Colmore Row, beyond the junction with Newhall Street, is also occupied by a continuous row of Grade II listed buildings. St Phillips Cathedral, listed Grade I and its associated churchyard, is situated to the east of the site, with Victoria Square and surrounding listed civic buildings, including the Grade I listed Town Hall, to the west.
- 2.5. Heights of nineteenth century and early twentieth century buildings in the area are generally between 4 and 6 storeys. Post war buildings are generally between 7 and 11 storeys in height.

[Site Location Plan](#)

3. Planning History

- 3.1. The existing building was constructed in 1972. In its original form, the 'Colmore Centre' included a 5 storey block west of the tower on Colmore Row, separated from the tower by an open court. Planning permission to raise the 5 storey block by 3 storeys and re-clad it was implemented in 1996/1997.
- 3.2. 31 October 2008 Application 2008/02353/PA. Planning consent granted for demolition of building in connection with erection of a new 35 storey office building with ground floor retail (class A1), financial and professional services (class A2) and restaurants/cafes (class A3). Consent subject to a S106 agreement to secure public realm improvements, (including design and supervision fees) valued at £414,260, together with £50,000 for public art and a public transport contribution of £50,000.
- 3.3. 31 October 2008 Application 2008/02355/PA. Conservation Area Consent granted for demolition of office building.
- 3.4. 25 June 2010 Application 2010/01719/PA. Conservation Area Consent granted to extend the time limit for implementation of extant planning permission 2008/02355/PA for the demolition of the existing office building for a further 5 years.
- 3.5. 30 June 2010 Application 2010/01718/PA. Planning consent granted to extend the time limit for implementation of extant planning permission 2008/02353/PA for the demolition of the existing office building and erection of a 35 storey office building with ancillary retail (A1/A2/A3) uses for further 5 years.
- 3.6. 29 September 2014, Certificate of immunity from listing issued by English Heritage.
- 3.7. February 2015, Snow Hill Masterplan launched for public consultation. This Masterplan identifies the Natwest Tower as an opportunity for redevelopment.
- 3.8. 31 March 2015 Application 2015/00293/PA. Demolition of the existing office building and interim works to include a paved external space with boundary screen and ancillary covered storage area – withdrawn following Planning Committee deferring application minded to refuse.
- 3.9. 26 May 2015 Application 2015/04223/PA. Application submitted to extend the time limit for implementation of extant planning permission 2010/01718/PA for the demolition of the existing office building and erection of a 35 storey office building with ancillary retail (A1, A2, A3) uses – awaiting determination
- 3.10. 3 June 2015 Application 2015/04428/PA. Application submitted for the erection of a 26 storey office building with ancillary retail (A1/A2/A3 uses) – a report about this application appears elsewhere on your Committees agenda. The application also formed the subject of an Issues Report to your Committee at the meeting on the 25th June 2015, when members considered that:-
 - there was no merit to the existing building and the new building would be a great improvement;
 - whilst Cllr Moore was concerned about the contemporary style of the building, overall members thought the new building attractive and made a positive statement. They liked the stepping of the building and rooftop restaurant. They also thought that the winter garden on Colmore Row worked well but asked that its wind tunnel impact be checked;

- the existing banking hall doors should be incorporated into the new build and a new piece of art, perhaps something in the glass to represent the heritage of Birmingham, should be incorporated; and,
- night time photographs would be helpful.

4. Consultation/PP Responses

- 4.1. Nearby occupiers, residents associations, amenity societies, local ward councillors and M.P. notified. Site and Press notices displayed.
- 4.2. BCC Transportation Development – no objection subject to applicants getting relevant permits and licences for works that relate and affect the public highway. The applicants are liaising with colleagues in Highways and the principles of changes to pay and display bays and other TRO changes on the highway are agreed.
- 4.3. Historic England – recommend refusal. The demolition proposed would neither preserve or enhance, nor enhance or better reveal the significance of the conservation area. This is a vigorously architectural corner site in the conservation area and its character would be completely undermined by the demolition of the existing building and by the absence on the site of a replacement building. Therefore the proposal would be incompatible with the townscape of the designated heritage asset. This would constitute 'less than substantial' harm to the heritage assets but that this harm is serious enough to outweigh the arguments put forward and any benefits there may be.
- 4.4. Twentieth Century Society - object to the demolition of this building which they regard as an important part of Birmingham's post war history and heritage. Not only do they consider that the loss of this building a waste of high quality resources, they have seen no evidence that this landmark building cannot be retained, adapted and re-used as part of the new development. If the planning authority is minded to grant consent for demolition, they strongly urge the applicant to ensure that the banking hall doors are retained and re-used in the new development on the site.
- 4.5. Conservation Heritage Panel - the existing tower is set back from the street, with a podium that continues the cornice line of the north side of the street. The new building departs from this approach and does cause a degree of harm. A substantial colonnade is proposed and this is less successful than the existing podium. The saw-tooth arrangement of the buildings plan is also harmful to the buildings relationship with Newhall Street and the solid to void ratio is in contrast with the buildings in the area. However, the panel, however, recognised that the existing building will not come back into use and its replacement is welcomed. Overall it was felt that the conservation area is 'preserved and enhanced' and the horizontal and vertical balance across the elevations is successful. It would be important to ensure that the existing street doors to Colmore Row are incorporated into the building in some meaningful location.
- 4.6. Civil Aviation Authority - when associated timeframes are known, the removal of this structure should be highlighted by the site owner to the Defence Geographic Centre. Also, if the use of cranes on the site extend to 300ft or more there will need to be consideration of the need to notify the cranes for civil aviation purposes. Additionally, any crane of a height of 60m or more will need to be equipped with aviation warning lighting in line CAA guidance concerning crane operations.

- 4.7. Letter from nearby occupier querying whether the Highways and Logistics For Demolition Plan SK01 dated 03-12-14 is the correct plan or whether it is superseded by a subsequent plan dated 04-03-15, which shows a different line for the hoarding.

5. Policy Context

- 5.1. National Planning Policy Framework (NPPF), Birmingham Unitary Development Plan and emerging Development Plan. Conservation Through Regeneration SPD; Colmore Row and Environs Conservation Area Character Appraisal and Management Plan. In addition the application site is identified as an Enterprise Zone site.

6. Planning Considerations

Background Information

- 6.1. In 2008 planning and conservation area approvals were granted for a scheme to demolish the NatWest tower and replace it with a 35 storey landmark building. The permissions have since been extended in 2010 and remain valid but in recent economic conditions it has not proved practicable to deliver such an ambitious project. A further application to extend the existing permissions has recently been submitted in order to protect the fallback option of carrying out the previously approved scheme.
- 6.2. A planning application (ref 2015/04428/PA) has recently been submitted to demolish the existing building and erect a 26 storey office building with ancillary retail (A1/A2/A3 uses). This application was reported as an issues report to your Committee at the meeting on the 25 June 2015, when members considered that there was no merit to the existing building and were generally supportive of the new building. The application is reported elsewhere on this agenda.
- 6.3. To bring forward completion of the new building by early 2018, the developer is keen to start demolition work as soon as possible. Hence the submission of this application to demolish the existing building.

National Planning Policy

- 6.4. Annex 2 to the NPPF defines a 'Heritage asset' as "A building, monument, site, place, area or landscape having a degree of significance meriting consideration in planning decisions because of its heritage interest." It also defines 'Designated heritage asset' as "A World Heritage Site, Scheduled monument, Listed Building, Protected Wreck Site, Registered Park and Garden, Registered Battlefield or Conservation Area designated under the relevant legislation". Any building within a conservation area thus has some protected status being part of the wider area as a 'Designated heritage asset'. Whether a particular building within a conservation area is in fact a heritage asset depends on whether or not it has heritage significance within the context of that conservation area.
- 6.5. Paragraph 136 of the NPPF provides specific advice in relation to the loss of any 'heritage asset' as follows: "Local planning authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred."
- 6.6. Neither the NPPF nor National Planning Policy Guidance provide any more definitive explanation of what should constitute 'reasonable steps'. However Paragraph 137 of

the NPPF specifically encourages local authorities to “look for opportunities for new development within Conservation Areas.....to enhance or better reveal their significance”.

- 6.7. In this case the existing building is not statutorily or locally listed but is within a conservation area and is also part of the current settings of listed buildings on Colmore Row. However, the existing building is not noted as of any heritage merit within this context. It does not exhibit the Victorian and Edwardian architecture which are characteristic of the area, nor is it regarded as complementing the area. Furthermore the conservation area appraisal and policies encourage its demolition and replacement with a more appropriate new tower.
- 6.8. In terms of the NPPF, the City Council's planning policies, which encourage the demolition of the existing building and its replacement with a high quality new tower illustrate the positive action encouraged by NPPF Para 137.
- 6.9. In respect of the ‘reasonable steps’ required by Paragraph 136 the City Council has already taken steps to ensure new development will proceed:-
- the City Council has adopted local plan and conservation area policies which encourage an appropriate redevelopment to replace the existing tower with a new tower of high architectural quality;
 - the Council is facilitating the delivery of the Birmingham City Centre Enterprise Zone which includes the redevelopment of the application site as a specifically encouraged development supported by relevant assistance including flexibility in the exercise of its planning powers;
 - the Council has granted planning permissions for suitable redevelopment schemes in 2008 and again in 2010;
 - the City Council has encouraged the sale of the site to new owners who are willing and able to progress early development; and,
 - the Council has pro-actively undertaken pre-application discussions to encourage the submission of a suitable planning application, which has not been submitted..
- 6.10. In addition the applicant has now submitted an application for the current planning application for a new 26 storey tower proposal. This application was reported to your Committee as an Issues Report at the meeting on the 25th June 2015, when member considered that the existing building was of no merit and generally thought that the proposed new building was well designed.
- 6.11. I am therefore of the view that the City Council has taken ‘reasonable steps’ in encouraging an appropriate redevelopment of the application site through its planning and conservation area policies to ensure that new development will proceed to follow the loss of the existing building on the application site.

Birmingham UDP 2005 and Emerging Birmingham Development Plan 2013

- 6.12. Paragraph 3.27 of the Birmingham UDP requires that:-

- the development should preserve or enhance the character or appearance of the area, and the demolition of buildings or removal of trees or other landscape features which make a positive contribution to the area's character or appearance will be resisted;
 - consent to demolish a building in a Conservation Area will be granted only where its removal or replacement would benefit the appearance or character of the area; and,
 - where a detailed Conservation Area Character Appraisal and Management Plan has been prepared for a particular conservation area, this will be a material consideration in determining applications for development within that Conservation Area.
- 6.13. It is worth noting that in the 2005 UDP there was a change to the wording of the predecessor 1999 plan policy in relation to the second of the extracts above. The effect of this change was to delete additional words from the 1999 plan that had previously stated that "Demolition will normally only be permitted where there are approved detailed plans for the redevelopment. Control of premature demolition may also be secured by way of a conditional consent or a legal agreement". These words are not part of Birmingham's current Statutory Plan having been deleted in 2005 as being considered over-prescriptive.
- 6.14. The Birmingham Development Plan 2031 is in the late stages of preparation having completed the public inquiry stage with final adjustments now taking place prior to formal adoption expected later in 2015. The new plan adopts a positive planning stance encouraging growth and sustainable development. It continues to stress the importance of conservation considerations generally but does not include any specific policies in respect of the consideration of applications for demolition consent. The plan includes the application site as an allocated site for redevelopment, being one of the identified sites for redevelopment as part of the Birmingham City Centre Enterprise Zone.
- Colmore Row and Environs Conservation Area Appraisal and Management Plan
2006
- 6.15. The character appraisal notes the existing tower as one of a number of post war buildings that diverged from the more traditional building forms that otherwise characterise the conservation area. The building is not noted as of any particular heritage merit although it is noted as providing an orienting landmark.
- 6.16. It states that the projected redevelopment of National Westminster House on Colmore Row will involve the removal of the landmark formed by the NatWest Tower. It adds that where the demolition of a building which makes little or no contribution to the character or appearance of the Conservation Area is proposed the Council will expect the submission of detailed plans for redevelopment.
- 6.17. The Colmore Row and Environs Conservation Area policies encourage the demolition and redevelopment of the NatWest tower. The site specific policy recognises that this "will involve the removal of the landmark formed by the NatWest Tower". The existing building is one which makes little contribution to the character or appearance of the conservation area. Existing planning approval already exists for a replacement tower building. Moreover, an application has recently been submitted for a new 26 storey tower. In these circumstances I am of the view that

demolition of the existing building is consistent with both national and local Conservation Area guidance.

Development Management Practice

- 6.18. Usual practice in Birmingham is based on long standing English Heritage advice aimed at avoiding the incidence of vacant sites within conservation areas. This usual practice is that consent for demolition in a conservation area is not given until a planning consent has been granted for a new building on the site. In some instances where a planning authority is not convinced by a developer's commitment to follow through with a new building, evidence may also be required that a contract has been entered into to construct a replacement building.
- 6.19. The practice is relevant in most cases since demolition can typically take only a matter of days or weeks whilst resolving the details of a new building scheme in a sensitive historic context and procuring a contract for development can take several months.
- 6.20. In the case of the demolition of the NatWest Tower, demolition would be a major undertaking in its own right, taking up to a year and involving a significant commitment of the developer's resources. In these circumstances I consider that it reasonable to allow demolition to commence prior to the final grant of a planning consent for the replacement building given that the application for the replacement building is on this agenda.
- 6.21. In addition, the developer has committed to spend £60m to achieve a suitable redevelopment of the site within a tightly constrained timetable targeting completion in early 2018. Substantial expenditure is evident to date on site acquisition, preliminary works in preparation for demolition, and design of a proposed new building. I therefore consider that the developer has provided sufficient confidence that a replacement building would be delivered immediately after demolition in a timely manner. The previous application for demolition of the existing building also included an interim landscaping scheme, which Members had concerns about. This element of the scheme has now been removed from the current proposals.

Impact on the Conservation Area and Setting of nearby Listed Buildings

- 6.22. I note the objection from Historic England, however, consent has previously been granted to demolish the existing building and a scheme for redevelopment of the site has now come forward. Moreover, my Conservation Officer notes that:-

"The tower is a significant piece of architecture which responds well to the conservation area, through its clever handling of the banking hall (following the eaves line of the wider street), and setting back of the tower. The structure, therefore, considers and responds to the conservation area rather than contributing to its character and designation. That said, it remains an anomaly within the conservation area, contrasting sharply with the wider handling of the townscape and therefore has limited value to the conservation area designation. The Colmore Row and Environs Conservation Area Appraisal and Management Plan states that 'the projected redevelopment of National Westminster House on Colmore Row will involve the removal of the landmark formed by the NatWest Tower'. This clearly reflects the limited contribution that the tower makes towards the conservation area and the acceptance that the site will be redeveloped. The NPPF(2012) refers to harm in term of substantial harm (para 133) and less than substantial harm (para 134). As substantial harm equates (in part) to total loss of a heritage asset (in this

case the conservation area) then the harm can only be less than substantial as the conservation area remains in chief (considering the structure is neither typical of other buildings that qualified the designation of the conservation area nor is it listed). The harm caused by the loss of the building, therefore, is limited in its impact on the conservation area and the Pevsner critique 'disastrous in context' should be recognised. Moreover, the demolition is beneficial to the setting of listed buildings."

- 6.23. I concur with the my Conservation Officer and consider that demolition of the Natwest Tower would not have an adverse impact on key views from Victoria Square and the Cathedral Churchyard, or in respect of the significant historic streetscapes of Colmore Row, Newhall Street and Waterloo Street.
- 6.24. The removal of the Natwest Tower would open views of the side elevations of No.115 Colmore Row and Edmund House. The side elevation of Edmund House has a blank gable wall and set back element with a regular pattern of windows similar to the front elevation. No.115 Colmore Row has a party wall adjoining the tower which after demolition presents a blank vertical element. This section of "party wall" would be weather proofed but other east elevations of the building which would be exposed have windows. Overall, I consider that the newly exposed elevations of adjacent buildings would not have an adverse impact upon the setting of the listed buildings opposite.

Access and Impact on Neighbouring Properties

- 6.25. Demolition details provided in the supporting documents and have been discussed in principle with BCC Transportation Development. Various licences and permits are required for these works to commence but these are covered in separate Highways legislation. With regard to the hoarding line one approach that was discussed included the possibility of a closure of Colmore Row for 18 months. However, it is now the applicant's intention to use a tower crane so a closure of Colmore Row is not essential and is not now proposed.
- 6.26. As within any major demolition project there would be some impact on neighbouring properties. A Demolition Method Statement has therefore been submitted with the application, which includes measures to control noise, dust and vibration.
- 6.27. The applicant has confirmed to salvage the banking hall doors and to store them for re-use, but not necessarily on this site.

Wildlife

- 6.28. A baseline ecology survey of the site was carried out prior to the 2008 tall tower planning application. This did not indicate any major ecology issues such as to preclude demolition but did note the building as providing potential habitat for nesting by protected bird species known in the vicinity notably Black Redstarts and/or Perigrine Falcons. An updated survey has been undertaken, which recommends that either demolition takes place before the start of the bird nesting season in mid-march, or an ecologist visits the site before work commences to assess the site for the presence of nesting birds. If any active nests are found, an appropriate buffer zone would be need to be established and works in the vicinity may need to be limited until the young birds have fledged the nest. A condition is attached to ensure that the recommendations in the report are implemented.

7. Conclusion

7.1. Demolition of the existing NatWest tower building is appropriate in national and local planning policy terms. Furthermore, it would allow a lengthy demolition works contract to progress at the earliest possible opportunity, facilitating early redevelopment of this long vacant building, which has been identified as an Enterprise Zone site.

8. Recommendation

8.1. Approve subject to Conditions

-
- | | |
|---|--|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Requires the implementation of the submitted mitigation/enhancement plan |
| 3 | Requires the implementation of the submitted demolition method statement |
| 4 | Limits the approval to 3 years (Full) |
-

Case Officer: David Wells

Photo(s)

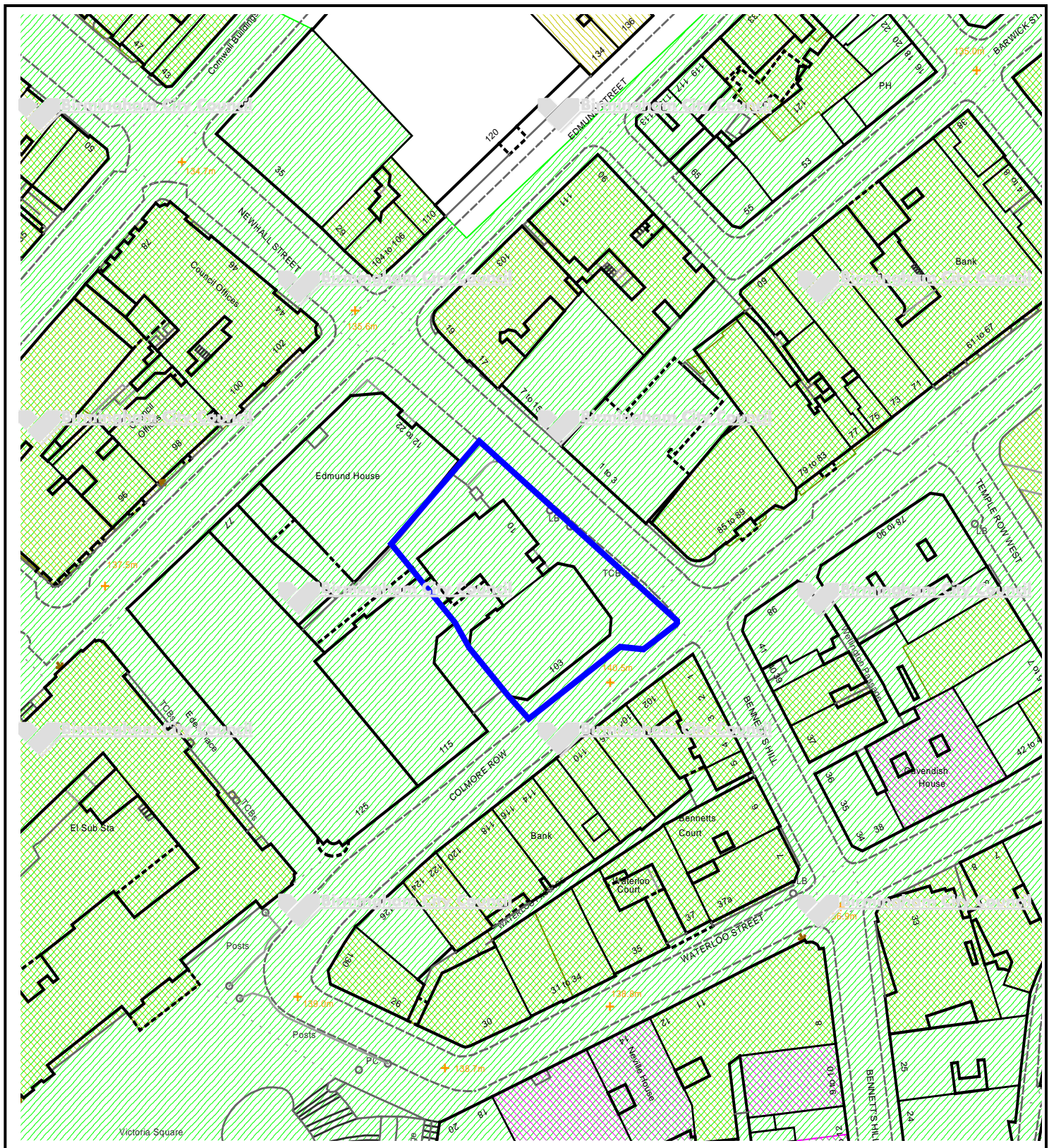


Natwest Tower view from St Philip's Churchyard



Natwest Tower view of Banking Hall

Location Plan



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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)

-
- 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
-

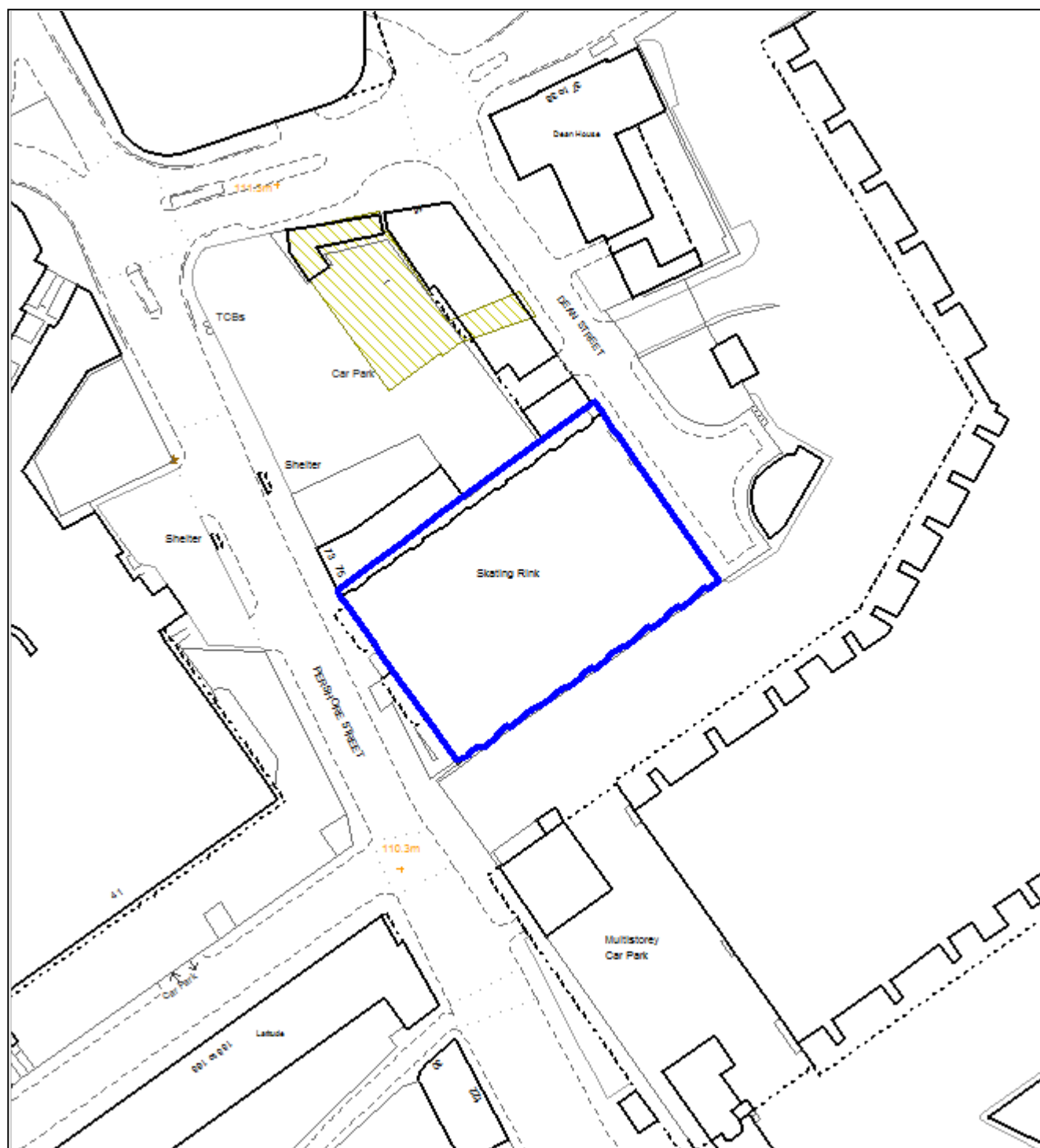
Case Officer: Joanne Todd

Photo(s)



Photo 1: Existing site from north west

Location Plan



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BIRMINGHAM CITY COUNCIL

Appendix

REPORT OF DIRECTOR OF PLANNING AND REGENERATION

PLANNING COMMITTEE

6 August 2015

Birmingham Development Plan

1. Purpose of report

- 1.1 To inform members of the progress of the Birmingham Development Plan, including public consultation on the Proposed Main Modifications and revised Sustainability Appraisal.
- 1.2 All background papers can be found on the Birmingham Development Plan pages of the City Council website (www.birmingham.gov.uk/plan2031).

2. Recommendations

- 2.1 To note the attached Cabinet Report.
- 2.2 To forward any comments on the Proposed Main Modifications or the revised Sustainability Appraisal to the Director of Planning and Regeneration.

3. Contact Officer

Martin Eade
Tel: 0121 303 3430
Email: martin.eade@birmingham.gov.uk



Waheed Nazir
Director of Planning and Regeneration

BIRMINGHAM CITY COUNCIL**PUBLIC REPORT**

Report to:	CABINET
Report of:	Director of Planning and Regeneration
Date of Decision:	27 July 2015
SUBJECT:	Birmingham Development Plan : Inspector's Recommendations and Proposed Modifications
Key Decision: Yes	Relevant Forward Plan Ref: 000249/2015
If not in the Forward Plan: (please "X" box)	Chief Executive approved <input type="checkbox"/> O&S Chairman approved <input type="checkbox"/>
Relevant Cabinet Member(s)	Cllr Ian Ward, Deputy Leader Cllr Tahir Ali, Development ,Transport and the Economy
Relevant O&S Chairman:	Cllr Victoria Quinn, Economy, Skills and Sustainability.
Wards affected:	All

1. Purpose of report:

- 1.1 The Birmingham Development Plan (BDP) was submitted for examination in July 2014. The examination hearings took place during October and November 2014, and Interim Findings were published by the independent inspector in January 2015. These requested the Council to undertake some additional work in relation to the assessment of housing requirements and the Sustainability Appraisal. This work has been completed and the inspector has now provided the Council with a schedule of the Proposed Modifications to the BDP which he has concluded are necessary to make it sound. This includes some changes to the Policies Map and the Plans within the BDP document.
- 1.2 The next step in the process is for these Proposed Modifications, together with the Revised Sustainability Appraisal, to be published for six weeks formal consultation. This report seeks the agreement of Cabinet to undertake this consultation.

2. Decision(s) recommended:

That Cabinet :

- 2.1 Authorises the Director of Planning and Regeneration to undertake formal consultation on the Proposed Modifications recommended by the Birmingham Development Plan examination Inspector (Appendix 1 to this report), the Modifications to the Policies Map (Appendix 2), Modifications to the Plans within the BDP document (Appendix 3) and the Revised Sustainability Appraisal (Appendix 4).
- 2.2 Notes that after the consultation period and receipt of the Inspector's final report, the BDP will be reported to Full Council for adoption.

Lead Contact Officer(s):	Martin Eade, Team Manager, Planning Strategy.
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E-mail address:	Martin.eade@birmingham.gov.uk

3.	Consultation
3.1	<p><u>Internal</u></p> <p>The Chairman of Planning Committee and the Executive Management Team Economy Sub Group have been consulted.</p>
3.2	<p><u>External</u></p> <p>The BDP has been subject to extensive public consultation over a period of years during the course of its preparation. Many of those making comments were able to present their views directly to the inspector during the examination hearings, and all of the comments made on the Submission version of the plan have been taken into account by the inspector in reaching his conclusions.</p> <p>The modifications which the Inspector has now proposed will be subject to a further round of public consultation before he finalises his conclusions on the plan.</p>
4.	Compliance Issues:
4.1	<p><u>Are the recommended decisions consistent with the Council's policies, plans and strategies?</u></p> <p>The BDP contributes towards the overarching objectives of the Council Business Plan and Budget 2015+ specifically "a Green and Sustainable City" and "Infrastructure, Development and Smart City", by defining in a document a coherent strategy for the growth of the city.</p>
4.2	<p><u>Financial Implications</u></p> <p>The BDP has been prepared using existing Planning and Regeneration staff resources and specialist external consultants to prepare specific evidence. There have also been costs associated with providing specialist legal support from Queens Counsel. This expenditure has been provided for in the Planning and Regeneration revenue budget for 2014/15. The additional costs associated with the next consultation stage are anticipated to be in the region of £5,000 and will be funded from Planning and Regeneration's revenue budget for 2015/16.</p>
4.3	<p><u>Legal Implications</u></p> <p>The preparation of the Birmingham Development Plan 2031 is required under the Planning and Compulsory Purchase Act 2004. More detailed guidance is provided in the Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2012 and National Planning Policy Framework. which requires Local Authorities to plan to meet objectively assessed needs for new housing, employment etc.</p>
4.4	<p><u>Public Sector Equality Duty (see separate guidance note)</u></p> <p>The Submission Plan was accompanied by an Equalities Analysis (ref DE 1207 BP) which indicated that there were no significant adverse implications.</p>
5.	Relevant background/chronology of key events:

- 5.1 The BDP 2031 will set out a spatial vision and a strategy for the sustainable growth of Birmingham for the period to 2031. The BDP will be one of the Council's key strategic policy documents.
- 5.2 The BDP is being prepared in line with a statutory process and was subject to several rounds of public consultation before it was submitted to the Secretary of State for formal examination by an independent inspector in July 2014. The examination hearings took place in October/November 2014.
- 5.3 The Inspector published Interim Findings in January 2015. In these Findings he requested the Council to undertake additional technical work in relation to two issues:
- The assessment of overall housing requirements, to take account of revised population and household projections and more recent government guidance.
 - The Sustainability Appraisal, to ensure that all reasonable alternatives were considered on the same basis within the Appraisal document. (This has become a common area for legal challenge.)
- 5.4 This work has been completed, and the inspector has now produced a schedule of proposed Main Modifications which he has concluded are required to make the Plan sound. The next step is for these Modifications and the Revised Sustainability Appraisal (attached as appendices to this report) to be published for a further period of public consultation. The Inspector will then consider the comments received before finalising his report.
- 5.5 There are a significant number of Proposed Modifications, but the majority of these relate to matters of detailed wording. The most significant points are as follows:
- There is a slight increase in the overall housing requirement (up to 89,000 from 84,000, reflecting more recent projections), but no change to the target of 51,100 to be delivered in Birmingham.
 - The Council's approach to working with neighbouring Councils to provide for the shortfall is supported, and wording is proposed within the Plan to explain this. It is also proposed that the Council should monitor the delivery of this shortfall in neighbouring areas.
 - There are no significant changes to the overall requirements for employment, retail or office development (although there is a change to the retail figure to correct an error in the submitted Plan).
 - There are no changes to the principle of the proposals to remove land from the green belt for residential development at Langley and the former Yardley Sewage Works and for employment development at Peddimore, although there are detailed changes to the policy wording. In the case of Peddimore, this includes a reduction in the developable area of the site from 80 hectares to 71 hectares to reduce its visual impact.
 - There are no proposals for the removal of any additional land from the green belt.
 - All the proposed Growth Areas within the urban area are supported, although with detailed changes to policy wording in a number of cases.
 - The gypsy and traveller policy is revised to include two site allocations for gypsy and traveller use, at Hubert St/Aston Brook St East (an extension to an existing site) and at Rupert St/Proctor St.
 - A new Minerals policy is included, to ensure that in the case of major developments any workable mineral reserves are extracted before development takes place.
 - Modifications are proposed to incorporate the key elements of the Protection of Industrial Land, Shopping and Local Centres and Open Space in New Residential Development SPDs within the Plan.
 - The Sustainable Drainage policy is revised to reflect the new Sustainable Urban Drainage requirements.

5.6 At this stage the Inspector has not produced a report explaining his conclusions, but the scope of the Proposed Modifications makes it clear that he is supporting the Council's overall strategy and the levels of growth proposed within the submitted Plan. This is very much to be welcomed.

6. Evaluation of alternative option(s):

6.1 The process for preparing a Development Plan is specified in the Town and Country Planning Regulations. At this stage it is not possible for the BDP to proceed unless the Council accepts the inspector's recommendations. There is therefore no effective alternative to the approach recommended in this report.

7. Reasons for Decision(s):

7.1 To enable statutory consultation to take place on the Inspector's Proposed Modifications to the BDP and the revised Sustainability Appraisal.

Signatures

Date

Cllr Ian Ward
Deputy Leader

.....

Cllr Tahir Ali
Cabinet Member for
Development, Transport and
The Economy

.....

Waheed Nazir
Director of Planning and
Regeneration.

.....

List of Background Documents used to compile this Report:

Submitted Birmingham Development Plan and associated background papers available at www.birmingham.gov.uk/plan2031.

Cabinet Report 21/10/2013: Birmingham Development Plan 2031 – Pre-submission consultation.

City Council Report 3/12/2013: Birmingham Development Plan – Submission.

List of Appendices accompanying this Report (if any):

1. Inspector's Proposed Main Modifications to the Birmingham Development Plan.
2. Proposed Modifications to the BDP Policies Map.
3. Revised Plans for inclusion within the BDP document.
4. Revised Sustainability Appraisal
5. Equalities Analysis (ref DE 1207 BP)

BIRMINGHAM CITY COUNCIL

Appendix

REPORT OF DIRECTOR OF PLANNING AND REGENERATION

PLANNING COMMITTEE

6 August 2015

Community Infrastructure Levy

1. Purpose of report

- 1.1 To inform members of the proposed adoption date of 4 January 2016 for the Community Infrastructure Levy Charging Schedule.

2. Recommendations

- 2.1 To note the attached Cabinet Report.
- 2.2 To note the proposed adoption date of the Community Infrastructure Levy Charging Schedule.

3. Contact Officer

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Waheed Nazir
Director of Planning and Regeneration

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	CABINET
Report of:	Director Planning and Regeneration
Date of Decision:	27th July 2015
SUBJECT:	ADOPTION OF THE COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE
Key Decision: No	Relevant Forward Plan Ref: N/A
If not in the Forward Plan: (please "X" box)	Chief Executive approved <input type="checkbox"/> O&S Chairman approved <input type="checkbox"/>
Relevant Cabinet Members:	Cllr Tahir Ali, Cabinet Member for Development, Transport and the Economy. Cllr Ian Ward, Deputy Leader
Relevant O&S Chairman:	Cllr Victoria Quinn, Economy, Skills and Sustainability Overview and Scrutiny Committee
Wards affected:	All

1. Purpose of report:
1.1 To seek approval to adopt the Community Infrastructure Levy (CIL) and for the CIL Charging Schedule to take effect on Monday 4 th January 2016.

2. Decision(s) recommended: That Cabinet:-
2.1 Approves this report and agrees to recommend the adoption of the Community Infrastructure Levy Charging Schedule.
2.2 Recommends to City Council that the Community Infrastructure Levy Charging Schedule be adopted and commence on Monday 4 th January 2016.

Lead Contact Officer(s):	Ian MacLeod/Hayley Anderson
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3. Consultation

3.1 Internal

The CIL Regulations 2010 (as amended) outlines the stages which must be followed in order to adopt a CIL. As part of a two stage public consultation and an Examination in Public process (set out in Section 5), reports have been presented and approved by Cabinet to allow publication of Preliminary Draft and Draft CIL charges. Officers have also attended Economy and Transport Overview and Scrutiny Committee in relation to the draft charging schedule (17th October 2014) and sought comments from services including Education, Leisure, Transportation, Housing and Legal Services involved in current Town and Country Planning Act 1990 (TCPA) Section 106 (S106) processes.

3.2 External

The CIL Regulations 2010 (as amended) outlines the stages which must be followed in order to adopt a CIL. Both consultations were available online with direct links to an online consultation portal (Objective and Be Heard). Emails were sent notifying statutory consultees such as adjoining authorities as well as interested parties, working groups etc advising them of the consultation processes and dates. Throughout the Examination in Public, a dedicated Programme Officer (in line with the Regulations) acted as a conduit between the City Council and the public and all documents were available on line and in print.

4. Compliance Issues:

4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

The CIL is a mechanism to secure funding to contribute to the infrastructure needed to support the growth of the city and the implementation of the Birmingham Development Plan (BDP). CIL will contribute towards the overarching objectives of the Councils Business Plan and Budget 2015 plus specifically a 'Green and Sustainable City' and 'Infrastructure Development and Smart City'.

4.2 Financial Implications

(Will decisions be carried out within existing finance and Resources?)

4.2.1 Once adopted, the CIL, as a mandatory charge, has the potential to generate funds for the City Council which can be used to support the provision of infrastructure required to support growth within Birmingham. The CIL will also generate funds which can be used to provide strategic infrastructure across the whole of the city whilst changes in the law governing TCPA S106 agreements mean, (from April 2015), the City Council can only secure TCPA S106 obligations which relate directly to the development site. The CIL will provide greater flexibility than the existing TCPA S106 mechanism, as it will allow the City Council to utilise the CIL infrastructure funds where there is greatest need. The CIL will be reviewed within three years to ensure charges reflect development viability.

4.2.2 The process for determining where CIL money is spent, in accordance with overall corporate priorities, will be incorporated into the City Council's annual budget report. These priorities will be based upon the Regulation 123 list (CIL Regulations 2010 as amended) which defines the City Council's Infrastructure priorities as reported to Cabinet (see Cabinet report 15th September 2014). Revenue from CIL is estimated to be in line with current S106 contributions which are around £3million per annum but CIL provides greater flexibility on where it is spent.

- 4.3 Legal Implications
Under the Planning Act 2008, a Local Authority is enabled but not required to adopt a CIL. The detailed requirements and procedures which must be followed in preparing a CIL are set out in the Planning Act 2008 (Chapter 29, Part II) and in the Community Infrastructure Levy Regulations 2010, as amended.
- 4.4 Public Sector Equality Duty (see separate guidance note)
In overall terms the CIL has been assessed as having a positive impact on the promotion of equality. By providing essential investment in infrastructure across the city, it will help create opportunity for all. (EA ref: DE0912CL)
As stated in Department for Communities and Local Government (DCLG) guidance, Charging Schedules will not require a Sustainability Appraisal.

5. Relevant background/chronology of key events:

- 5.1 CIL is a mandatory charge per square metre on certain developments to support the provision of infrastructure needed to support growth in the city. The CIL Regulations 2010 (as amended) outlines the stages which must be followed in order to adopt a CIL. These regulations also clarified the future role of TCPA S106 agreements, and it became apparent that in order to continue to secure income via planning obligations, the City Council would need to adopt a CIL.
- 5.2 In early 2012, external consultants GVA were appointed to examine the viability of different types of development across the city and propose CIL charges for public consultation. This Preliminary Draft Charging Schedule was approved by Cabinet for public consultation for a period of eight weeks during December 2012 and January 2013. This consultation also included specific meetings with the development sector and public drop in sessions.
- 5.3 Taking account of comments received, a revised set of charges was published for public consultation for six weeks from September 2014 to November 2014. This consultation again followed Cabinet approval.
- 5.4 The charges proposed in the Draft Charging Schedule were more favourably received, and were duly submitted for Examination on 4th February 2015, unaltered.
- 5.5 The Examination in Public was held on 30th April 2015 and the City Council has now received the Examiner's report. The report is to be welcomed and concludes that the proposed charges "provide an appropriate basis for the collection of CIL in our area", and that "CIL will secure an important funding stream for infrastructure necessary to support the planned growth in the city". Only two minor modifications are proposed by the Examiner. The first is a clarification that all Use Class C2 development will be zero rated for CIL purposes. The second is to increase the retail convenience size threshold at which CIL would apply, from 2,000 sq.m. to 2,700 sq.m.
- 5.6 The Examiner suggests that the CIL charges are reviewed within three years of adoption to ensure the charges remain appropriate and relevant. It should also be noted that we are one of the first (and few) local authorities to receive approval to commence charging our CIL in advance of an adopted Development Plan which is testament to the detail contained within the draft Birmingham Development Plan.

5.7 Next Steps

Section 213 of the Planning Act 2008 (as amended) states that a Charging Authority must approve a Charging Schedule at a meeting of the authority and by a majority of votes of Members present. Following this approval, the City Council intends for CIL to take effect on Monday 4th January 2016 and CIL will be charged on all relevant applications at the time planning permission first permits development (i.e. when the Planning Decision Notice is issued), irrelevant of submission date.

6. Evaluation of alternative option(s):

- 6.1 To do nothing – This would result in a loss of funding for infrastructure provision across the city as the scope of TCPA S106 agreements will be reduced.

7. Reasons for Decision(s):

- 7.1 To secure a source of funding for infrastructure provision to enable Birmingham to grow in line with the Birmingham Development Plan.

Signatures**Date**

Cllr Tahir Ali
Cabinet Member for
Development, Transport and
the Economy

.....

Cllr. Ian Ward,
Deputy Leader

.....

Waheed Nazir
Director Planning &
Regeneration

.....

List of Background Documents used to compile this Report:

- Relevant Officer's file(s) on the matter save for confidential documents.
- Community Infrastructure Levy – Preliminary Draft Charging Schedule Consultation 29 October 2012
- Community Infrastructure Levy – Draft Charging Schedule Consultation 15 September 2014

List of Appendices accompanying this Report (if any):

1. CIL Charging Schedule
2. CIL Examiner's Report
3. Equality Analysis

Report Version**Dated**

15 July 2015

PROTOCOL PUBLIC SECTOR EQUALITY DUTY

- 1 The public sector equality duty drives the need for equality assessments (Initial and Full). An initial assessment should, be prepared from the outset based upon available knowledge and information.
- 2 If there is no adverse impact then that fact should be stated within the Report at section 4.4 and the initial assessment document appended to the Report duly signed and dated. A summary of the statutory duty is annexed to this Protocol and should be referred to in the standard section (4.4) of executive reports for decision and then attached in an appendix; the term 'adverse impact' refers to any decision-making by the Council which can be judged as likely to be contrary in whole or in part to the equality duty.
- 3 A full assessment should be prepared where necessary and consultation should then take place.
- 4 Consultation should address any possible adverse impact upon service users, providers and those within the scope of the report; questions need to assist to identify adverse impact which might be contrary to the equality duty and engage all such persons in a dialogue which might identify ways in which any adverse impact might be avoided or, if avoidance is not possible, reduced.
- 5 Responses to the consultation should be analysed in order to identify:
 - (a) whether there is adverse impact upon persons within the protected categories
 - (b) what is the nature of this adverse impact
 - (c) whether the adverse impact can be avoided and at what cost – and if not –
 - (d) what mitigating actions can be taken and at what cost
- 6 The impact assessment carried out at the outset will need to be amended to have due regard to the matters in (4) above.
- 7 Where there is adverse impact the final Report should contain:
 - a summary of the adverse impact and any possible mitigating actions (in section 4.4 or an appendix if necessary)
 - the full equality impact assessment (as an appendix)
 - the equality duty – see page 9 (as an appendix).

Equality Act 2010

The Executive must have due regard to the public sector equality duty when considering Council reports for decision.

The public sector equality duty is as follows:

1	<p>The Council must, in the exercise of its functions, have due regard to the need to:</p> <ul style="list-style-type: none">(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act;(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
2	<p>Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none">(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
3	<p>The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.</p>
4	<p>Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none">(a) tackle prejudice, and(b) promote understanding.
5	<p>The relevant protected characteristics are:</p> <ul style="list-style-type: none">(a) age(b) disability(c) gender reassignment(d) pregnancy and maternity(e) race(f) religion or belief(g) sex(h) sexual orientation

Community Infrastructure Levy Charging Schedule

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1.0 What is the Community Infrastructure Levy?

The Community Infrastructure Levy (CIL) is a charge on new buildings in England and Wales. It is a mechanism to ensure certain types of new development contribute to the infrastructure needed to support that development. This infrastructure will support the growth aspirations for Birmingham as outlined in the Birmingham Development Plan which includes proposals for over 50,000 new homes and 100,000 new jobs. This infrastructure could include new schools, roads, parks and public transport improvements.

The charge provides a greater level of certainty for developers and land owners regarding their contributions and will be charged per net square metre of new development.

We will need approval from Full Council to begin charging a CIL, and subject to this approval, we intend to commence charging on Monday 4th January 2016.

2.0 CIL and other planning documents

To adopt a CIL, we need bring together “relevant evidence” which shows our aspirations for growth, the infrastructure needed to support that growth and its cost. We also need to show that the proposed charge will not discourage new developments from being built.

These documents are available on our website at www.birmingham.gov.uk/cil and www.birmingham.gov.uk/plan2031/evidencebase and include the following:

- The CIL Charging Schedule
- CIL Charging Maps
- CIL Economic Viability Assessment (GVA report) – October 2012
- The Birmingham Development Plan (Pre Submission Version)
- The Birmingham Development Plan Policies Map
- Site Delivery Plan
- Infrastructure Delivery Plan
- Preliminary Draft Charging Schedule information and consultation responses
- Regulation 123 list

The Birmingham Development Plan (BDP) was submitted to the Secretary of State for Examination on July 1st 2014, and the Examination Hearing Sessions have now finished. It is anticipated that the BDP will be adopted in 2016.

You can find the Birmingham Development Plan here www.birmingham.gov.uk/plan2031

3.0 The Infrastructure Development Plan

The Infrastructure Delivery Plan (IDP) identifies the infrastructure needed to support the growth of the City. This document helps to identify the types and costs of infrastructure, the delivery timetable and gaps in funding. The IDP is a collaborative effort and we have worked with a wide range of departments and stakeholders who have a role in delivering that infrastructure. The IDP clearly demonstrates a funding gap for the delivery of critical infrastructure which CIL will help to address. You can find the latest version of the IDP [here](#)

4.0 The Community Infrastructure Levy Preliminary Draft Charging Schedule – Viability Study (GVA)

We appointed GVA to carry out a viability study. We wanted this study to look at the viability of various hypothetical developments across the City. When assessing viability, GVA considered planning policy requirements (e.g. standards for sustainable buildings) which can add to the cost of a new development. This study shows possible CIL charges across the City, with different charges by type and location of those developments.

5.0 The Draft Charging Schedule

Following the Preliminary Draft Charging Schedule consultation, a number of responses raised specific issues regarding retail use categories, residential assumptions and values and charges specifically in relation to the Green Belt proposals in the Birmingham Development Plan. We requested GVA conduct further analysis to address the concerns mentioned.

In addition to supplementary testing, we have further amended the charges to take into account the current economic situation. While the economy is no longer in recession, the recovery is delicately balanced. CIL charges should not prejudice this recovery, and must strike an appropriate balance between funding for infrastructure and CIL's impact on economic viability. The proposed charges contained within the CIL also take into account unforeseen costs, additional planning policy requirements and on site Section 106 (S106) contributions. Once adopted, there is the possibility of an early review and potential amendment to CIL charges as the economy continues to recover.

5.1 Additional Retail Testing

Additional, hypothetical development schemes were tested (specifically convenience stores, city centre retail and convenience store with petrol station). The scenarios tested are high level and cannot be used as an example of what an individual developer or operator would be prepared to pay for land at any given location.

The appraisals assume a zero contribution towards S106 costs.

The paper can be found [here](#).

5.2 Additional Employment Testing, including Sustainable Urban Extension (Peddimore Employment Proposal)

Additional employment scenarios were tested, specifically in relation to industrial development on a greenfield site and offices in the prime and fringe of the city centre, to demonstrate potential charges for employment use. The scenarios tested are high level and cannot be used as an example of what an individual developer or operator would be prepared to pay for land at any given location.

To test the viability of a range of schemes on Green Belt employment land, three different scenarios were tested – pre-let industrial use, speculative industrial use and speculative business park use. The papers can be found [here](#).

5.3 Additional Miscellaneous Testing and Analysis

This paper updates the initial viability testing from October 2012. This paper reviews the original, proposed CIL rates and gives a greater viability “cushion” for CIL charges. This ensures the CIL will remain viable even with the varying circumstances for each development scheme. The paper can be found at [here](#).

5.4 Residential Urban Extension

Additional testing was undertaken for a large, strategic scale development of 5,000 units. This is a hypothetical example which mirrors the potential characteristics of the scheme recommended in the Sustainable Urban Extension (SUE). It is assumed that developments will be undertaken by large regional and national developers who benefit from economies of scale.

The testing assumes there will be significant on-site mitigating requirements for such a large scale development, and therefore S106 contributions are unlikely to be pooled with S106 agreements for other schemes.

Testing was undertaken assuming S106 contributions equivalent to £10,000 and £20,000 per dwelling. Further tests also assumed 20% and 35% affordable housing. In all cases, the assumptions adopted give a positive residual land value which suggests the scheme is deliverable; however the appraisals do not equal or exceed the adopted base land values. Therefore, the testing recommends a zero charge for residential development in the Green Belt. The paper can be found at [here](#).

5.5 Affordable Housing Providers and Birmingham Municipal Housing Trust

Amended guidance for the CIL was published on the Planning Practice Guidance website on 12 June 2014, and this replaced the previous standalone guidance that was published in February 2014.

This guidance states that we may offer further, discretionary relief for affordable housing types which do not meet the criteria required for mandatory social housing relief and are not regulated through the National Rent Regime.

The majority of Birmingham Municipal Housing Trust (BMHT) schemes deliver socially rented housing. These properties are funded through a mixture of internally generated resources, grant funding and recycled surpluses from house sales with the land being provided to the scheme at no cost. There is no developer profit achieved on a BMHT scheme as any surpluses created from the homes for sale are reinvested into new homes for rent or into community benefits such as road improvements or public open space.

Therefore it is proposed to exempt BMHT developments from CIL charges. This paper can be found at [here](#).

Similarly, we propose to exempt all social housing providers registered with the Homes and Communities Agency from CIL charges.

6.0 The CIL Examination Process

We submitted our CIL Draft Charging Schedule to the Planning Inspectorate on Wednesday 4th February 2015 for public examination. Our CIL Examination was held at our offices at Lancaster Circus on Thursday 30th April 2015 and all information relating to the Examination, including the Full Report, can be found [here](#).

The Inspector's Report concludes that our Charging Schedule provides an appropriate basis for the collection of the levy, that the charges are set at levels which will not put the overall development of the Birmingham area at risk, and will secure an important funding stream for infrastructure necessary to support planned growth in the city.

Following the Examination, we now need Full Council approval to adopt a CIL, and subject to this approval, we intend to adopt our CIL and commence charging on Monday 4th January 2016.

7.0 CIL Charges

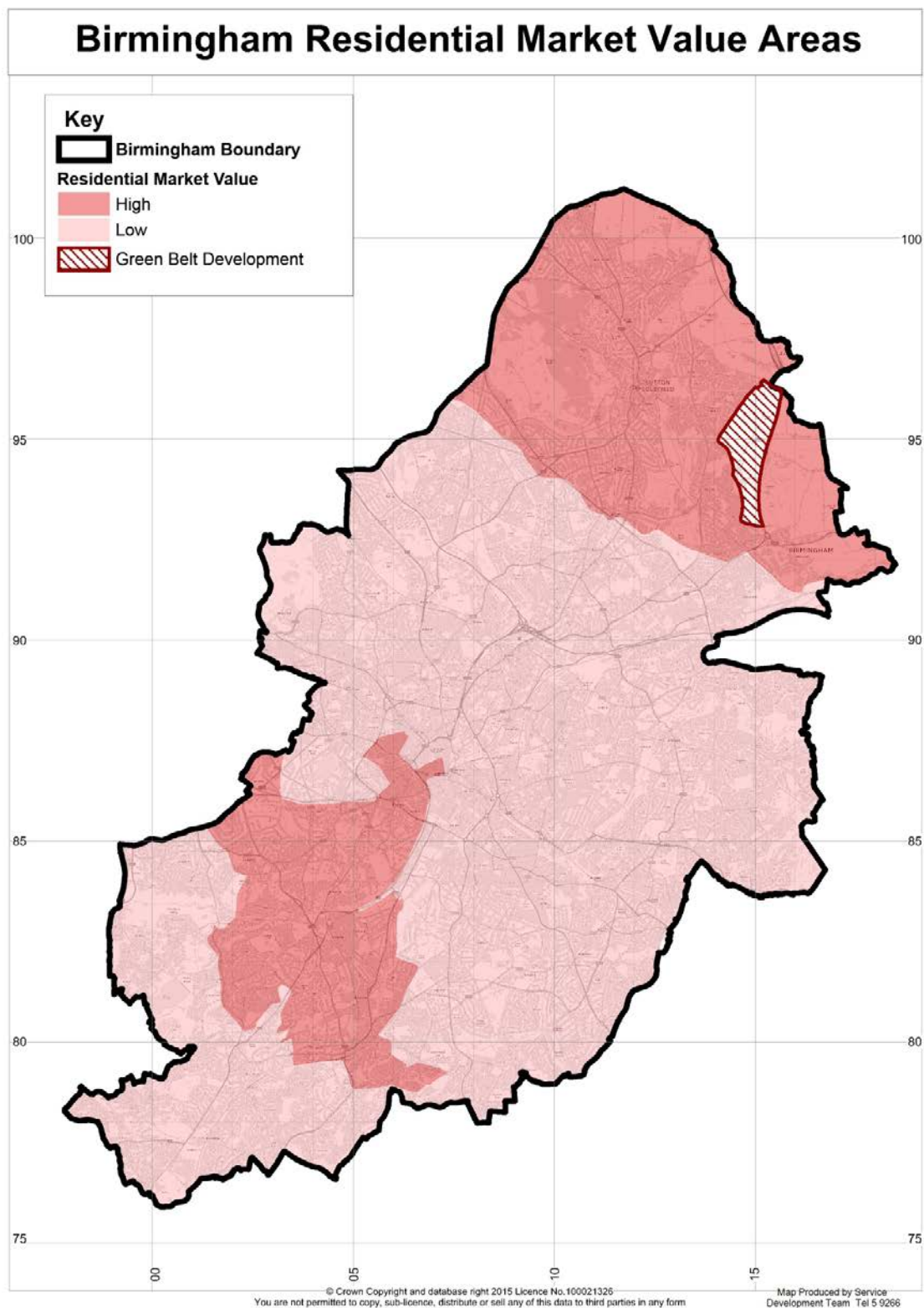
Development Type	Detail	Charge/sqm
Retail convenience ¹	<2,700 sqm	£0
Retail convenience ¹	>2,700 sqm	£260
Retail ²	All other	£0
Retail ²	Greenbelt Development (Sustainable urban extension)	£0
Industrial/Employment	All areas	£0
Offices	All areas	£0
Residential	Value zones 1,2 & 3 (High value area)	£69
Residential	Value zones 4,5,6 & 7 (Low value area)	£0
Residential	Green Belt Development (Sustainable urban extension)	£0
Residential	Social Housing Providers registered with HCA and Birmingham Municipal Housing Trust developments	£0
Student housing	All areas, except Green Belt Development (Sustainable urban extension)	£69
Student Housing	Green Belt Development (Sustainable urban extension)	£0
Hotel	City centre	£27
Hotel	Green Belt Development (Sustainable urban extension) and rest of city	£0
Leisure	All areas	£0
Education	All areas	£0
Health	All areas	£0
Use class C2 ³	C2 use	£0
All other development	All areas	£0

1. Retail convenience can also include non-food floorspace as part of the overall mix of the unit.

2. Retail - This category will include those retail units selling goods not bought on a frequent basis.

3. The Town and Country Planning (Use Classes) Order 1987 (as amended) defines Use Class C2 Residential Institutions as – residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres.

7.1 Charging Zone Maps

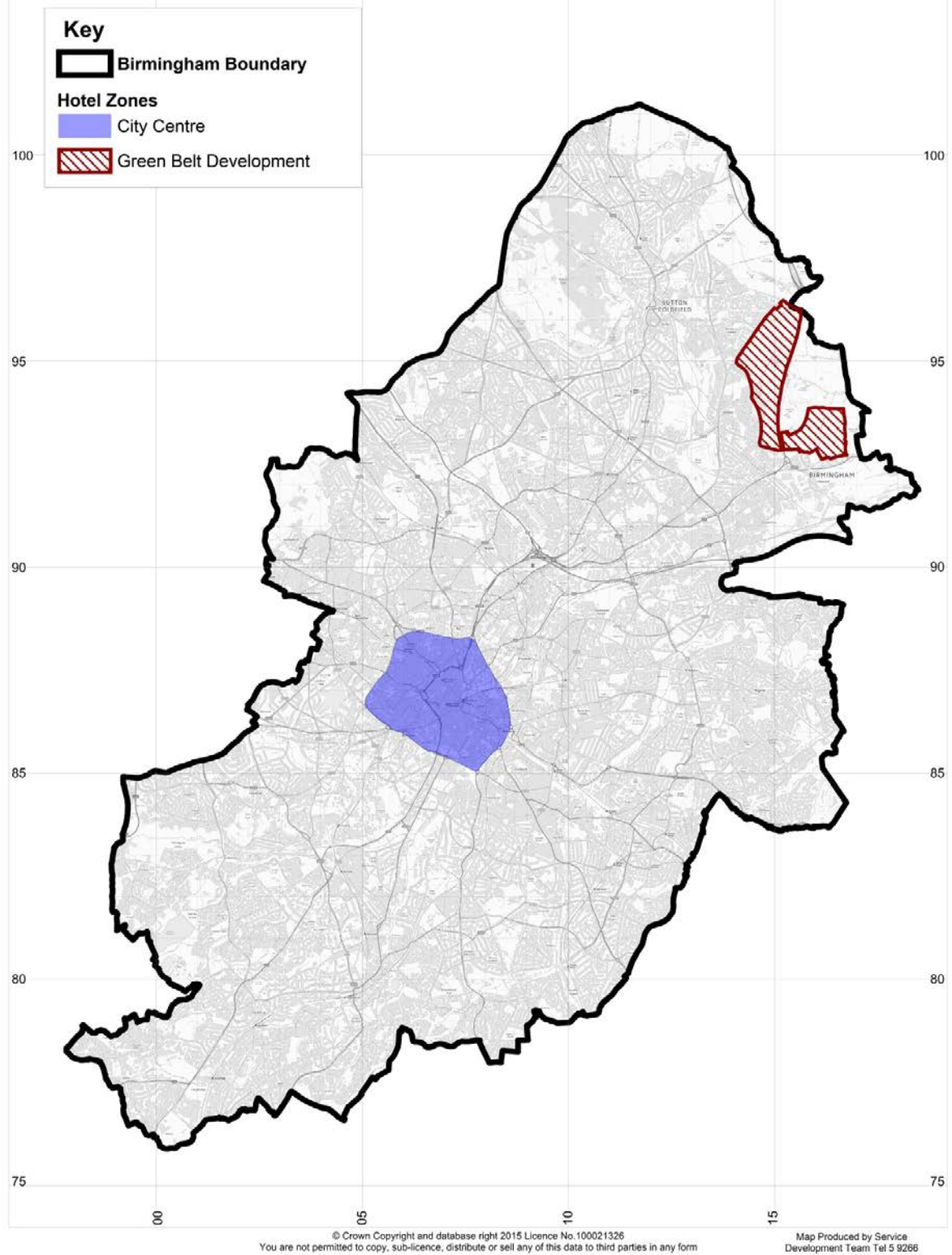


Please note – where the residential charging zone dissects a building on the above plan, the postcode used for the planning application site address will determine which charging zone the application falls under.

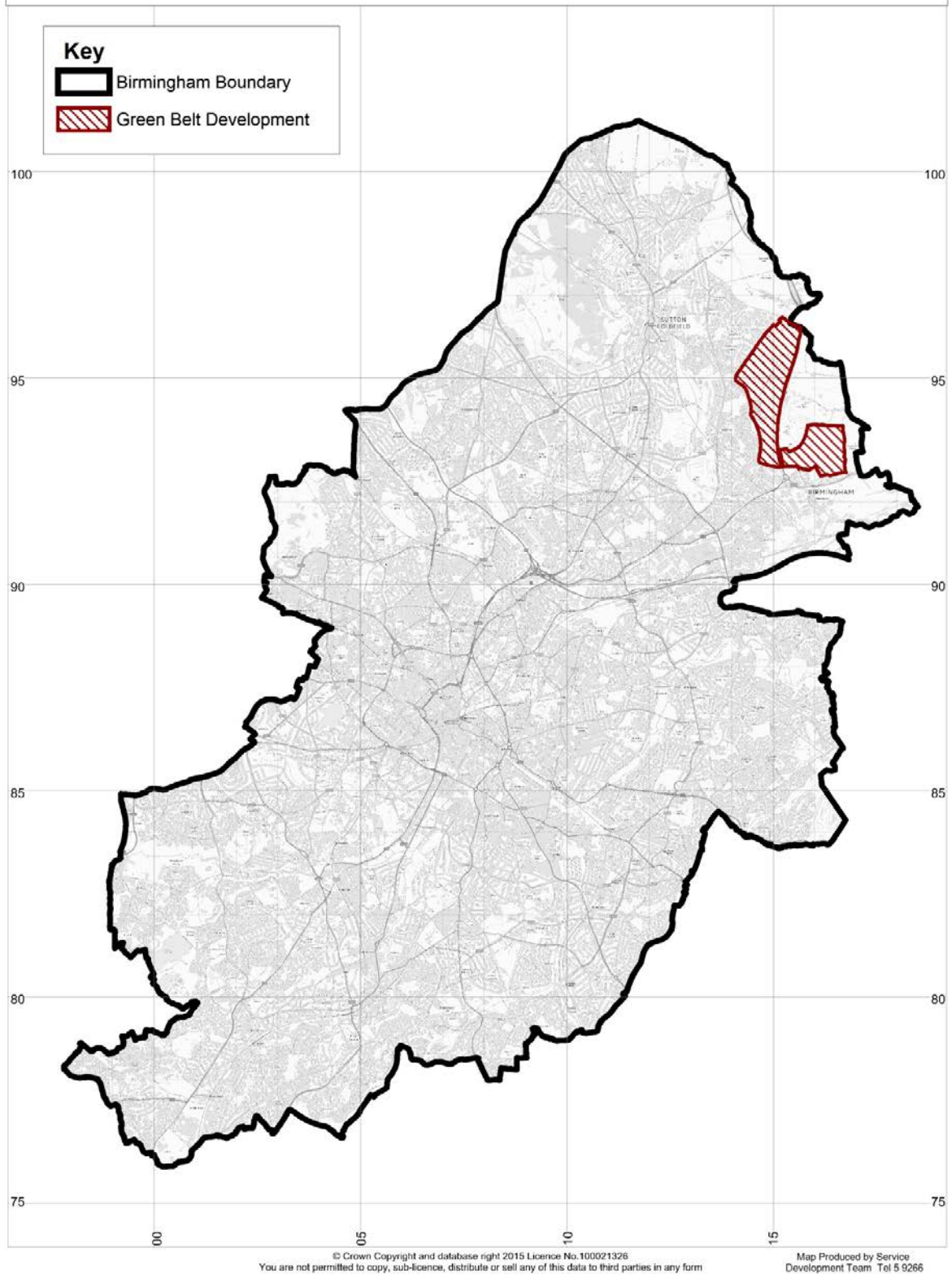
For clarity, the following post codes were identified in the GVA CIL Economic Viability Assessment report (October 2012):

Market Value Area							
	High			Low			
	1	2	3	4	5	6	7
Postcodes	B15, B17, B73, B74, B75	B30, B29, B72, B76	B1, B2	B3, B13, B12, B14, B20, B27, B24, B38, B45, B23, B31, B32, B33	B9, B18, B19, B28, B10, B26, B44	B5, B6, B8, B11, B16, B21, B25, B34, B35, B36, B42	B7, B4

Birmingham Hotel Zones



Green Belt Development



8.0 Regulation 123 list

The Regulation 123 list (R123) is a list of infrastructure projects which we hope to fund or part fund through CIL. We have published a list and you can find this [here](#). We can revise this list at any time following the adoption of CIL, subject to appropriate consultation.

The projects on this list have been chosen as they support the development of Birmingham, as outlined in the Birmingham Development Plan. We can use the CIL to provide new infrastructure, increase the capacity of existing infrastructure or repair failing infrastructure, if it is necessary to support development.

9.0 What will be liable for CIL?

CIL may be payable on a development which creates net additional floor space, where the gross internal area of new build exceeds 100 sq.m. If the development creates a new dwelling, CIL is usually payable, irrelevant of size. CIL applies to all types of planning consent, including Local Development Orders and Neighbourhood Development Orders.

10.0 What will be exempt from CIL?

- Developments of less than 100 sq.m., unless it is a new house or flat. If it is a new house or flat, CIL is payable.
- Houses, flats, residential extensions or residential annexes which are built by self-builders, and will be occupied by those self-builders.
- Social housing
- Charitable development
- Buildings into which you do not normally go
- Buildings where you only go intermittently, for inspecting/maintaining fixed plant, machinery etc.
- Any structures which aren't buildings such as pylons
- Any development with a £0 charge as defined in the Charging Schedule
- Vacant buildings brought back into the same use
- Mezzanine floors of less than 200 sq.m. unless they form part of a wider planning permission providing other works.

For detailed, up to date information on the various exemptions, please see the [CIL Regulations 2010](#) (as amended) and also the [CIL Planning Practice Guidance](#).

11.0 Calculation

The formula used to calculate CIL liability is defined within the CIL regulations. This involves multiplying our CIL charging rate by the net increase in Gross Internal Area (GIA) and adjusting for inflation.

$$\frac{R \times A \times Ip}{Ic}$$

R – the CIL rate for that use

A – the deemed net area chargeable at rate R

Ip – the index figure for the year in which planning permission was granted

Ic – the index figure for the year in which the charging schedule took effect

The All-In Tender Price Index is an inflation index published by the Royal Institute of Chartered Surveyors Building Cost Information Service and the figure for any given year is the figure for November of the previous year.

CIL calculations leading to a liability of less than £50 are treated as zero rated and are not payable.

Further detail on calculating the amount due is contained in the [CIL regulations](#), including how to calculate the net chargeable area of the development.

If you need any help or advice calculating your CIL liability, please contact Hayley Anderson at hayley.anderson@birmingham.gov.uk or 0121 303 4820.

12.0 Who pays?

Landowners are liable for payment of CIL, but other parties can take on the liability to pay their CIL contribution. If no one assumes liability, or payment is not forthcoming from other parties, the liability will automatically default to the landowner.

13.0 [When and how will I pay?](#)

- When planning permission is granted through a decision notice (or appeal decision) on or after the date of publication of a CIL Charging Schedule for that area; or
- When development is permitted by a 'general consent' (e.g. permitted development).

Please note CIL will be chargeable on all relevant applications at the time planning permission first permits development. This is in accordance with Regulation 40 of the CIL Regulations 2010 (as amended).

There are a number of stages in the CIL collection process which we must follow:

- If you are applying for planning permission, you must include a completed copy of the [Additional CIL Information Form](#) with your application to help us calculate the sum payable
- If your development is granted planning permission by way of a general consent (such as General Permitted Development Orders or Local Development Orders), you must submit a [Notice of Chargeable Development](#) if the development is liable for CIL
- Someone must also assume liability for payment by submitting an [Assumption of Liability Form](#). This could be the developer, landowner or another interested party
- We will then issue a Liability Notice which sets out the charges due and the payment procedure
- Whoever assumes liability must then send us a [Commencement Notice](#) stating when development will start
- We will send a Demand Notice which states the payments and due dates for payment in line with our payment and instalment procedures
- When development starts, and payments are received in line with the procedures, we will issue a receipt for all payments received.

14.0 Can I pay my CIL in kind?

It may be possible to pay your CIL liability in kind, through either land or infrastructure, and we will assess each application and make a decision on a case by case basis. Please contact Hayley Anderson at Hayley.anderson@birmingham.gov.uk or 0121 303 4820 for further information.

Please note, should we agree to an in kind payment of CIL liability, these payments must be agreed through a land or infrastructure agreement before starting on site and can be full or part payment of the CIL liability.

Land or infrastructure must be valued by an independent valuer to ascertain open market value of land or the cost of the infrastructure to decide how much of the CIL liability will be paid by the in kind payment.

Further information regarding in kind payments is contained within the [CIL regulations](#).

15.0 Instalments

We have introduced an Instalment Policy which will take effect when the CIL is adopted.

Total CIL payment due	Payment Terms
Less than £30,000	Total payable within 60 days of commencement
£30,000 - £100,000	25% payable within 60 days of commencement 75% payable within 240 days of commencement (c. 8 months)
£100,001 - £500,000	25% payable within 60 days of commencement 25% payable within 240 days of commencement (c. 8 months) 50% payable within 365 days of commencement (c. 1 year) NB Full payment is due if full occupation/opening of development is earlier than the dates set out above.
£500,001 - £1,000,000	20% payable within 60 days of commencement 20% payable within 240 days of commencement of development (c. 8 months) 30% payable within 365 days of commencement (c. 1 year) 30% payable within 540 days of commencement (c. 18 months) NB Full payment is due if full occupation/opening of development is earlier than the dates set out above.
More than £1,000,001	20% payable within 60 days of commencement 20% payable within 240 days of commencement of development (c. 8 months) 20% payable within 365 days of commencement (c. 1 year) 20% payable within 540 days of commencement (c. 18 months) 20% payable within 730 days of commencement (c. 2 years) NB Full payment is due if full occupation/opening of development is earlier than the dates set out above.

If these instalment terms are broken, we will issue a Demand Notice which requires full payment immediately.

Similarly, if no Commencement Notice is received and we have to determine the “deemed commencement” date, we will issue a Demand Notice for CIL liability, which must be paid immediately in full.

16.0 Developer contributions and S106 Agreements

You could be asked to contribute towards infrastructure in different ways. This could be through CIL, S106 agreements, S278 highway agreements and any conditions which may be attached to your planning permission.

However, these different types of developer contribution all serve different purposes and the regulations will limit any perceived or actual “double dipping” with developers paying twice for the same thing.

16.1 Section 106 agreements

The CIL should provide infrastructure to support the development of the whole area covered by the Development Plan. However, some site specific issues or mitigation might still be needed to make sure planning permission is granted.

When we have adopted CIL, Section 106 requirements should be scaled back to those matters which are directly related to a specific site, and are not set out in a Regulation 123 list.

Whilst the majority of our viability appraisals assume a zero CIL liability, there may still be a need for on-site requirements, and these will be assessed on each planning application. The CIL “viability cushion” should still allow for an on-site S106 contribution if required.

You should note that while S106 agreements will remain, they will continue to be negotiable and therefore will be negotiated *after* the CIL contribution has been calculated.

S106 agreements should continue to be;

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development

From April 2015 we can't pool unlimited S106 agreements for infrastructure. If we have signed five or more obligations for a specific type of infrastructure or project since 6 April 2010, and you can also fund that piece of infrastructure or project through the CIL, we cannot sign any more of those S106 agreements. This also includes S106 agreements signed against applications made under Section 73 to vary a planning condition.

If you can't fund a piece of infrastructure through the CIL (such as affordable housing), we can pool unlimited S106 agreements, as long as we have regard to wider policies on planning obligations set out in the National Planning Policy Framework.

16.2 Section 278 agreements

Section 278 agreements are agreements between the highway authority and someone who agrees to pay all or part of the highways works. Section 278 agreements **cannot** be used for works which are included on the Regulation 123 list (i.e. works which could be funded by CIL). However, unlike S106 agreements, there is no limit on pooling S278 agreements.

17.0 Percentage to neighbourhoods

We have to pass on a percentage of CIL receipts to those communities affected by new developments.

15% of CIL receipts must be passed to Parish and Town Councils where development has taken place. This is capped at £100 per council tax dwelling, per year.

If there is a Neighbourhood Plan or a Neighbourhood Development Order (including a Community Right to Build Order) in place, the amount passed to that Neighbourhood Plan area is increased to 25%, with no annual cap.

Parish Council <input checked="" type="checkbox"/> Neighbourhood Plan <input checked="" type="checkbox"/> = 25% uncapped, paid to Parish	Parish Council <input checked="" type="checkbox"/> Neighbourhood Plan <input checked="" type="checkbox"/> = 15% capped at £100/dwelling, paid to Parish
Parish Council <input checked="" type="checkbox"/> Neighbourhood Plan <input checked="" type="checkbox"/> = 25% uncapped, local authority consults with community	Parish Council <input checked="" type="checkbox"/> Neighbourhood Plan <input checked="" type="checkbox"/> = 15% capped at £100/dwelling, local authority consults with community

These percentages will still apply if there are no Neighbourhood Plans or Parish Councils, but we will keep these contributions, and engage with local communities to determine how best to spend the money. The funds will be passed on every six months, at the end of October and April.

If a developer has contributed in kind CIL payments in the form of infrastructure, we will ensure a cash equivalent contribution to local communities.

The percentage passed to neighbourhoods can be spent on a wider range of infrastructure than the rest of CIL, as long as it still supports the development of the area.

18.0 Review

The CIL viability study can only demonstrate viability at a moment in time and cannot forecast future changes in the market. Therefore we will keep our CIL charges under review to make sure they remain appropriate. If market conditions change significantly, or the infrastructure funding gap changes, we will review and alter the CIL charges as necessary. Any proposed changes to the CIL charge will be posted on the CIL pages on our website, and you will have the opportunity to comment before any changes are made.

We can decide to stop charging a CIL at any time. If we were to do this, any CIL liability relating to a development which hasn't started would be dissolved and no CIL would be payable.

19.0 Monitoring

Regulations state we must let you know how we're spending any CIL income. We will publish a report (at least) annually (by 31 December each year, for the previous financial year) explaining how much we've received in CIL payments, how much we've spent, and on what, and how much we're carrying over into future years.

Town and Parish Councils must also report on their CIL spending.

20.0 Sustainability

The CIL charging schedule does not require a Sustainability Appraisal as it is a short financial document rather than a "land use planning" document.

Glossary and Further Information/FAQs.

Is CIL payable if existing buildings are being demolished or converted?

The gross internal area of any buildings on the site that are going to be demolished or re-used may be deducted from the calculation of CIL liability. However, deductions are only applied where those buildings have been in lawful use for a continuous period of at least 6 months within the period of three years ending on the day planning permission first permits the chargeable development. In this context, “in use” means that at least part of the building has been in use.

It will be for the applicant or their agent to demonstrate that a building has been in use by providing appropriate evidence such as Council Tax records or Business Rates documentation.

The day “planning permission first permits development” is defined in the CIL regulations as the date at which development may commence. If there are any pre-commencement conditions attached to the planning permission, this date is the date at which the final pre-commencement condition is discharged. If there are no such conditions, then the date is the date of planning permission.

In relation to outline applications, subject to any phasing arrangements that may apply, development will only be permitted when the last of the reserved matters is approved.

Is CIL payable if my scheme does not need planning permission?

A CIL payment is required whether or not the development needs planning permission. If you intend to carry out development authorised by “general consent” (including permitted development) you should serve the City Council with a Notice of Chargeable Development.

Do charities have to pay CIL?

If you are a charitable institution, and you own a material interest in the land, you will get full relief from your portion of CIL where the chargeable development will be used wholly, or mainly, for charitable purposes. We can also offer discretionary relief to a charity landowner if the greater part of the development will be held as an investment and the profits applied for charitable purposes.

To qualify for charitable relief:

- You must be a charitable institution
- You must own a material interest in the land
- You must not own this interest jointly with a person who is not a charitable institution.

And a charitable institution is defined in the regulations as:

- A charity
- A trust of which all the beneficiaries are charities

- A unit trust scheme in which all the unit holders are charities

If you are providing social housing, we will also grant full relief from CIL charges, for those social housing units. This relief may also be available for those parties who are not charities.

An [application](#) for relief must be made to the City Council before commencement of the development to which it relates.

Be aware that if you claim charitable relief, you must continue to be eligible for that charitable relief for seven years following the commencement of your development. If, at any point in those seven years:

- The purpose of the development changes to an ineligible use;
- The owner of the interest in the land changes, and no longer qualifies for relief;
- The terms of the leasehold changes, and no longer qualifies for relief.

You must inform us of this change within 14 days, and we will “clawback” the relevant parts of the relief given. If you do not notify us within 14 days, we will charge an additional 20% of the chargeable amount, or £2,500 (whichever is lesser).

The regulations regarding charitable relief can be found [here](#).

What if I am building social housing?

Full CIL relief can be given to those parts of a development which are going to be used as social housing if a claim is submitted to the City Council by an owner of a material interest in the relevant land.

This will benefit most social rent, affordable rent, and intermediate rent accommodation provided by the Council or Private Registered Provider, and also shared ownership dwellings.

When [applying](#) for this relief, you must provide evidence that the chargeable development qualifies for social housing relief. To ensure that relief is not used to avoid CIL payments, the regulations provide that any relief must be repaid if the development no longer qualifies for the relief granted within seven years from the commencement of the development.

The regulations regarding social housing relief can be found [here](#).

Social housing relief is calculated according to the formulas in [Regulation 50](#).

Discretionary social housing relief applies to those affordable dwellings which meet the criteria set out in Regulation 49A (2014 Regs).

What if I am building my own home?

If you are building your own home, or have commissioned your own home, and you are going to live in that home for a minimum of three years after completion, you don't have to pay CIL.

You can submit your [Part 1 Claim](#) at any time as long as the work hasn't commenced, and this exemption does not apply retrospectively. As with other exemptions, you must notify us if your circumstances change during those three years.

To claim the exemption, you will need to submit your [Part 2 Claim](#) within six months of completion.

The regulations regarding self-build housing relief can be found [here](#).

What about residential extensions or annexes?

If you want to extend your house, and your residential extension is under 100 sq.m., you don't have to pay CIL. You must submit this [form](#) before you start work on your extension or annex.

The regulations regarding residential extensions and annexes can be found [here](#).

How do you decide if a building has been abandoned?

We will decide if a building has been legally abandoned. We will take into account;

- The condition of the property
- The period of non-use
- Whether there has been an intervening use, and
- Any evidence regarding the owner's intention

What about phased developments?

It is possible to allow a planning application to be divided into "phases" for the CIL, which is especially useful for large, planned developments. This applies for both detailed and outline permissions (and therefore "hybrid" permissions too), and each phase would be treated as a separate chargeable development. This allows for payments in line with the instalment policy which we have adopted.

The principle of phased delivery must be apparent from the planning permission.

For outline permissions, if the CIL is in force when the outline permission is granted, each phase of that permission is subject to CIL, or any replacement CIL charging schedules which may be introduced.

What happens if I want to alter my permission? Do I pay twice?

If you want to revise or submit a new planning application for a development which has started but is not finished, we are able to take into account any CIL payments which can be credited against the new permission. This is called abatement. However, if your development has finished, you cannot apply for abatement.

If the revised development has a lower CIL liability than the original, no refunds will be paid.

You can only apply for abatement before development commences under the alternative permission.

Can I appeal against a CIL decision?

Yes, in certain circumstances, you can appeal against the levy calculation. Further guidance can be found [here](#).

What happens if I have overpaid?

We will pay back any overpayment as long as the refund exceeds the administrative costs for processing that refund. We will not refund overpayments if those overpayments are the result of an in kind payment.

What if no one assumes liability for the development?

If no one assumes liability, the liability falls to the owners of the land. This also means that full payment will become due when development commences. If no one assumes liability, we may approach potential people or organisations who might want to assume liability and point out the benefits (such as payment in instalments) if they assume liability.

Liability can be transferred at any time up to the day before the final payment is due by submitting a [Transfer of Assumed Liability form](#).

What happens if I don't pay?

The regulations allow us to impose penalties for late payment.

If a party has assumed liability and doesn't pay, we can issue a Default Liability Notice to the owners of any material interest in the land within the chargeable development.

If the debt still isn't settled, we can take more direct action to recover the CIL funds due. We can stop any development on site until payment is received, and in extreme cases, we can seize and sell assets, or even apply to send the liable party to prison for up to three months.

Can CIL be spent outside the Birmingham boundary?

Yes, if we believe that the infrastructure will benefit the development of the wider area. We can also pool our CIL receipts with other charging authorities to fund large, strategic projects which we would all benefit from.

Links to other relevant information:

DCLG CIL information

Planning Practice Guidance - Community Infrastructure Levy

CIL regulations**HMSO**

Community Infrastructure Regulations (March 2010) (Statutory Instrument 2010 no. 948):

http://www.legislation.gov.uk/ukxi/2010/948/pdfs/ukxi_20100948_en.pdf

(It should be noted that these principal regulations have been amended in part by subsequent regulations and the HMSO web site should be consulted for all relevant amendments)

Further information is available from:

The Planning Portal

The Planning Advisory Service - CIL

CIL - How to make an appeal

CIL forms

CIL Form - CIL Form Guidance

Form 1: Assumption of Liability

Form 2: Claiming Exemption or Relief

Form 3: Withdrawal of Assumption of Liability

Form 4: Transfer of Assumed Liability

Form 5: Notice of Chargeable Development

Form 6: Commencement Notice

Report to Birmingham City Council

by Mr Philip Staddon BSc, Dip, MBA, MRTPI

an Examiner appointed by the Council

4 June 2015

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT BIRMINGHAM CITY COUNCIL COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 4 February 2015

Examination hearings 30 April 2015

File Ref: PINS/P4605/429/8

Non-Technical Summary

This report concludes that the Birmingham City Council Draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area. The Council is able to demonstrate that it has sufficient evidence to support the Schedule and can show that the levy rates would be set at levels that will not put the overall development of the area, as set out in its draft Birmingham Development Plan 2031, at risk. The proposals will secure an important funding stream for infrastructure necessary to support planned growth in the city.

Introduction

1. This report contains my assessment of Birmingham City Council's draft Community Infrastructure Levy (CIL) Charging Schedule in terms of Section 212 of the Planning Act 2008 (as amended). It considers whether the schedule is compliant in legal terms and whether it is economically viable as well as reasonable, realistic and consistent with national guidance set out in the National Planning Practice Guidance (NPPG).
2. To comply with the relevant legislation and guidance the local charging authority has to submit a charging schedule that should set an appropriate balance between helping to fund necessary new infrastructure and the potential effect of the proposed CIL rates on the economic viability of development across its area.
3. The basis for the examination, on which Hearing sessions were held on 30 April 2015, is the 'updated' Draft Charging Schedule (DCS), which consolidates the originally published DCS with changes proposed through a later Statement of Modifications (SOM). The original DCS was published for public consultation between 29 September 2014 and 10 November 2014 and the SOM in the month before 4 March 2015. For the avoidance of doubt, all further references in this report to the 'DCS' relate to the updated version incorporating the SOM changes.
4. The DCS proposals include CIL charges for residential development, student housing, a particular type of retail development and for certain hotel developments.
5. The proposed CIL charges for 'residential' development relate to three residential market zones defined on a map in the DCS. The first zone relates to the 'High' value market value areas which comprises the northern part of the city's administrative area (the Sutton Coldfield locality) and parts of the south-west of the city's area (including the suburbs of Harborne, Bournville and King's Norton); a CIL charge of £69 per square metre (psm) is proposed in this zone. The second zone is notated as 'Green Belt

Development' and is drawn around a proposed urban extension west of the A38 at Langley; CIL would be zero rated in this zone i.e. £0 psm. All of the remainder of the city's administrative area would fall within the defined 'Low' market value areas where it is proposed that the CIL charge would also be zero rated. The DCS makes clear that residential development by 'Social Housing Providers registered with the HCA and Birmingham Municipal Housing Trust development' would be zero rated for CIL; this exemption would include any market housing developed by these providers to cross subsidise affordable housing provision.

6. Student housing developments would incur a CIL charge of £69 psm in all locations except for the urban extension zone at Langley (where it would be zero rated).
7. Retail CIL charges would apply only to 'retail convenience' developments for schemes with a floorspace exceeding 2,000 square metres.
8. Hotel developments would be subject to a £27 psm CIL charge within a defined city centre zone. Elsewhere such developments would be zero rated.
9. For completeness, the DCS lists zero rated CIL charges for other types of retail development and for industrial / employment, offices, leisure, education, health 'Extra Care' and 'all other development'.

Background evidence – the city, the development plan, infrastructure needs and economic viability evidence

Birmingham

10. Birmingham is a major city with a population of just over 1 million. Since the 1980s the city has been through economic restructuring, estate regeneration and transformation of its environment. The city is a major employment centre, drawing in workers from across the West Midlands. It is a leading European business destination with an economic output of £20bn per annum. Many international companies are based in the area, including Jaguar Land Rover, Kraft, KPMG, Deutsche Bank and GKN. The local economy is supported by five universities and six major colleges, supporting over 73,000 undergraduate and postgraduate students. Birmingham is a major centre for culture, sports, leisure and shopping with a number of world class venues and over 30 million people visiting a year. In addition to the city centre's shopping areas, there is a network of over 70 local centres serving its urban and suburban communities. It is a major, diverse and dynamic city.

The Birmingham Plan 2031 – Submission Draft

11. The emerging Birmingham Plan 2031 sets out the Council's vision and strategy for the sustainable growth of the city in the period to 2031. The Plan seeks to respond to identified challenges that include an anticipated

population growth of 150,000 (estimated to result in 80,000 new households), the need to respond to climate change and the need to accommodate and deliver the longer term levels of growth needed through development beyond its existing built up and administrative areas.

12. Once adopted, the Plan will set out the statutory framework to guide decisions on development and regeneration in Birmingham up to 2031 and will replace the strategic content of earlier plans and documents. It sets out how and where new homes, jobs, services and infrastructure will be delivered and the type of places and environments that will be created.
13. The production of the Plan, by its very nature and scope, has been a complex and major endeavour. Indeed, its preparation can be traced back to 2007 and it has evolved over the years seeking to respond to new evidence, issues and changes in national planning policy. The Plan was submitted for examination in July 2014 and that 'submission draft' set out the following overall levels of growth:
 - 51,100 additional homes.
 - 2 regional investment sites (20 and 25 hectares) and an 80 hectare strategic employment site.
 - About 270,000 sq.m. gross of comparison retail floorspace (by 2026).
 - A minimum of 745,000 sq.m. of office floorspace.
 - New waste, recycling and disposal facilities.
14. In terms of the Plan's housing proposals, it seeks to maximise the level of housing delivery within the built up area, with a focus on re-using existing urban land. Key locations for such development will be the city centre, a portfolio of defined 'growth areas' and, more generally, sites spread throughout the urban and suburban areas. However, the Plan recognises that this cannot accommodate the full levels of population growth and its associated housing requirements and proposes that land at Langley should be released from the Green Belt to accommodate a Sustainable Urban Extension (SUE) of about 6,000 new homes. The balance of growth that would not be met in the city's area (circa 30,000 new households) is expected to be delivered beyond its administrative boundaries. The Plan explains (paragraph 4.7) that the Council will seek to work collaboratively with neighbouring authorities to achieve this end.
15. The Plan's employment proposals seek to deliver an additional 100,000 jobs in the period to 2031, through a focus on the city centre, existing 'core employment areas' and the promotion of growth areas. The largest strategic employment allocations are an 80 hectare site at Peddimore and 'regional investment sites' at Aston and Longbridge.
16. The Plan's approach to retail development is linked strongly to the city's established hierarchy of centres, with most planned new floorspace directed

to the higher tiers of the city centre itself, the sub-regional centre at Sutton Coldfield and three 'district growth points', with the large network of district and local centres serving specific community catchment areas.

17. The promotion of Birmingham's significant tourism and cultural roles is set out in the Plan, along with the importance of providing supporting facilities such as hotels.
18. The Plan seeks to promote the provision of good quality student accommodation and there is policy support for purpose built student accommodation schemes on-campus and, subject to specified criteria, in off-campus locations.

The Birmingham Plan 2031 – Examination progress and CIL implications

19. The Plan was submitted for examination in July 2014. Following the Hearing sessions, the appointed Inspector issued his interim findings in January 2015. These require the Council to carry out further work before the examination can continue. The further work relates to three broad areas. First, the need for an updated and more robust objective assessment of housing need. Second, the need to undertake additional work on the Plan's Sustainability Appraisal (SA), specifically concerning the approach to Green belt releases. Third, the need to bring forward modifications to address the housing 'shortfall' (that will need to be met by other Councils).
20. The Council advised that the additional work was now complete and it was awaiting the Inspector's more detailed report setting out the need for proposed modifications to make the plan sound. A further round of public consultation on the proposed modifications and the revised SA is planned to take place over the summer. The Council hopes to be in a position to adopt a modified Plan either late this year or early in 2016.
21. The Council is keen to progress its CIL proposals now that 'pooling' restrictions on S.106 contributions have come into force and, more generally, to establish a funding stream for infrastructure to support its growth strategy. The progression of the CIL proposals ahead of the conclusion of the Birmingham Plan 2031 examination process raises some issues, along with some widely held misconceptions, about the CIL legislative / regulatory requirements and the associated guidance.
22. In terms of the statutory provisions, there is nothing contained within either The Planning Act 2008 or The Localism Act 2011 that makes having an up to date and adopted Plan in place a prerequisite of the implementation of a CIL regime. Many of the Councils that have adopted CIL to date have the benefit of recently examined and adopted plans, whilst others have submitted their CIL proposals for examination alongside their development plans (as suggested in paragraph 175 of the NPPF). These scenarios are at the ideal end of the spectrum and ensure, in theory at least, that the CIL proposals are conceived in terms of the most up to date strategic policy

framework defining 'the development of an area'¹ that CIL is intended to support. However, not all prospective charging authorities will be able to present a CIL schedule alongside freshly adopted development plans, due either to the inevitably long gestation period and / or (as is the case in Birmingham) if they encounter complexities and delays in the process.

23. The important point is the evidence base itself, rather than the procedural status of the development plan (although clearly these matters are closely linked). The Birmingham Plan 2031 is a mature policy document that has been the subject of extensive public consultation and is supported by a detailed evidence base. Whilst there remain issues to be resolved, modifications to be made and further consultation to be undertaken, I am satisfied that these matters do not present any obstacle to the principle of progressing a CIL regime.
24. The 'development' of the city, in the terms envisaged in S.205 of the Planning Act 2008, is clear, and the strategy of concentrating most growth on largely brownfield sites within the urban area, supported by strategic Green Belt releases, is very unlikely to change. There is a sufficiently stable development plan backcloth to enable high level CIL viability assessments to be made. However, my comments should not be treated as any predetermination of the Plan's outcome and, at the examination Hearings, the Council did concede that there could be circumstances that would require the CIL proposals to be revisited e.g. any changes to the Green Belt housing release (which has its own tightly drawn CIL zone). However, those are matters to be addressed if and when they arise.

Infrastructure planning evidence

25. The draft Birmingham Plan 2031 is supported by an Infrastructure Delivery Plan (IDP) which assesses and analyses the city's future infrastructure needs. It is a wide ranging document that identifies and assesses a diverse range of physical, environmental and social infrastructure to enable growth to occur and to facilitate the delivery of key proposals. It includes known infrastructure costs and identifies funding sources and lead agencies. It is a 'live' document and the Council is continually updating it.
26. The Council has undertaken an infrastructure funding gap assessment. For the entire 'essential' infrastructure set out in the IDP, it assesses a net funding gap of circa £461.7 million in the plan period (to 2031). Although I am not wholly convinced by the categorisation of certain infrastructure as 'essential', i.e. that development and planned growth could not occur without such projects, the evidence of major infrastructure demands is compelling. The most significant funding requirements relate to transport and education.
27. The Council estimates that its CIL receipts in the plan period would be circa £90.7 million. It estimates a potential 'average annual CIL receipt' of circa £5.6 million, with almost half (£2.8 million) coming from convenience retail

¹ S.205(2) of The Planning Act 2008

(supermarkets), with residential development (higher value zone) generating £1.7 million and lesser amounts from city centre hotels (£0.6 million) and student housing (£0.5 million).

28. I have some reservations about the robustness of these figures which have been arrived at by looking backwards (actual past delivery in 2009 – 14) rather than forward (planned delivery) for the various CIL paying development types. This may have some credence for residential development but is unlikely to be the case for commercial developments such as hotels, supermarkets and student housing schemes, which will tend to progress when the market identifies capacity, but will cease if the finite market is considered to be sated. Furthermore, the Council's projections have not factored in the effect of discounting CIL for existing floorspace, which is likely to be a factor on many former employment sites and will reduce receipts. In my view, the Council may have overestimated the likely CIL receipts.
29. However, these factors do not affect my overarching conclusions that the funding gap is substantial and that CIL revenue would make an important contribution to filling that gap. Taking the Council's assessed gap and revenue estimates at face value, CIL may equate to about 20% of the gap (although I think the true figure may be less). Even allowing for a degree of caution around the definition of 'essential' infrastructure, the evidence provides a compelling justification for introducing a CIL regime.
30. The Council has produced a Draft Regulation 123 list that sets out the infrastructure that it intends to fund, partly or wholly, through CIL receipts. The list includes a wide variety of infrastructure types covering transport, education, arts, parks, allotments, public realm etc. The document includes a clarification note on the continued use of S.106 agreements for site specific infrastructure and further clarifies that all infrastructure requirements associated with the SUE at Langley will be secured by S.106 mechanisms (and not by CIL).
31. Whilst I do not doubt the comprehensive nature of the list, it could be improved in a number of ways. First, it would be helpful to sort the projects and initiatives into clear infrastructure types, as this would provide much greater clarity and transparency. Second, in many cases the 'infrastructure' needs much greater definition as some projects just appear as locations e.g. 'Iron Lane, Stechford' and 'The Drum Arts Centre'; readers should be able to understand the destiny and purpose of any CIL receipts. Third, the Council's intentions on the use of CIL in respect of education projects are not clear from the current draft; this type of infrastructure appears on the Regulation 123 but also appears as an exclusion (to be secured by S.106 agreements) on 'large' sites. The list did not define 'large', although it became clear at the Hearing sessions that the reference related only to the SUE. All of these matters were discussed with the Council at the Hearing sessions and the Council agreed to address the issues through redrafting, which I would encourage it to undertake prior to the implementation of any CIL regime.

Economic viability evidence – methodology, data sources and assumptions

32. The Council commissioned consultants to undertake a Viability Assessment (VA) to support its CIL proposals. The VA was completed in October 2012 and has been supplemented with additional topic based viability evidence in December 2013. These supplements included additional viability testing in respect of the SUE, employment, retail and a paper covering 'miscellaneous' matters (an update on residential sales values and allowances for a 'viability cushion'). The evidence also includes a letter from the Council's consultants providing a commentary and analysis of developments relating to retirement homes, sheltered housing and 'extra care' schemes. Hereafter, I refer to this collective of evidence as the VA.
33. The VA employs a residual valuation approach. In simple terms, this involves deducting the total costs of the development from its end value to calculate a residual land value (RLV). That residual land value is then compared to assumed 'benchmark' land values (BLV) to test viability. If the RLV is higher than the BLV, the scheme would be judged viable and vice versa. Where there is a surplus above the assumed BLV this enables a maximum potential CIL value to be computed.
34. The testing of residential scheme viability included nine residential development 'typologies', along with a bespoke testing of the SUE assumed development. The nine typologies were devised by the Council to represent what it considered to be representative of likely future developments in the city and were informed by the sites in its Strategic Housing Land Availability Assessment (SHLAA). Four of the typologies were small schemes below the Council's affordable housing threshold and comprised: 1 house, 2 flats, 6 houses and 10 flats. The five larger development typologies, above the affordable housing threshold, were: 15 flats, 50 flats, 15 houses, 50 houses and 200 houses. The SUE testing was based on an assumed strategic scale development of 5,000 homes (a slightly lower figure than the 6,000 contained in the draft Birmingham Plan 2031). In my view, the range of sites tested is comprehensive and well grounded.
35. To undertake the viability analysis, the modelling on residential developments entailed making assumptions about a range of development costs and revenues.
36. To establish sales value assumptions the Council's consultants undertook a high level review of the city's housing market and defined seven 'market value areas' comprising defined postcodes. For each of these areas, average house price values (psm) were established from a combination of Land Registry data, the consultants own in-house expertise and a stakeholder workshop (held in March 2012). The average sales values ranged from the lowest of £1,615 psm (postcodes B7 and B4) to the highest of £2,585 psm (postcodes B15, B17, B73, B74 and B75). Although the data set appeared to be comprehensive, it was a little dated, with most of the values being drawn from 2011 and 2012. However, the Council advised that since this time, property prices had risen by about 7% in the city, suggesting that the values employed are conservative and cautious.

37. The establishment of robust BLVs is clearly of great importance in this type of viability modelling. The Council considers that most new housing development will come forward on land previously in employment use but it also expects some element of supply from existing residential sites, particularly in the lower value areas where developments seek to increase density and / or provide a better quality / higher value housing product.
38. The Council established BLVs based on a triangulation of Valuation Office Agency (VOA) data, known transactions and the CIL stakeholder workshop. It concluded that there were distinct differences between the higher and lower value areas of the city. In the higher value areas (market value areas 1, 2 and 3) it assessed a BLV of £1.1 million per hectare for existing employment land (which includes a premium of 20% on existing use value) and £1.9 million per hectare for existing housing land. In the lower value areas (market value areas 4, 5, 6 and 7), the figures were £595,000 per hectare and £740,000 per hectare respectively.
39. For the greenfield SUE, the Council assumed a BLV of £250,000 per hectare, which is reasonable in my view, and within the range indicated in research contained in the Department for Communities and Local Government (DCLG) study².
40. Base build costs for residential schemes were drawn from Building Cost Information Service (BCIS) rates. The build costs for the SUE reflected the economies of scale achievable on large volume housing sites. As with sales values, the build cost assumptions were a little dated (Quarter 1 2012) and clearly do not include recent years' inflation. However, I am satisfied that build cost changes can be considered 'in the round' alongside sales value increases and the viability 'buffers' employed in the CIL rate setting.
41. In addition to base build costs, the modelling included reasonable allowances for enabling costs and contingencies. For the SUE, much greater enabling costs are anticipated, reflecting the costs of providing infrastructure and services to a large greenfield site. The modelling assumed a cost of £20,000 per plot on the SUE, which would sit within the £17k – £23k range suggested in the Harman Report³ for 'strategic infrastructure and utility costs.'
42. Costs assumptions in respect of fees, contingencies and finance conformed with accepted industry norms. Developer profit was assumed at 20% of Gross Development Value (GDV) on market housing and 6% of GDV on affordable housing, which I consider reasonable.
43. Affordable housing was modelled at policy compliant levels in terms of proportion (35%), tenure split and the assumed absence of grant subsidy. Lower levels of affordable housing (0% and 20%) were also modelled to

² *Cumulative Impacts of Regulations on House Builders and Landowners* - Research Paper. Published by DCLG in 2011 (although commissioned by the previous Government in 2008).

³ *Viability Testing Local Plans* – Local Housing Delivery Group (Chaired by Sir John Harman) June 2012.

provide sensitivity tests.

44. The modelling assumed that there would be no residual S.106 planning agreement costs, as the Council considers that CIL will largely replace the use of S.106 agreements and obligations. However, it is apparent from the Council's Draft Regulation 123 list that some element of site specific mitigation may still be required to be secured through S.106 agreements. In most cases, this is likely to be limited but some consideration of these costs is required in the assessment of the modelling results and CIL proposals. For the SUE, substantial S.106 costs are anticipated and the modelling tested levels of £10,000 per plot and £20,000 per plot.
45. The commercial development modelling used similar assumptions and methodology. Notional schemes for care homes, offices, employment, retail, hotels, student accommodation, leisure, education and health developments were all tested. The assumptions employed for the notional commercial development schemes all appeared reasonable, including the assumed rents, yields, build costs, profit levels and BLVs.

Conclusions on background evidence

46. The Birmingham Plan 2031 provides a clear strategic planning framework to guide the sustainable growth of Birmingham. Although the Plan is yet to be adopted and more work and consultation is required, it is sufficiently mature and settled to enable the viability effects of CIL to be assessed. The Plan's strategy has a strong growth focus on brownfield sites within the existing urban areas of the city, supplemented by some strategic Green Belt releases for housing and employment.
47. The IDP identifies the infrastructure required to support Birmingham's planned growth in population and jobs. The evidence demonstrates a sizeable infrastructure funding gap that justifies the introduction of a CIL regime. CIL receipts will help to reduce that gap, although a significant funding shortfall will remain. There is some uncertainty over the level of CIL receipts and the Council would be wise to monitor performance closely once a CIL regime is operational.
48. Overall, the background economic viability evidence for both residential and commercial development that has been used is reasonable, robust, proportionate and appropriate. The interpretation and use of that evidence in defining the proposed CIL rates and zones is discussed more fully below.

Residential Development CIL – zones, charges and appraisal findings

The 'High' value CIL charging zone (£69 psm)

49. This zone comprises market value areas 1, 2 and 3 where sales values are generally acknowledged to be higher than in the remainder of the city. The modelling of the residential development typologies in these areas returned generally strong positive viability. Smaller schemes below the affordable

housing threshold fared particularly well, with most remaining viable at theoretical CIL rates of £250 psm. Larger schemes with affordable housing at full policy target levels, returned lower theoretical rates, but still achieved an average of £90 psm.

50. Taking all of the results together, the Council assessed that a CIL charge of £115 psm represented the level that the 'majority' of schemes (at least 70%) could sustain. It then applied a viability buffer of 40% to arrive at its proposed CIL charge for this zone of £69 psm. In my view, that is a reasonable buffer and allows most schemes to remain viable. I have also considered the effects of increases in sales values and build costs and conclude that, overall, these are likely to increase the comfort margin.
51. At the Hearing sessions, the Council advised that the SHLAA sites in the urban area (i.e. excluding the SUE) currently totalled 33,395 potential new homes and of these 6,173 (or 18.5%) would be in the 'High' value zone and would incur the £69 psm charge. That is a modest but nonetheless important proportion of overall planned housing delivery. In my assessment, the evidence demonstrates that the delivery of these planned homes will not be unduly threatened by the imposition of the CIL charge. Indeed, in most cases, schemes can comfortably absorb the charge, which would fall within a range of 2 – 5 % of development costs.

The 'Low' value CIL charging zone (£0 psm)

52. This zone comprises market values areas 4,5,6 and 7. The modelling of the residential development typologies in these areas returned less strong viability results. Although the lowest value area 7 did not return any positive viable results, the 'majority' of schemes across the whole zone, including larger schemes with full policy target affordable housing levels (35%), were able to support a maximum theoretical CIL charge of £55 psm.
53. Were the same approach to buffers to be employed (as in the 'High' zone) this would suggest a CIL charge of £33 psm. However, the Council has elected to apply a £0 rate. At the Hearing sessions, the Council explained that its primary concern was to maintain viability and maximise affordable housing content.
54. Strictly speaking, the £0 charge is a straightforward matter. A nil charge clearly cannot threaten viability across this zone. However, some have questioned the Council's approach that effectively exempts most new homes that are planned in Birmingham (81.5% of the SHLAA sites) from CIL charges, given that all development will contribute to infrastructure needs and the evidence does suggest that modest charges could be sustained. The Council will also need to consider the much more limited role for S.106 agreements once a CIL regime is in place.
55. At the Hearing sessions, the Council advised that it does not rule out a more widespread application of CIL charges in the future, but its immediate priority is maximising viability and delivery and avoiding any pressure to compromise on affordable housing requirements in areas where viability is

demonstrably lower. The Planning Practice Guidance (PPG) does advise that, where evidence points to low viability, a charging authority should consider setting a low or zero levy rate in that area (Reference ID: 25-021-20140612). The guidance further advises that there is no requirement for a proposed rate to exactly mirror the evidence (Reference ID 25-019-20140612).

The 'Low' / 'High' zone boundary challenges

56. The Council's two-zone CIL approach for most of the city (the SUE is dealt with separately below) does, perhaps unavoidably, create some tensions around the zoning boundaries. There were two notable challenges. First, a property estate company sought revisions to the zoning boundaries in the Hagley Road and Bristol Road areas (south-west of the city centre) i.e. to effectively move its holdings from the 'High' to the 'Low' zone. Second, a commercial site owner on Lifford Lane, similarly sought a 'Low' zone status and proposed that a site specific review mechanism should apply.
57. With regard to the first set of challenges, evidence was submitted which purported to show that property values in these areas were more akin to the 'Low' zone and revised alignments of zone boundaries (departing from their postcode origin) were promoted. I have considered these submissions carefully but I am not persuaded that the Council should be required to make the suggested modifications. There are a number of reasons that have led me to this view.
58. First, the Council's two-zone approach, based on postcodes, is simple, supported by its evidence base and avoids 'undue complexity'⁴. Second, the strategic and broad-brush approach to CIL proposed by the Council inevitably means that its two large zones will contain a range of sales values, above and below the averages adopted for the value areas. Third, the evidence presented by the representor did not convince me that sales values in these localities represented a clear value watershed. Fourth, these are densely developed urban areas and there is no development envisaged that would be critical to the delivery and implementation of planned growth in the city. Finally, it should be noted that the Council's evidence base suggests that even in the 'Low' zone, the 'majority' of tested developments could support CIL contributions. For all of these reasons, I do not consider the suggested modifications are justified or necessary.
59. The second set of challenges were more site specific but included similar concerns about inconsistencies in sales values in the 'High' and 'Low' zones. The site lies in the southernmost section of the 'High' zone and may come forward for re-development post 2018. It has the capacity to deliver several hundred homes. Whilst I can understand the site owner's desire to avoid the costs of CIL on what may be a complex development project, no viability evidence was available to suggest that CIL could not be sustained (as there is no scheme at this point in time). The suggestion of a mechanism to review the Low / High value status on a site by site basis is not workable

⁴ National Planning Practice Guidance - Paragraph: 021 Reference ID: 25-021-20140612

with a CIL regime which, on adoption, is a fixed instrument (until the point of any review and revision). The Council advised that it would be reviewing its CIL regime in advance of this particular site coming forward. I am satisfied that there is no need to amend the zone boundaries and the review mechanism is a more appropriate method to address these matters, should it prove necessary.

The SUE charging zone (£0 psm)

60. The Council's testing of the assumed SUE development at Langley used a range of enabling and S.106 costs. They are unavoidably broad brush assumptions given the relatively early life cycle stage of the proposals. However, a 'best case' viability scenario, employing the lowest enabling works cost (£70 million) and the lowest assumed S.106 contributions (£10,000 per plot), did not achieve the assumed greenfield BLV. The actual RLV under that scenario was, by my calculation, £205,185 per hectare, which is well below the assumed BLV of £250,000. Higher enabling and S.106 costs clearly reduce the RLV further, although a positive land value is achieved in all test scenarios.
61. The Council envisages that the SUE will come forward through a comprehensive outline planning application. Its preferred approach is to deal with the SUE's substantial and specific infrastructure requirements in a self-contained manner through a S.106 planning agreement. This approach is reflected in its proposed CIL zone, defined around the site boundaries of the SUE, and its proposed £0 CIL charge. The evidence confirms that the development is unable to sustain CIL charges on top of the heavy burden of anticipated site enabling costs and S.106 obligations.

Specialist residential development types for older people.

62. The VA evidence suggested that residential scheme viability for retirement housing schemes falling within the C3 Use Class would display similar overall viability characteristics to conventional housing schemes. However, the Council recognised that those variants involving significant elements of support and associated facilities that led to a C2 Use Class classification were less viable. Indeed, the testing suggested that such schemes would only be viable in the highest value area.
63. I am satisfied that the Council's approach to differentiate by Use Class, applying a £0 rate to Class C2 uses, reflects the evidence. A modification to the DCS is required to reflect the Council's intention to apply a zero CIL rate to all Class C2 uses (rather than just the 'Extra Care' developments stated in the DCS). This is reflected in my recommendations.

Commercial CIL – viability appraisal evidence and proposed CIL charges

The 'zero –rated' commercial development types

64. The VA's testing of office, industrial, warehouse, education and health developments demonstrated that these could not currently support CIL charges. The evidence suggested that commercial leisure developments had some potential to support very modest CIL charges. The Council does not propose CIL charges for any of these development types at this point in time and there would be no material impact on the amount of CIL receipts, due to the very limited number of such schemes anticipated to come forward.

Retail development

65. The VA tested a range of different types of retail development, in varying locations, sizes and covenant strengths. The initial 2012 VA testing generated potential CIL rates of £380 psm for a supermarket (5,000 sq. metres); £170 psm for a 'non food retail park' development (9,290 sq. metres) and £150 psm for a suburban food store (400 sq. metres). The Council's further testing in 2013 included a finer grained analysis of convenience retail types. It tested notional schemes of 1,500 sq. metres, 2,700 sq. metres and 5,000 sq. metres supermarket combined with a petrol filling station. The CIL results with a 40% buffer applied were, respectively, £0 psm, £470 psm and £260 psm (assuming 20% profit on GDV).
66. The Council's DCS proposes to apply a retail CIL charge of £260 psm solely to 'convenience' stores (supermarkets) over a 2,000 sq. metre size threshold (all other retail types would be zero rated). The Council advised that the city was generally well catered for with a network of centres and supermarkets and its greater priority was increasing comparison shopping floorspace to meet modelled capacity. That said, the Council's latest retail needs assessment suggests that, once commitments are allowed for, a growth in the range of 39,700 – 53,600 sq. metres of new convenience floorspace may be achievable in the period 2012 - 2031. The Council also acknowledged the importance of the smaller supermarket formats, and the discount operators, in terms of meeting future demands, driving consumer choice and addressing localised gaps in provision.
67. The key examination issue in respect of the proposed retail CIL charge relates to the size threshold at which it would apply. The later 2013 evidence clearly indicates that smaller format supermarket stores cannot sustain a CIL charge, whereas a 2,700 sq. metre store can sustain a quite significant CIL charge (of £470 psm). Representations from the discount supermarket sector argued that there was no clear rationale for the Council's proposed 2,000 sq. metre threshold and that there were discount formats above this threshold and below the tested 2,700 sq. metres that simply could not sustain the CIL charge. Given that further stores of this nature are anticipated in Birmingham (one operator suggested up to ten sites were in the pipeline), it was argued that these schemes could face viability issues.

68. This is quite a difficult area to arbitrate as the variable is not simply one of unit size and the economies of scale but of operator covenant strength (and associated rents and yields). In effect, the Council is seeking to promote a floorspace as a proxy to where low and high covenant strengths are likely to sit. Whilst there is nothing wrong with that approach, I share representative views that the evidence does not demonstrate that 2,000 sq. metres should be that watershed – it is simply a figure selected to fall in the middle ground between the unviable and viable tested schemes. At the Hearing sessions, the Council accepted that the use of 2,700 sq. metres was a more robust evidence based threshold, and indicated that it would not be unduly concerned about the use of the higher figure. I recommend that modification, as it will align the charging schedule more closely with the evidence and remove any potential risk to the viability of smaller formats of convenience retail development.

Hotel development

69. The VA testing of notional 150 bed hotel schemes indicated that there were differences in viability between city centre schemes and those elsewhere. City centre schemes generated a potential maximum CIL rate of £45 psm, whereas those elsewhere displayed weaker viability. The Council's proposed application of a £27 psm CIL charge in its defined city centre zone is supported by the evidence. Such a charge includes a healthy (40%) buffer from the maximum and I do not consider that hotel development viability will be compromised.

Student accommodation development

70. The VA tested notional student housing schemes of 50 and 250 units and both returned maximum CIL levels of £115 psm. The proposed application of a £69 psm CIL charge (which includes a 40% buffer) is supported by the evidence. The Council indicated that, although this market is mature, there are signs of some activity and new schemes may come forward in the Plan period.

Overall Conclusions

71. The evidence demonstrates that, subject to some minor modifications, the overall planned development of Birmingham will not be put at risk if the proposed CIL charges are applied. Two minor modifications are required. The first is a clarification that all Use Class C2 development will be zero rated for CIL purposes. The second is to increase the 'retail convenience' size threshold, at which CIL would apply, from 2,000 sq. metres to 2,700 sq. metres. Subject to these changes, I conclude that, in setting the CIL charges, the Council has used appropriate and available evidence which has informed assumptions about land and development values and likely costs. The CIL proposals are anticipated to achieve an important income stream that will help to address a well evidenced infrastructure funding gap.
72. However, my conclusions must include some comment on the very 'light touch' nature of the CIL proposals. Indeed, until at least the first review, the

vast majority of development planned in the city will not be contributing through CIL (or S.106 planning agreements) to the infrastructure requirements identified in the IDP. I understand the Council's desire to nurture growth, particularly given its reliance on growth beyond its own administrative boundaries, but care is needed to ensure that growth is appropriately supported by infrastructure (which must be funded). Earlier in this report, I also expressed some reservations about the robustness of CIL revenue estimates and whether these will fully materialise. These are not criticisms of the Council but they are important factors for the Council to monitor and review and may assist its thinking in terms of the timing and scope of its first formal CIL review. I recommend that the Council considers undertaking such a review within three years of adoption of the schedule.

73. Overall, I conclude that, subject to my recommended modifications, the Birmingham City Council Draft Community Infrastructure Levy Charging Schedule, as modified by its Statement of Modifications, satisfies the requirements of Section 212 of the 2008 Act and meets the criteria for viability in the 2010 Regulations (as amended). I therefore recommend that the Charging Schedule be approved.

LEGAL REQUIREMENTS	
National Policy / Guidance	The Charging Schedule complies with national policy / guidance.
2008 Planning Act and 2010 Regulations (as amended)	The Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, and consistency with the development plan framework for Birmingham and is supported by an adequate financial appraisal.

P.J. Staddon

Examiner

Attached: Appendix A – Recommended Modifications

Appendix A

Modifications that the Examiner specifies so that the Charging Schedule may be approved.

These modifications should be read in conjunction with Examination Document SO2 'Draft Charging Schedule – Version 1 – Updated January 2015.'

Modification Number	Modification
EM1	<p>Page 8 – Table – left hand column</p> <ul style="list-style-type: none">• Delete 'Extra Care' and insert 'Use Class C2'• Add footnote 3 referencing above - <i>The Town and Country Planning (Use Classes) Order 1987 (as amended)</i>
EM2	<p>Page 8 – Table</p> <p>Second development type 'Retail convenience', middle column:</p> <ul style="list-style-type: none">• Delete '>2,000 sqm' and insert '>2,700 sqm'

Equality Analysis

Birmingham City Council Analysis Report

EA Name	Community Infrastructure Levy
Directorate	Economy
Service Area	P&R Planning And Development
Type	New/Proposed Policy
EA Summary	The impact of a new policy to secure planning obligation contributions from new development within the city.
Reference Number	EA000209
Task Group Manager	hayley.anderson@birmingham.gov.uk
Task Group Member	
Date Approved	2015-07-09 01:00:00 +0100
Senior Officer	Andrew.round@birmingham.gov.uk
Quality Control Officer	Richard.Woodland@birmingham.gov.uk

Introduction

The report records the information that has been submitted for this equality analysis in the following format.

Overall Purpose

This section identifies the purpose of the Policy and which types of individual it affects. It also identifies which equality strands are affected by either a positive or negative differential impact.

Relevant Protected Characteristics

For each of the identified relevant protected characteristics there are three sections which will have been completed.

- Impact
- Consultation
- Additional Work

If the assessment has raised any issues to be addressed there will also be an action planning section.

The following pages record the answers to the assessment questions with optional comments included by the assessor to clarify or explain any of the answers given or relevant issues.

1 Activity Type

The activity has been identified as a New/Proposed Policy.

2 Overall Purpose

2.1 What the Activity is for

What is the purpose of this Policy and expected outcomes?	The CIL is a charge which Local Authorities in England and Wales are empowered, but not required, to charge on most types of new development in their area. The proceeds of the CIL will be spent on local infrastructure to support the development of the area. It is for the Authority to determine the infrastructure which will be supported and the priority order of that infrastructure. The charge per square metre, once adopted, will become a mandatory charge on all new developments with an increase of net internal area of over 100sqm, or a single new dwelling.
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For each strategy, please decide whether it is going to be significantly aided by the Function.

Public Service Excellence	No
A Fair City	No
A Prosperous City	Yes
A Democratic City	No

2.2 Individuals affected by the policy

Will the policy have an impact on service users/stakeholders?	Yes
Will the policy have an impact on employees?	No
Will the policy have an impact on wider community?	Yes
<u>Comment</u> The CIL regulations ensure that all charges proposed relate solely to the development economics/viability of an area or type of development, and do not relate to individual builders/people/companies. It should also be noted that the infrastructure provided will have a positive benefit for individuals, businesses and visitors to Birmingham through improved public spaces, transport, education provision and cultural offerings.	

2.3 Analysis on Initial Assessment

The Department of Communities and Local Government undertook an Equalities Impact Assessment of CIL legislation and regulations in January 2012. Part of this assessment states that:

The Community Infrastructure Levy is unlikely to have an adverse impact on any social group. By making communities more sustainable, the Community Infrastructure Levy will facilitate economic growth and liveability and so create opportunity for all. The infrastructure and services that the Community Infrastructure Levy will provide (such as medical and community facilities and transport networks) will enhance accessibility and liveability for all sectors of society, and could help to deliver new infrastructure that serves different needs within the community, for example, by increasing mobility and accessibility. We do not anticipate the reforms to the Community Infrastructure Levy changing this assessment.

DCLG, Jan 2010, <http://www.parliament.uk/documents/impact-assessments/IA11-010AG.pdf>

It is clear that the Government do not expect the implementation of CIL to cause any adverse impact on any equality groups; indeed they anticipate that it will in general have a positive influence on a number of equalities groups.

The CIL will provide an income stream to contribute towards infrastructure projects in the city which will support the city to grow as outlined in the Birmingham Development Plan. This infrastructure can include but is not limited to highways, education facilities, public open space, public transport, and leisure facilities.
All projects funded wholly or in part through CIL will be subject to the Councils Standing Orders and will have due

regard to the aims of the General Duty.

The CIL will impact on those individuals and businesses who submit planning applications either for an individual dwelling (although self build individuals will be exempt from paying CIL) or for applications with an increase of 100sqm or more of gross internal area, as these developments will be liable for CIL payments. This is a mandatory charge and will be payable in instalments.

The CIL charge will be based on extensive, specialist, viability testing and will be published for public consultation twice, with further publication in advance of the Examination in Public.

As part of the first consultation stage, the relevant documents were published on the website for six weeks, along with paper copies available in all Libraries. Two public drop in sessions were also held, in addition to workshops with interested private sector agencies (developers, agents and consultants) to facilitate engagement. The consultation was published on Objective, and written responses were also accepted. All comments were taken into account, and the charges have been revised where appropriate to ensure they do not inhibit development, but also secure an income stream to provide necessary infrastructure.

As part of the second consultation stage, the revised charges will also be published on the website for a period of six weeks, there will be further drop in sessions, workshops and the consultation will be on Be Heard. If comments received require further amendment of CIL charges, the EA will be updated to reflect this.

Regulations clearly state how CIL will be calculated and spent to ensure there is no double counting of planning obligations with S106 agreements.

The consultation process and formal examination stage which follows will provide an opportunity to influence the charges and viability evidence of the CIL. The objective of CIL is to generate funds to provide infrastructure to support the development of the city, as outlined in the Birmingham Development Plan. Without this option, the change in regulations relating to planning obligations would lead to a decrease in planning obligation income. This could have implications for the city as the current infrastructure would not be improved or replaced to keep pace with the growth of the city, leading to overcrowded schools, a lack of public open space, poor highway infrastructure and public realm which is not fit for purpose.

However, if the CIL charges are too high, this could lead to a reduction in development activity, and therefore in the number of new houses and employment opportunities provided for a growing population. This could also lead to a reduction in the associated planning obligation income.

This risk can be mitigated by ensuring the charges are kept to a level which secures income but does not prohibit development, as is required in the CIL regulations. In addition, the regulations regarding S106 planning obligations will be scaled back once CIL is adopted, leading to an expectation that overall planning obligation contributions will remain on a par after the adoption of CIL and should not have any impact on the level of development activity.

There is no evidence that this policy will have an adverse impact on the lives of people.

It is anticipated that the funds received will provide infrastructure which will improve the lives of people within Birmingham.

3 Concluding Statement on Full Assessment

This screening has been undertaken as a collaborative exercise by the panel and has included a review of other screening statements. A full Equalities Assessment is not necessary. Should any equality issue arise post implementation of CIL, this will be considered.

4 Review Date

30/09/15

5 Action Plan

There are no relevant issues, so no action plans are currently required.