Birmingham City Council

Planning Committee 16th January 2025

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

Recommendation	Report No.	Application No / Location / Proposal
Approve – Subject to Section 106 Legal Agreement	6	2024/06155/PA Indoor Market 50 Edgbaston Street Birmingham B5 4RQ Outline application with all matters reserved for the demolition of existing indoor market building and the construction of new buildings providing up to 60,932sqm of new floorspace containing: up to 1,493sqm of commercial, business and service floorspace (Use Class E); up to 745 apartments (Use Class C3) or up to 1,544 student bedrooms and associated communal student facilities (sui generis), or any combination of these residential uses but not exceeding a maximum of 1,544 residential units; together with associated plant, car parking and cycle parking facilities and works to the public realm adjacent to the proposed building(s).
Approve – Conditions	7	2024/03375/PA 35 and 50 Cliveland Street Birmingham B19 3SH Demolition of existing buildings and erection of purpose built student accommodation (Sui Generis, 279 bedspaces) in blocks of between 8 and 20 storeys with associated supporting facilities.

Assistant Director of Planning

Committee Date:	16/01/2025	Application Number:	2024/06155/PA
Accepted:	24/09/2024	Application Type:	Outline
Target Date:	17/01/2025		
Ward:	Bordesley & Highgate		

Indoor Market, 50 Edgbaston Street, Birmingham, B5 4RQ

Outline application with all matters reserved for the demolition of existing indoor market building and the construction of new buildings providing up to 60,932sqm of new floorspace containing: up to 1,493sqm of commercial, business and service floorspace (Use Class E); up to 745 apartments (Use Class C3) or up to 1,544 student bedrooms and associated communal student facilities (sui generis), or any combination of these residential uses but not exceeding a maximum of 1,544 residential units; together with associated plant, car parking and cycle parking facilities and works to the public realm adjacent to the proposed building(s)

Applicant:	Bull Ring Limited Partnership c/o agent
Agent:	Avison Young 3 Brindleyplace, Birmingham, B1 2JB

Recommendation
Approve Subject to a Section 106 Legal Agreement

1. **Proposal:**

1.1. Outline consent is sought for the demolition of the indoor market and associated multi-storey car park and the construction of new buildings providing up to 60,932sqm of floor space containing the following:
- Up to 1493sqm of commercial, business and service floorspace (use class E); and
- Up to 745 apartments (use class C3); or
- Up to 1,544 student bedrooms with associated communal student facilities (sui generis); or
- Any combination of apartments (use class C3) and student bedrooms (sui generis) that does not exceed a maximum of 1,544 residential units.

1.1 The commercial uses would be restricted to the lower ground and ground floor with the residential/student accommodation above.

1.2 In addition to the above associated plant, car parking and cycle parking would be provided with works to the public realm adjacent to the proposed buildings.

1.3 The quantum of new public realm to be provided is up to 2,315 sqm, through both hard and soft landscaping.

1.4 Up to 3,078 sqm of outdoor private amenity space would be created, through a combination of a private central courtyard and roof-top terraces on the subservient elements of each tower.

Image 1: Indicative ground floor layout

1.5 The application has been presented as all matters reserved so the application would just secure the principle of the development subject to a set of parameters. The parameters plans establish that future development of the site would be arranged in four towers, which are referred to as Tower A in the north-western corner, Tower B in the north-eastern corner, Tower C in the south-western corner and Tower D in the south-eastern corner. Each tower would have a smaller subservient component. Five linking structures (or ‘shoulders’) would connect the four towers. Link E1 connects Towers A and B facing out to Edgbaston Street, Link E2 connects Towers B and D with its façade on Gloucester Street, Link E3 and 5 connect Towers C and D along Upper Dean Street, and Link E4 connects Towers A and C on Dudley Street.

1.6 The Limits of Deviation drawing details the parts of the site within which buildings may be constructed. It does this by establishing a minimum and a maximum parameter at which the building façade would be erected. The limit to development of the building façades to Dudley Street and Gloucester Street would deviate by up to 1m between its minimum and maximum parameters. In other words, there is more limited flexibility on the position of the facades on the east and west elevations of the development.

1.7 The link elements of the building, which comprise the connections between the four towers would have up to 2m of deviation. All other parts of the building have proposed deviation of up to 3m.

1.8 The Maximum AOD and Minimum AOD Plans serve to define the maximum and minimum heights each element of the buildings may be built to.

1.9 The parameters plans establish that future development would take the form of four towers, each with a stepped subservient element, and with connections between all four blocks. The intention is that this would contribute towards a 'stepped' design approach, both in the sense that the height of the development would 'step up' from east to west, and that the mass of each individual building would be stepped. The Design Code prepared confirms that this 'stepping' is to be achieved at whatever heights the buildings on site are constructed to in future.

1.10 The minimum parameters would therefore help to secure that outcome, by ensuring that the proportionate distribution of height across the development would remain as anticipated. These parameters operate in conjunction with the Design Code, which proposes coding in relation to the heights. The purpose of this is to ensure that each tower can independently be built to a height within the given parameters, without compromising the intended 'stepped' approach to scale and height. The code proposes the following principles:
• Tower A must always be two storeys taller than Tower B
• Tower B cannot be taller than Tower A.
• Tower C must always be taller than tower D, but cannot be taller than Tower A or B.
• Tower D cannot be taller than Tower A, B or C.

1.11 The Design Code explains how the heights of the subservient elements would be set. For Towers A and B, the height difference between the tallest element and the subservient element would vary slightly depending on the height of the tallest element. However, the Code confirms that:
• on Tower A, the subservient element would be between 12m and 18m shorter than the tallest element;
• on Tower B, the subservient element would be between 12m and 18m shorter than the tallest element;
• on Tower C, the subservient element would be 12m shorter than the tallest element; and
• on Tower D, the subservient element would be 12m shorter than the tallest element.

1.12 The minimum and maximum AOD heights for each tower, and subservient element, are therefore as follows.

	Tower A	Tower B	Tower C	Tower D
Maximum AOD	+210.000m	+201.000m	+174.000m	+165.000m
Minimum AOD	+192.000m	+183.000m	+168.000m	+153.000m

Table 1: Height Parameters for Principal Elements of Each Tower

	Tower A	Tower B	Tower C	Tower D
Maximum AOD	+190.050m	+181.050m	+160.050m	+151.050m
Minimum AOD	+178.050m	+169.050m	+154.050m	+139.050m

Table 2: Height Parameters for Subservient Elements of Each Tower

1.13 The shoulder links between the buildings are also subject to height parameters. Link E1 would be between +121.050m AOD and +145.050m AOD, and Links E2, E3 and E4 would all be between +121.050m AOD and +133.050m AOD. Link E5 has a fixed height of +121.050m AOD.

1.14 The parameters have been established to provide the applicants with enough flexibility to deliver its outcomes for the site, whilst ensuring Officers have sufficient control to ensure a high quality design outcome.

1.15 The application is supported by a Design Code, Design and Access Statement, Planning Statement (including Statement of Stakeholder Engagement; a Student Accommodation Statement and a Tall Buildings Assessment), Air Quality Assessment, Archaeological Desk-Based Assessment, Ecological Impact Assessment, Heritage Impact Assessment, prepared by Asset Heritage Consulting, Phase I Environmental Site Assessment, Drainage Strategy Report, Birmingham Demand and Needs Assessment, Environmental Noise Survey and Noise Impact Assessment, BREEAM Pre-Assessment, Sustainable Construction Statement (including Energy Statement), Transport Statement, Health Impact Assessment and Aviation Impacts Assessment.

1.16 The application is EIA development and is also therefore supported by an Environmental Statement pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The Environmental Statement (ES) has been produced to assess the likely significant effects of the proposed redevelopment of the application site and any in combination effects with other committed development. The ES assesses an assumed maximum amount of development.

1.17 Link to Documents

2. Site & Surroundings

2.1. The application site is broadly rectangular in shape and extends to 0.85 hectares in area. The site is located in a prominent City Centre location and is adjacent to the Birmingham Bullring Shopping Centre and is approximately 130m to the south of Birmingham New Street station. It has a gentle sloping gradient from north to south with a levels difference of approximately 3.5m.

2.2. The site is bounded to the north by Edgbaston Street, to the east by Gloucester Street, to the south by Upper Dean Street and to the west by Dudley Street.

2.3. The site contains a single building with a large footprint. The building was constructed in the early 2000s in connection with the wider redevelopment of the Bullring estate that took place at the same time. At ground level the building is occupied principally by the Bullring Indoor Market, and its associated servicing area. At the south-western corner of the building, there is a group of five small retail units. Above that are three storeys of covered car parking and a further level of car parking on the building roof. The north-western corner of the building contains the pedestrian access to the car park, and this part of the building is taller than the rest of it, to accommodate lift over-runs.

2.4. The market can be accessed by pedestrians from Dudley Street, Edgbaston Street and Gloucester Street. There are additional accesses to the Indoor Market at Edgbaston Street, Gloucester Street, and the northeastern and northwestern corners of the building.

2.5. The access and egress point for the car park is on Dudley Street. The service area for the Market is accessed by two entrances: one on the southern side and which is accessed directly from Upper Dean Street, and the second on the eastern side of the building, which is reached via an arm directly from the mini-roundabout junction of Upper Dean Street, Gloucester Street and Dean Street.

2.6. In the wider context, the site is surrounded by a mixture of uses that are typical of a large city centre. The Bullring, to the north, forms part of the retail core of the city. The Arcadian, the Hippodrome theatre, and the public realm in which they sit, all located to the west, form an important part of the leisure and night-time economy offer of the city. To the east is Digbeth and to the south is the 'Southside' part of the city, both of which are areas undergoing transformation through development and other infrastructure improvements. In these areas, there is a mix of established and proposed uses, including residential development, and student accommodation.

2.7. There is also a significantly large and cleared site to the south-east. This is the site of the former Wholesale Markets, which were demolished in 2019. The demolition was part of the preparation of the redevelopment of the site, and land around it, as part of a significant regeneration scheme known as Smithfield.

2.8. There are some heritage assets nearby. St. Martin's Church and the Statue of Nelson are both Grade II* listed and are located some 125m to the north-east of the site whilst 42-45 Upper Dean Street (Grade II listed) is located directly south of the site.

2.9. Site Location Plan

3. Planning History

3.1. No relevant history confined to redline boundary but the application site forms part of the wider Smithfield redevelopment:

3.2. 2022/09643/PA - Hybrid application comprising ; Outline application (all matters reserved) for the demolition of existing buildings and the creation in phases of a new mixed-use development including residential floorspace (Class C3), co-living (Sui Generis); and non-residential floorspace comprising ; Hotel (C1); Retail and food and beverage ((a,b,c)); Flexible commercial (Class E); Office and workspace (Class E (g)); Education(Class F1(a)); Local Community (Class F2(b)); Public House / bar (Sui Generis); Indoor sport / recreation (Class E(d)); Leisure and evening entertainment (Sui Generis); Theatre /Cinema (Sui Generis); Cultural uses (Class F1(b,c,d,e)); Market (Sui Generis) and refurbishment and change of use of the existing indoor market floorspace to flexible Market (Sui Generis) / Commercial (Class E(a, b, c, g)); with access, open space and public realm works; and Full Application for the demolition of any existing buildings and the creation of residential floorspace (429 units) (Class C3); and non-residential floorspace comprising retail and food and beverage (E(a,b,c)); Indoor sport / recreation (Class E(d)); Flexible commercial (Class E); Office and workspace (Class E (g)); Market (sui generis); Event space (Class F1 (e) / F2 (b)) together with landscape, public realm and open space, vehicular access, pedestrian and cycle infrastructure, drainage infrastructure, lighting and other associated development. Approved subject to the completion of S106 agreement.

4. Consultation/PP Responses

4.1 Transportation Development – No objection to the principle of redevelopment but concerns raised if footway is to be narrowed adjacent to Block C. Conditions suggested requiring implementation of a student management plan, submission and completion of works for the S278/TRO Agreement, parking areas to be laid out, provision of cycle storage and construction plan is place prior to commencement.

4.2 Environment Agency – No objection

4.3 Ecologist – No objection subject to conditions requiring submission of ecological enhancement scheme, bat and bird boxes, construction ecological mitigation plan and landscape and ecological management plan.

4.4 Affordable Housing Team – Support an off-site contribution towards affordable housing as this would more effectively address those in greatest need in this location.

4.5 Employment Access Team – No objection subject to conditions requiring construction employment plan and local employment strategy.

4.6 Regulatory Services – No objection subject to conditions requiring the submission of contamination remediation scheme, contaminated land verification report, extraction and odour control details, noise levels for plant and machinery, noise insulation scheme, noise and vibration assessment, lighting scheme and demolition and construction environmental management plan.

4.7 National Highways – No objection

4.8 West Midlands Police – No objection subject to conditions requiring CCTV, lighting, secure access system and boundary treatments.

4.9 West Midlands Fire Service – No objection

4.10 City Design Officer – No objection

4.11 Conservation Officer – No objection

4.12 Leisure Services – No objection subject to an off-site public open space contribution of £467,379 towards the provision, improvement and maintenance of public open space at Highgate Park in Bordesley and Highgate ward if a full residential scheme is delivered.

4.13 Severn Trent – No objection subject to condition requiring submission of foul and surface water drainage details.

4.14 Lead Local Flood Authority (LLFA) – No objection subject to conditions securing sustainable drainage scheme and sustainable drainage and operation plan.

5. Third Party Responses:

5.1 Adjacent occupiers, Councillors, M.P. and residents associations notified and site/press notices posted. No responses received from local residents.

5.2 A response has been received from the Birmingham Civic Society raising the following comments:

- There is some harm to nearby designated heritage assets;
- Active Class E uses at ground floor level is a positive;
- There is a need for PBSA; and
- Demolition of the indoor market should not take place until the new indoor market is occupied

6. Relevant National & Local Policy Context:

6.1 National Planning Policy Framework:

Chapter 2 – Achieving Sustainable Development
Chapter 5 – Delivering a Sufficient Supply of Homes
Chapter 6 – Building a Strong Competitive Economy
Chapter 7 – Ensuring the Vitality of Town Centres
Chapter 8 – Promoting Healthy & safe Communities
Chapter 9 – Promoting Sustainable Transport
Chapter 11 – making effective Use of Land
Chapter 12 – Achieving Well Designed Places
Chapter 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change

6.2 Birmingham Development Plan 2017:
PG3 - Placemaking
GA1 – City Centre
TP3 – Sustainable Construction
TP4 – Low and Zero Carbon Energy Generation
TP6 – Management of Flood Risk and Water Resources
TP21- Network and Hierarchy of Centres
TP22 – Convenience Retail Provision
TP30 – The Type, Size and Density of New Housing
TP33 – Student Accommodation

6.3 Development Management DPD:
DM2 – Amenity
DM6 - Noise and vibration
DM10 – Standards for Residential Development
DM14 - Transport access and safety
DM15 - Parking and servicing

6.4 Supplementary Planning Documents & Guidance:
Birmingham Design Guide SPD
Shopping and Local Centres SPG
Smithfield Masterplan
Birmingham Parking SPD

7. Planning Considerations:

7.1. The key planning issues in the determination of this application are; the loss of the indoor market; the principle of student accommodation on this site; principle of residential use; principle of Class E uses; economic impact; the siting, scale and appearance of the proposed building; impact on heritage assets; living conditions for prospective occupiers; impact on parking and highway safety; impact on neighbouring residential amenity; impact on trees and landscape; and drainage.

7.2. Policy GA1 promotes the City Centre as the focus for retail, office, residential and leisure activity within the context of the wider aspiration to provide a high quality environment and visitor experience. Residential development would be supported where it provides well designed high quality environments with the majority of new housing expected to be delivered on brownfield sites within the existing urban area. Policies GA1.1 City Centre, Role and Function, GA1.2 City Centre-Growth and Wider Areas of Change, and GA1.2 City Centre – The Quarters are relevant. They all support the creation of vibrant mixed use areas, combining the visitor, cultural, commercial and residential offer into a dynamic well-connected area.

7.3. GA1.2 ‘Growth and Wider Areas of Change’ identifies he ‘Southside Gateway’ as an area that will be the focus for the southern expansion of the City Core through mixed use developments and improved public realm. Including ‘through the comprehensive redevelopment of the wholesale markets site delivering a vibrant new destination for the City’. Development of the Southside Gateway will be supported where it:

“diversifies the City’s offer as a retail and leisure destination including niche retail, improved markets, food and leisure space. Residential development will be supported as part of the future mix of uses with opportunities to stimulate the regeneration of the wider area. The redevelopment will require high quality public spaces and routes to be incorporated with a new public event space creating a centre piece for the area. Integral to creating a new destination will be the creation of exemplar development in terms of its architecture and sustainability credentials, the reinterpretation of the historic moat and manor house, the creation of a gateway to the Digbeth creative quarter and space for a new cultural facility.”

7.4. Policy GA1.3 ‘The Quarters’ states: - ‘New development must support and strengthen the distinctive character of the areas surrounding the City Centre Core raising their overall quality, offer and accessibility.’ The application site is located within the defined City Centre, within the ‘Southside and Highgate Quarter’ the ambitions for which are described as *‘supporting the growth of the area’s cultural, entertainment and residential activities and its economic role complemented by high quality public spaces and pedestrian routes’.*

7.5. The site is located within the City Centre Growth area where the proposed mix of uses could be supported however the loss of the existing indoor market requires careful consideration.

7.6. Loss of the Indoor Market

7.7. The proposal results in the loss of the existing indoor market. This loss needs to be considered in the context of the wider Smithfield redevelopment (2022/09643/PA). This major hybrid application retained and refurbished the existing indoor market building although there no specific intention to retain a market within the building. As part of the detailed phase a new indoor market building is proposed to ensure the retention of indoor market space for traders. Further outdoor market space is also proposed through the outline consent. Whilst the approval of this application has been endorsed by Members, the S106 agreement is yet to be finalised meaning that the decision notice has not been issued.

7.8. The applicant has justified the loss of the indoor market on the following grounds:

- The relocation of the market has been long promoted by BCC in Smithfield Masterplan & Our Future City Plan;
- The hybrid application for Smithfields (2022/09643/PA) includes the provision a new market building in the full phase and further market space is identified in the later outline phase; and
- There is no BDP policy that protects the existing market building.

7.9. Neither the Smithfield Masterplan or Our Future City Plan promote the retention of the existing indoor market but they do highlight a single area for all the markets to be located. This development does not prejudice these aspirational plans.

7.10. The most relevant policy when considering the loss of the indoor market building is Policy GA1.2 of the BDP. In relation to the Southern Gateway the policy states that:

"Development will be supported that diversifies the City's offer as a retail and leisure destination including niche retail, improved markets, food and leisure space".

7.11. The wording offers 'support' for a particular outcome but doesn't demand a particular outcome or prevent the Council from supporting a different approach. It is clear that the policy refers to the diversification of the retail and leisure offer 'including' "niche retail, improved markets, food and leisure space." The use of the word 'including' means that what follows is not an exhaustive list, and so diversification might be achieved in other ways. Furthermore, no part of the policy says that any or all four of the listed elements have to form part of a development proposal. This therefore emphasises that there is no obligation imposed on applicants by Policy GA1.2 to provide 'improved markets' as part of development proposals.

7.12. It is also important to highlight that the application proposes the delivery of up to 1,493 sqm of commercial floorspace which may be occupied by Class E uses. Given the breadth of Class E which includes retail, restaurants, financial and professional uses and indoor sport and leisure there is plenty of scope for the development to incorporate uses that would be appropriate in a City Centre location and which would contribute to the diversification of the retail and leisure offer. The Planning Policy Officer considers the proposal accords with Policy GA1.2 and acknowledges that the wording of the policy is not strong enough to support a refusal on the grounds of the loss of the indoor market.

7.13. It is critical to understand that the Council's wider plans for markets in the City Centre. Plans have been proposed over the short to medium term which include the construction of a temporary market on the former wholesale market site. The intention is that indoor market traders would be decanted to the new facility. The proposed new temporary market should be fully operational by the end of 2026 at the latest. It is important to note that the majority of traders within the existing indoor market have leases that run until September 2027. This ensures that there is plenty of time to enable a smooth transition to the new temporary market without an undue impact on the market traders. In the longer term it is hoped that traders would move into the new permanent market building which would be provided on the wider Smithfield site. It is therefore clear that the proposed development would not have any adverse impact on the provision of market facilities.

7.14. On balance, the proposal accords with the intentions of Policy GA1.2 of the BDP and plans are in place to enable the continued provision of market facilities.

7.15. Principle of Student Accommodation

7.16. The Birmingham Development Plan (BDP), at Policy TP33, has a set of criteria for off-campus development which includes; a demonstrated need for development; a good location in relation to the educational establishment, local facilities and public transport; that the development would not have an adverse impact on the local neighbourhood or residential amenity; the scale, massing and architecture of the development is appropriate for the location;

and that the design and layout of the accommodation would create a positive living experience.

7.17. The submitted Birmingham Demand and Market Assessment concludes that there are 25,225 bedspaces across Birmingham representing 30% of total FT students meaning there are 3 students for every one PBSA bedspace. Within a one-mile radius of Edgbaston Street, there are 3,284 PBSA bed spaces, representing 22.1% of fulltime students living within the catchment. This equates to a gross ratio of 4.5 students per bed space.

7.18. There are 14,840 full-time students living within a 1-mile radius of the proposed scheme. Full-time non-UK domicile students represents 51.9% (7,707 students) of total full-time students living within the one-mile catchment, and their number has increased by 35.9% over the period 2017/18-2021/22. The assessment highlights six higher education providers with campuses within a one-mile radius of the proposed scheme with the University of Birmingham falling just outside this radius. When including the University of Birmingham there are 71,978 full time students within the area and over the period 2017/18 – 2021/22 the number of full time students studying at these institutions has increased by 9.1%, which is primarily due to the growth in international students.

7.19. The Council recently updated its Purpose Built Student Accommodation: Supply and Demand Update Paper (dated 28th November 2024). Following the provision of updated data from the city's 5 main Universities it is clear that Universities within the City will continue to grow. Between 2022/23 and 2027/28 the demand for accommodation is expected to rise from 47,434 to 53,476. Even when incorporating all committed supply the Paper describes there as being a significant deficit in accommodation serving the city centre universities. It is therefore clear that further PBSA is required to meet this increased demand whilst also providing choice in the market.

7.20. The application site is within 1.1km of the main campuses of Birmingham City University, Aston University and University College Birmingham. The site is therefore ideally located to access a variety of educational establishments on foot.

7.21. Located within the City Centre there are a wide variety of retail, leisure and entertainment uses in close proximity. Furthermore, the site is well positioned to access both New Steet and Moor Street station as well as a wide variety of bus services providing excellent connections to many areas of the city and the wider West Midlands.

7.22. The scheme has been reviewed by the Planning Policy Officer and no concerns are raised in relation to need or the location. In summary, current planning policy does not restrict the provision of student accommodation at this site and therefore the potential inclusion of PBSA within the scheme would be acceptable in principle, and the need for additional student accommodation has been demonstrated in accordance with Policy TP33 of the Birmingham Development Plan.

7.23. Housing Land Supply Position

7.24. Paragraph 11 of the December 2024 NPPF sets a presumption in favour of sustainable development, under which there is a 'tilted balance' in favour of granting planning permission where local authorities cannot demonstrate a 5 year supply of land for housing development or where the delivery of new housing over the past three years has been less than 75% of the government's targets under the Housing Delivery Test.

7.25. The City Council achieved 79% under the Housing Delivery Test 2023, resulting in a requirement to apply a 20% uplift to the city's local housing need requirement for the next five years from 22,240 to 26,688 new dwellings. As of 1st April 2024 a deliverable housing land supply of 29,959 new dwellings has been identified. When compared with the uplifted housing requirement this results in a housing land supply of 5.61 years. As this is above 5 years and because the city did not fall below the 75% Housing Delivery Test threshold, this means that the 'tilted balance' under national planning policy does not apply to applications for new housing development.

7.26. While the tilted balance does not currently apply, there is still an ongoing need for new dwellings across the city and these should be permitted where they accord with local and national planning policy unless material considerations suggest otherwise.

7.27. Provision of Housing

7.28. Policy TP27 of the BDP highlights the significance of housing and its importance to the creation of sustainable neighbourhoods; and how this is underpinned by the provision of a wide choice of house sizes, types and tenures to ensure balanced communities are created to cater for all incomes and ages. Policy TP28 requires new residential development to be well located and lists several requirements a residential development site should meet. The application site is an appropriate location for housing, in accordance with this policy.

7.29. TP30 requires proposals for new housing to deliver a range of dwellings to meet local needs and support the creation of mixed, balanced and sustainable neighbourhoods in accordance with the most recent housing market assessments.

7.30. TP31 seeks 35% affordable on all schemes of 15 dwellings or more. A lower percentage would only be accepted where it has been robustly justified within a viability appraisal.

7.31. The indicative details submitted suggest a mix of 367 x 1 beds (49.4%), 336 x 2 beds (45%) and 42 x 3 beds (5.6%).

7.32. The Council's Housing and Economic Development Needs Assessment (HEDNA) provides a guidance on the mix of dwelling sizes required in different parts of the City and replaces the existing SHMA referred to in the policy.

7.33. The application site falls within the 'Central Area'. The 'Central Area' defined in the HEDNA covers more than just the land within the ring road as it analyses sub-areas within the Central Area which it defines as Inner and Outer Central Sub-Areas. The inner area broadly corresponds with land within the ring road and the outer area covers those areas within the Central Area wards which are outside of the ring road. The HEDNA does not suggest a housing mix specifically for the inner Central Sub-Area, which the site is located within, it does however acknowledge the different characteristics compared to the outer Central Sub-Area.

7.34. The HEDNA recognises that brownfield sites within the central area are likely to be suited to flatted development, such as that being proposed. On a high density site in a central location it is accepted that the opportunity for delivering larger house types are limited. The indicative submissions show a mix of 1, 2 and 3 bed properties. Whilst there is a higher proportion of small house types indicated it is important to stress that the mix is not fixed at this stage and there would be an opportunity for negotiation on such matters at reserved matters stage. On balance, sufficient information has been provided to demonstrate that an appropriate mix can be delivered on the site.

7.35. The application has been supported by a viability appraisal that suggests the scheme would be unviable with any form of planning contributions. The appraisal has been reviewed by the Council's consultants Lambert Smith Hampton (LSH) who have highlighted that the site has abnormally high demolition and site clearance costs and further substantial costs arising from the need to upgrade, reinforce and divert services. This means that the site is unable to viably deliver the full 35% affordable housing however it has since been agreed by all parties that the scheme if built out to the maximum residential parameters (745 apartments) it can deliver an affordable housing contribution which has a value of £4.2m which if delivered on-site would provide 10% affordable housing provision as affordable private rent tenure at a 20% discount on market rent. Paragraph 64 of the NPPF highlights that affordable housing provision should be provided on-site unless an off-site contribution can be robustly justified and the agreed approach contributes to the objectives of creating mixed and balanced communities. In this case it is considered that a 20% reduction of market rents on City Centre apartments would not be genuinely affordable for a significant proportion of the local population. The Affordable Housing Delivery Team consider that a commuted sum of up to £4.2m spent in local wards can make a genuine difference in providing good quality social housing for those in greatest need. On this basis it has been agreed with the applicant that a financial contribution of £4.2m towards affordable housing would be secured through a legal agreement if the scheme is built out to its maximum residential parameters. If a smaller residential scheme is proposed at reserved matters stage the figure would be proportionately reduced. The proposal therefore accords with policy TP31 of the BDP.

7.36. Environmental Impact Assessment

7.37. Environmental Impact Assessment (EIA) is the process undertaken in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (SI 2017/571) the 'EIA Regulations'. The EIA process is where the development proposals deemed likely to have significant environmental effects are appraised. EIA establishes the nature of a development and the environment in which it is likely to take place, during both the construction and operational phases. The Environmental Statement (ES) is the document that reports the assessment process and is submitted with the planning application. It has the status of a material consideration during the determination of the application.

7.38. An ES should focus on the likely significant effects of the proposed development so that they can be taken into account when determining the application.

7.39. The subject areas of likely significant effects, in this case are:

- Socio-economics;
- Townscape and Visual Effects;

- Wind microclimate;
- Daylight, sunlight and overshadowing; and
- Effect Interactions

7.40. Topics scoped out as being unlikely to give rise to significant effects on the environment were: transport and access, noise and vibration, air quality, ecology, archaeology, heritage, ground conditions and contamination, flood risk and drainage, greenhouse gases and climate change, risk of major accidents and disasters; health and wellbeing, solar glare, light pollution and Waste Management.

7.41. Throughout the ES effects have been assessed as either:
- Insignificant: No significant effect to an environmental resource or receptor.
- Significant Adverse: Detrimental or negative effects to an environmental resource or receptor; Or
- Significant Beneficial: Advantageous or positive effect to an environmental resource or receptor.

7.42. Where adverse or beneficial effects are identified, 'significance' was assessed as follows:
- Minor significance: Slight, very short or highly localised effect of low significance.
- Moderate significance: Noticeable effect (by extent, duration or magnitude) which may be considered significant.
- Major significance: Considerable effect (by extent, duration or magnitude) of more than local significance or in breach of recognised acceptability, legislation, policy or standards.

7.43. The Environmental Statement goes on to consider the cumulative effects of the development by also considering 36 sites within 2km of the site that either have a resolution to grant consent, are valid consents where development has not commenced or sites under construction.

7.44. The ES also acknowledges effect interactions; which is, the combination of different environmental effects resulting from one project upon individual sensitive receptors, or a set of sensitive receptors.

7.45. Where the assessment of likely effects gives rise to significant adverse environmental effects, the ES sets out any additional mitigation required to avoid, reduce, ameliorate and/or offset such significant adverse environmental effects, together with any monitoring requirements necessary to ensure the efficacy of the mitigation measures. Similarly, should there be an opportunity to further enhance any likely beneficial effects, these are also set out.

7.46. Socio-economics

7.47. The ES identifies socio-economic impacts during both the construction phase and once the development is completed. The development would generate employment opportunities during both construction and once the development is complete and operational. The Works would generate on average 60 gross direct temporary full time equivalent (FTE) jobs per annum over the estimated 128 months construction period. Under a worst-case scenario, it is estimated the Development would support 56 net additional FTE jobs and an estimated £4m in Gross Value Added (GVA) per annum. In addition, the Development would support around £8.6m in spending on retail good and services. The ES considers this would be of minor beneficial significance to the local economy.

7.48. Under a worst-case scenario the proposed residential dwellings would support an additional population of 1,655 people, including primary and secondary school age children. The increase in population would result in increased demand on primary healthcare facilities. Taking into account existing provision, the effect is assessed as a minor adverse significance. There is estimated to be a pupil yield of 22 early years, 83 primary school aged children and 41 secondary school aged children as a result of the Development. Taking into account current capacity the effect is assessed as insignificant for primary and secondary school capacity and minor adverse significance for early years capacity.

7.49. There would also be increased demand on general practitioner (GP) services and open space and play spaces which considered to be a moderate adverse impact.

7.50. Townscape and Visual Impact

7.51. The likely significant townscape and visual effects are considered through the undertaking of a Townscape and Visual Impact Appraisal (TVIA).

7.52. Significant effects arising during the construction phase are identified on the townscape character within a localised area of Smithfield, and these effects would be direct, long-term and adverse. During these construction works, significant effects are identified on a number of viewpoints. These effects would be direct, long-term and adverse, and would result from views of the emerging development and construction plant and activities. The viewpoints are generally located in close proximity to the development, and wider views are unlikely to experience significant effects, as indicated by limited theoretical visibility beyond the immediate surroundings of the site. Such impacts cannot reasonably be mitigated however, the harm in this regard is temporary.

7.53. In light of the detailed design code and parameters plans the ES considers the Development would present a beneficial change in townscape character as its design and materiality relate well to the existing context and results in the loss of the existing multi-storey carpark which is considered to detract from the wider character.

7.54. Wind Microclimate

7.55. The ES acknowledges that in light of larger buildings being constructed on the site there would be changes to the local wind environment on and around the site which could impact on the comfort and safety of residents and pedestrians.

7.56. The assessment undertaken highlights that the wind environment during the buildings works is likely to be variable and as such, all effects would be temporary. Within the site boundary there would be no access to the general public and there would be no strong winds which could cause a safety risk to construction workers, so there would be no significant on-site effects.

7.57. The building work would give rise to a range of wind environment effects to surrounding receptors. However, as the works proceed, the effects on wind environment at surrounding receptors would evolve to eventually meet those resulting from the development once completed and operational. Therefore, no significant effects would be expected during the construction phase.

7.58. Safe and generally comfortable wind conditions for pedestrian activities are expected on and around the site following the completion of the Development.

7.59. Following completion of the development, there would be effects of minor adverse significance on wind comfort for the proposed public realm at the north-east and north-west corners of the site, the proposed entrance at the north of the development. Following mitigation which could include landscaping, boundary treatments and amendments to the detailed design it is considered that the residual effects would be insignificant.

7.60. There would be effects of minor to moderate adverse significance on wind comfort for the proposed roof terraces for Blocks A, E2 and E4. When tested without mitigation, these would not have sufficient space which would be suitable for sitting in summer. The implementation of the previously mentioned mitigation principles would be sufficient to make conditions in these spaces suitable, and residual effects would be insignificant.

7.61. There would also be an effect of minor adverse significance on wind comfort for the off-site bus stop on Edgbaston Street to the north of the development. The implementation of the mitigation principles would be sufficient to make conditions for this bus stop suitable, and residual effects would be insignificant.

7.62. Daylight, Sunlight and Overshadowing

7.63. Given the existing low-rise nature of the site in comparison and the surrounding built form, there is potential for significant daylight, sunlight and overshadowing effects to occur to the surrounding and future sensitive receptors including residential receptors and amenity spaces.

7.64. Following completion of the development, the results of the assessment show that the existing residential properties surrounding the site would continue to receive adequate levels of daylight. Whilst daylight to the surrounding properties would be noticeably affected as a result of the development, this is not unusual given the urban context of the site and its surroundings. It is considered that the overall daylight availability for the affected residential properties would remain adequate given the city centre location, underdeveloped nature of the development site and emerging height and density in the locality.

7.65. The daylight study highlights that all of the surrounding properties would continue to receive adequate levels of sunlight with the development in place. The despite the substantial increase in height and density in the locality the worst case scenario indicates that 810 out of 855 (95%) windows and 700 out of 783 (89%) rooms would meet the BRE daylight criteria, whilst all 186 (100%) rooms would meet the BRE sunlight criteria. This is considered to be a high level of compliance for a development in the city centre. For all neighbouring properties assessed, a range of effects are recorded from direct, long-term, local and insignificant to direct, long-term, local and of moderate adverse significance. Furthermore, the assessment of the minimum parameters demonstrates an even higher level of compliance, with 847 of 855 (99%) windows and 731 of 783 (93%) of rooms meeting the BRE daylight criteria, whilst all 186 (100%) rooms would continue to meet the BRE sunlight targets. Although the effects recorded are inevitably greater under the

Maximum Parameter scenario, the overall effects to neighbouring receptors are comparable between the two scenarios, which further demonstrates the high level of compliance recorded under the maximum parameter scenario.

7.66. In terms of the potential for the development to result in overshadowing of existing amenity spaces in the vicinity of the site, the development would not cause any additional reduction to sunlight amenity to the internal courtyard area serving 42-45 Upper Dean Street.

7.67. Summary of Impacts

7.68. Once complete the development would deliver significant positive impact to the local townscape and deliver economic benefits though job creation and increased local expenditure. There would be some adverse effects to the overall local population as a result of increased demand on early years places, healthcare provision and provision of open and play space in the local area, as well as to the identified existing and future residential receptors in relation to daylight, sunlight and overshadowing effects. These would be considered further through the assessment of this outline application.

7.69. Siting, Scale and Appearance

7.70. Policy PG3 of the BDP explains that "All new development would be expected to demonstrate high design quality, contributing to a strong sense of place." It goes on to explain that new development should: reinforce or create a positive sense of place and local distinctiveness; create safe environments that design out crime and make provision for people with disabilities; provide attractive environments that encourage people to move around by cycling and walking; ensure that private external spaces, streets and public spaces are attractive, functional, inclusive and able to be managed for the long term; take opportunities to make sustainable design integral to development; and make best use of existing buildings and efficient use of land.

7.71. Paragraph 131 of the NPPF states that "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities". The Birmingham Design Guide SPD also gives significant weight to achieving high quality design which recognises local character and distinctiveness.

7.72. The existing market building and multi storey car park was constructed in the early 2000's at a similar time to the Bullring shopping centre. The building is primarily constructed in cream coloured brick with metal grids utilised at a higher level to differentiate between each floor of the car park. The building is of no particular architectural merit and therefore no design or heritage concerns are raised over its loss.

7.73. It is important to stress that as this is an outline application with all matters reserved the detailed design is not agreed at this stage however a series of parameters plans and a design code document have been submitted to provide some indication over the broad layout, scale and appearance of the development.

7.74. The indicative plans show 4 towers located on each corner of the site that are likely to be a maximum of around 27 storeys high within each tower having a subordinate element that is 15-20m shorter. The development is shown to decrease in scale from north to south. The scale of development is comparable with developments approved or constructed on nearby sites. Examples include plot 7 of the Smithfield development (2022/09643/PA), the Ringway Centre scheme on Smallbrook Queensway to the northwest (2022/08496/PA), and to the southwest on the corner of Pershore Street and Ladywell Walk (2023/08709/PA). This increase in scale on this site is welcomed by the City Designer. Policy TP35 is supportive of densities of at least 100 dwelling per hectare in the City Centre. The proposed scheme would comfortably exceed this minimum density.

7.75. The Parameter Plans indicate a minimum and maximum area of development, and these afford a net gain in public realm to the north and the south. Both Edgbaston Street and Upper Dean Street currently perform poorly in terms of their function and connections. The setting in of the development affords a clear opportunity to deliver better connections through to Ladywell Walk, but also to Plot 7 of the Smithfield development. This reduction in the developable area, and gifting back to the public realm is a significant benefit to this scheme.

7.76. The parameter plans set out two principal lines of development running north south, A-C (along Pershore Street) with B-D (running along Gloucester Street). The principle linear blocks are linked together with a podium that also links laterally across a central courtyard. Key to the layout is the podiums handling of the 3m drop in level from north to south, and this is soundly fixed in both the parameter plans and the Design Codes.

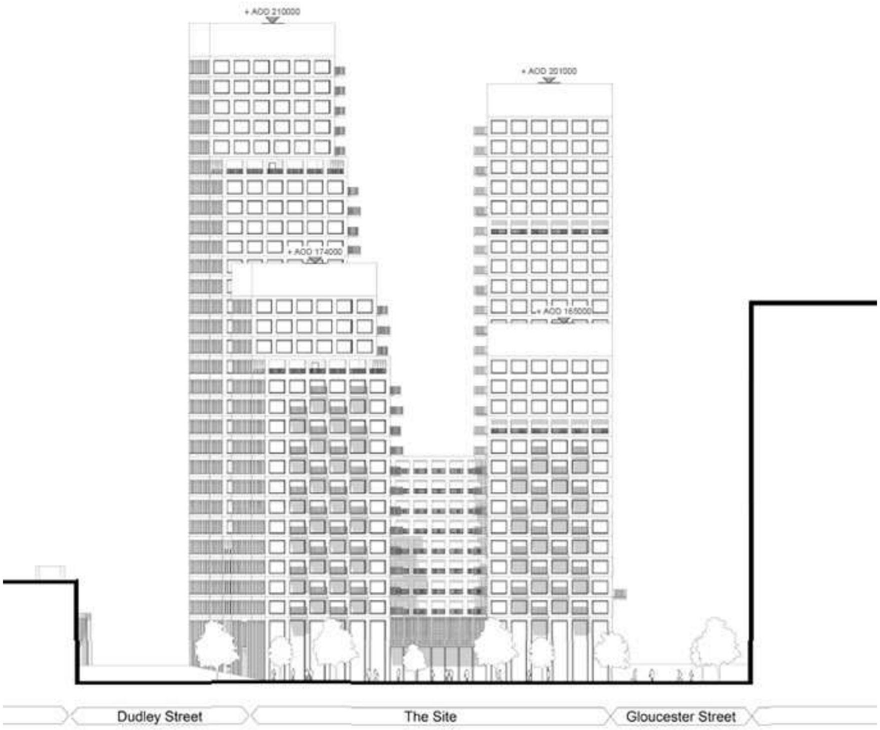


Image 2: Illustrative south elevation

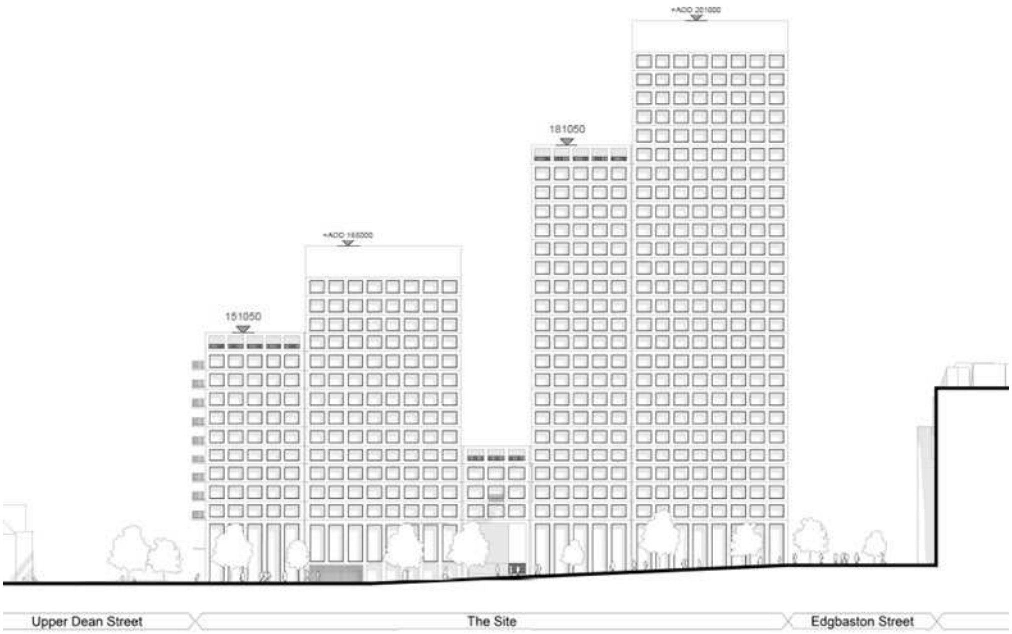


Image 3: Illustrative East elevation

7.77. The parameter plans also secure adequate retail frontage in the lower floors of the building to secure activation, whilst the parameters plan concerning pedestrian movement places residential entrances on all four sides, ensuring this large city block doesn't have a dominant and harmful rear elevation.

7.78. The Design Code adequately secures the general approach and location of entrances and distribution of retail so as to ensure the active frontage of this site are secured. It also addresses servicing in the lower (southern) end of the site, as is currently the case, likely (as illustrated indicatively) from the Gloucester Street frontage, which would cause the least harm.

7.79. In summary, sufficient supporting information has been provided to indicate that the proposal could fit comfortably into the street scene maintaining the character and appearance of the area.

7.80. Impact on Historic Environment

7.81. The site is located in close proximity to 42-45 Upper Dean Street (grade II), the Church of St Martin (Grade II*) and the Digbeth, Deritend and Bordesley High Streets Conservation Area.

7.82. The application is supported by a Statement of Significance and Heritage Impact Assessment which undertake a full review of the historical background and description of all the affected heritage assets, before undertaking an assessment of heritage significance and the capacity for change.

7.83. The report states that 'for a site in the centre of a major historic and populous English city, these assets are remarkably few in number, and although the site is visible in distant views, including from the Digbeth Conservation Area they are effectively confined to the Grade II* listed St. Martin's Church in the Bull Ring and the Grade II listed Nos.42-45 on Upper Dean Street. There is no designated conservation area that includes the application site or any other conservation area in the immediately surrounding area'. This scope is accepted by the Conservation Officer.

Image 4: Grade II listed buildings at No's 42-45 Upper Dean Street


Image 5: St Martin's Church

7.84. The methodology of assessment is considered to be sound and concludes that there is an 'extremely limited degree of significance attached to the settings of the three designated heritage assets [St. Martin's Church, the Statue of Nelson and Nos.42-45 Upper Dean Street] in the vicinity of the application site'. The author goes on to state that 'the outline scheme causes no harm to this significance. As such, the proposals comply with all the relevant guidance contained in the NPPF, the relevant local planning policies on built heritage and, most importantly of all, meet the statutory requirements set by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990'. The Conservation Officer agrees that no harm is caused to any heritage assets designated or otherwise. The proposal therefore accords with Policy TP12 of the BDP.

7.85. Living Conditions for Occupiers

7.86. Policy DM2 and DM12 of the Development Management in Birmingham DPD (2021) set out that development should not have a significant adverse effect on the privacy or amenity of nearby residents and occupiers of adjacent buildings and the amenity of the occupiers of the proposed development should not be adversely affected by the activities within the vicinity of the site. The policy also requires the development to meet nationally described space standards.

7.87. City Note LW-13 outlines the required outdoor amenity space for residents as follows:

- 5sqm (1 bed flat);
- 7sqm (2 bed flat); and
- 9sqm (3 bed flat)

7.88. The submitted plans show indicatively that if the scheme came forward as per the maximum of 745 apartments the mix would be 367 x 1 beds, 336 x 2 beds, 42 x 3 beds thereby requiring 4,565sqm of amenity space. The indicative plans show that up to 3,078 sqm of outdoor private amenity space would be created through a combination of a private central courtyard and roof-top terraces on the subservient elements of each tower. Furthermore, some balconies are likely to incorporated into the design ensuring further provision for some occupiers. Whilst the overall figure may fall short of requirements the level of provision is more generous than other intensive city centre schemes that have been approved in recent years.

7.89. The scheme would be expected to meet the Nationally Described Space Standards (NDSS). Without detailed floor plans it is not possible to determine whether the individual flats meet the relevant standards in terms of overall floor area or bedroom sizes. This matter would be considered further at reserved matters stage.

7.90. Indicative plans have been provided to show the possible layout if the scheme consisted of a PBSA scheme with 1544 bedrooms. This shows extensive internal communal areas on the ground floor with a good mix of studios (671) and cluster rooms (873). Furthermore, a large external courtyard would be available for the students. On balance, it is considered that an acceptable living environment could be created for the occupiers of 1544 bedrooms within the maximum parameters however this matter would be considered further at reserved matters stage.

7.91. In summary, the scheme could create an acceptable living environment for the proposed occupiers.

7.92. Parking and Highway Safety

7.93. Policy TP38 of the BDP states that "The development of a sustainable, high quality, integrated transport system, where the most sustainable mode choices also offer the most convenient means of travel, would be supported." One of the criteria listed in order to deliver a sustainable transport network is ensuring that that land use planning decisions support and promote sustainable travel. Policy TP44 of BDP is concerned with traffic and congestion management. It seeks to ensure amongst other things that the planning and location of new development supports the delivery of a sustainable transport network and development agenda.

7.94. The NPPF highlights that decisions should take account of whether opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure; Safe and suitable access to the site can be achieved for all people; and Improvements can be undertaken within the transport network that cost effectively limits the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

7.95. The proposal results in the loss of the multi-storey car park which is supported in Birmingham Transport Policy. The provision of zero car parking is supported in the Birmingham Parking SPD, with exception of disabled parking and therefore the scheme is fully complaint with parking policy. It is important to highlight that the site is in a highly sustainable location in the City Centre within easy walking distance of both New Street and Moor Street Station thereby providing direct routes to many towns and cities across the Country. Furthermore, there are a wide variety of bus services available locally providing access to a variety of locations across the West Midlands.

7.96. The plans show 6 disabled car parking spaces on the ground floor with cycle parking for 365 bikes. Servicing could occur from highway frontages from the western end of Upper Dean Street onto Gloucester Street which fits with the existing highway arrangement, or in the Smithfield proposals. Student drop-off/pick-up, daily delivery activity and car-club provision are noted in the Transport Statement and would be reviewed by Transportation in the submission of the reserved matter for access.

7.97. Transportation Development have raised no objection to the principle of the redevelopment however some concerns are raised over the potential narrowing of the footway adjacent to Block C. However, the applicant has since confirmed that any built form would be contained within the footprint of the existing building meaning that there would be no adverse impact on footpath widths. Given the outline nature of the proposal, it is considered that matters regarding precise footpath widths can be addressed at reserved matters stage. Furthermore, it is considered that subject to appropriate access points being agreed the proposal is unlikely to have a detrimental impact on the local highway network.

7.98. Amenity of Existing Residential Occupiers

7.99. The closest residential properties are located to the south of the site, namely 42-45 Upper Dean Street (PBSA) and 38 Upper Dean Street (serviced apartments) both of which have windows directly facing the proposed development site however a separation of approximately 37m is retained at the nearest point. This level of separation is considered sufficient to prevent overlooking or a loss of privacy. The daylight assessment also highlights that there is no notable impact on these nearest existing residential properties. It is noted that there is an outdoor amenity space associated with 42-45 Upper Dean Street however this already enclosed on all 4 sides by built form meaning that the levels of sunlight experienced are already low so the proposed development has no notable impact in this regard.

7.100. Whilst the proposal has no notable adverse impact on nearby occupiers it is also important to consider other proposed developments in the locality, specifically the wider Smithfield development (2022/09643/PA) which the application site forms part of. The decision is yet to be issued on this hybrid application however the masterplan indicatively shows a building between 8 and 13 storeys high directly to the east of the proposed development. If this plot were to come forward with residential development at lower levels there would be some impact on habitable windows. However, with great uncertainty over the scale of this scheme and uncertainty over the extent, nature and deliverability of the adjacent site it is not possible to conclusively assess any impact. This matter would have to be considered at reserved matters stage.

7.101. In summary the proposal does not have a significant impact on the living conditions of nearby occupiers.

7.102. Tall Building Impacts – Microclimate & Aviation Safeguarding

7.103. City Note LW-44 sets out relevant assessments and methods to 'minimise and mitigate impacts of all tall buildings on the environment and microclimate'. The Design Guide SPD also identifies the technical factors that need to be considered in the design of tall buildings.

7.104. Wind and Microclimate

7.105. The development, as built out to its maximum parameters, was modelled in a wind tunnel, using data over a 30-year period from Birmingham City Airport to model the likely wind conditions around the site when the proposed development is complete and operational.

7.106. The report sets out appropriate climate conditions would be achieved at nearly all measurement points. Although there would be an adverse impact on wind comfort in 4 locations as follows:

- the bus stop on Edgbaston Street to the north of the site;
- the northern entrance to the development;
- the proposed public realm at the northwest and north-east corners of the site; and
- the terraces for Blocks A, C and E2.

7.107. A moderate adverse significant effect on the terrace on link E4 was also identified. It is considered that mitigation can resolve these effects which can be secured by condition.

7.108. Aviation Safeguarding

7.109. An Aerodrome Safeguarding Impact Assessment has been submitted which confirms that the maximum heights proposed would not present a risk to the operations of Birmingham International Airport.

7.110. Based on the maximum parameters, and taking into consideration the need for tower cranes to deliver the building, the development would be within obstacle clearance limits for Birmingham International Airport and any other licensed airport in the area.

7.111. Current departure and arrival routings from the airport do not overfly the City Centre. However, even if routes change the presence of existing taller buildings across the City Centre confirms that the proposal could have no adverse impact on aircrafts.

7.112. Trees, Landscaping and Ecology

7.113. Policy TP7 of the BDP seeks to conserve and enhance Birmingham's woodland resource and states that all new development schemes should allow for new tree planting. Policy DM4 of the Development Management DPD highlights the need to take opportunities to provide high quality landscapes and protect existing trees of quality.

7.114. The entirety of the site is covered by either the existing building or hard standing. The only landscape features in the vicinity are 3No. hornbeam street trees to the northwest of the building and are shown to be retained. The submitted Ecological Impact Assessment has assessed that these trees are of negligible importance for commuting bats. The building itself was assessed of being of negligible suitability for roosting bats but could support a variety of nesting birds. The Council's Ecologist accepts the finding of the report and highlights that the scheme has the potential to deliver significant ecological benefits with extensive tree planting, vegetated planting beds and green roofs indicatively proposed. The Ecologist therefore raises no objections to the scheme subject to conditions securing a scheme of ecological enhancements, provision of bird and bat boxes, construction ecological management plan and landscape and ecological management plan.

7.115. It is important to note that the statutory 10% Biodiversity Net Gain does not apply to this scheme due to the 'de minimis' exemption. In light of the conditions proposed it is considered that the scheme can deliver notable landscape and biodiversity enhancements.

7.116. Sustainability

7.117. The applicant has submitted a Sustainable Construction Statement, which confirms that the new development incorporates measures that minimise and mitigate the impacts on the environment and climate change. The Energy Statement demonstrates that the development includes an average carbon improvement target of 33% and an Average Fabric Energy Efficiency improvement target of 9%. This would be established through a fabric first approach and the deployment of energy efficient technology with building located renewable and low carbon energy sources. The feasibility of enabling a further reduction in energy demand through the utilisation of community systems would be considered at reserved matters stage. It has also been demonstrated how the non-residential elements of the scheme can achieve BREEAM 'excellent', which can be secured by condition.

7.118. The Council's Planning Policy Officer is satisfied that sufficient information has been provided to demonstrate that any future reserved matters application can meet the requirements of policy TP3 and TP4 of the BDP.

7.119. Drainage

7.120. Policy TP6 of the BDP requires applicants to submit a Sustainable Drainage Assessment and Operation and Maintenance Plan with all major applications. Proposals must demonstrate that the disposal of surface water does not increase flooding elsewhere. Surface water should also be managed in accordance with the drainage hierarchy set out within TP6.

7.121. Surface water runoff from site would be attenuated on site via the use of raingardens, tree pits and hydro planters at ground level, as well as cellular storage tanks underneath the building before discharging into the public sewer. This would greatly reduce surface water run off rates and reduce the risk of surface water flooding. The LLFA have reviewed the Drainage Strategy and are satisfied that sufficient information has been provided to ensure that a policy compliant strategy can be delivered at reserved matters stage. Conditions have been recommended to require a sustainable drainage assessment and sustainable drainage operation and maintenance plan.

7.122. Other Issues

7.123. The Community Infrastructure Levy (CIL) would only apply to any purpose built student accommodation and would be charged at a rate of £97.01 per sqm which could deliver up to £2,332,239.97 if the maximum of amount of PBSA is delivered.

7.124. A contribution of £467,379 has been requested by Leisure Services to maintain and enhance local public open spaces however in light of the viability issues raised previously it is not possible to secure this contribution.

8. Conclusion

8.1 The proposed development would see the delivery of a high-quality mixed use scheme on brownfield land. The agreed parameters would ensure that the development enhances the character of the area without harming the setting of any nearby heritage assets. Furthermore, there would be no significant adverse impact on the amenity of neighbouring residential occupiers and the development could provide an acceptable living environment for future occupiers. The development would also significantly boost housing supply within the City.

8.2 In conclusion the development accordance with the Development Plan and is therefore acceptable subject to the completion of a legal agreement and conditions.

9. Recommendation:

9.1 That the consideration of planning application 2024/06155/PA should be approved subject to the completion of a legal agreement to secure the following:

a) An index linked financial contribution of £4,200,000 for off-site affordable housing provision if the scheme is built out to its maximum residential parameters (745 apartments) OR a proportionately reduced figure if a smaller residential scheme is proposed; and
b) Payment of a monitoring and administration fee associated with the legal agreement of £13,000.

9.2 In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 14th February 2025 or such later date as may be authorised by officers under delegated powers the planning permission be refused for the following reason:

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

9.3 That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.

9.4 That in the event of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority on or before 14th February 2025, or such later date as may be authorised by officers under delegated powers, planning permission for application 2024/06155/PA be approved, subject to the conditions listed below (that may be amended, deleted or added to provided that the amendments do not materially alter the permission).

1	Requires the scheme to be in accordance with the listed approved plans
2	Implement within 3 years (outline)

3 Requires the submission of reserved matter details following an outline approval

4 Requires the submission and approval of external materials and detailing for each phase

5 Implementation in accordance with approved Design Code

6 Requires the submission of a scheme for ecological/biodiversity/enhancement measures on a phased basis

7 Requires the prior submission of details of bird/bat boxes for each phase

8 Requires the submission of details of green/brown roofs

9 Prior submission of construction ecological management plan (CEcMP) for each phase of development

10 Prior submission of Landscape and Ecological Management Plan (LEMP)

11 Requires the submission of hard and/or soft landscape details for each phase

12 Requires the submission of boundary treatment details for each phase of the development

13 Requires the submission of hard surfacing materials for each phase

14 Requires the submission and approval of building & site level details for each phase.

15 Requires the submission of a lighting scheme in a phased manner

16 Requires the submission of a CCTV scheme on a phased basis

17 Requires the prior submission of a sustainable drainage scheme in a phased manner

18 Requires the submission prior to occupation of the properties of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan on phased basis

19 Requires the prior submission of a construction employment plan for each phase.

20 Requires the submission of cycle storage details in a phased manner

21 Requires the parking area to be laid out prior to use

22 Requires the submission of a student parking management strategy

23 Requires the prior submission of contamination remediation scheme on a phased basis

24 Requires the submission of a contaminated land verification report

25 Requires the submission of extraction and odour control details in a phased manner

26 Limits the noise levels for Plant and Machinery

27	Secures noise and vibration levels for habitable rooms within each phase
28	Requires the prior submission of a demolition and construction Environmental Management Plan on phased basis
29	Requires the prior submission of noise insulation (variable)
30	Restriction of parameters of buildings in accordance with approved plans
31	Restriction of cumulative total commercial floorspace (Class E)
32	Prior submission of BREEAM 'Excellent' details for each phase
33	Submission of Energy Statement
34	Submission of additional wind assessment with Reserved Matters applications
35	Requires submission of detailed housing mix and internal layout with Reserved matters for each phase

Reason for Approval

1	Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one of the statutory exemptions is considered to apply. In this case that the development is considered to be below the de minimis threshold.

Case Officer: Andrew Fulford

Photo(s)

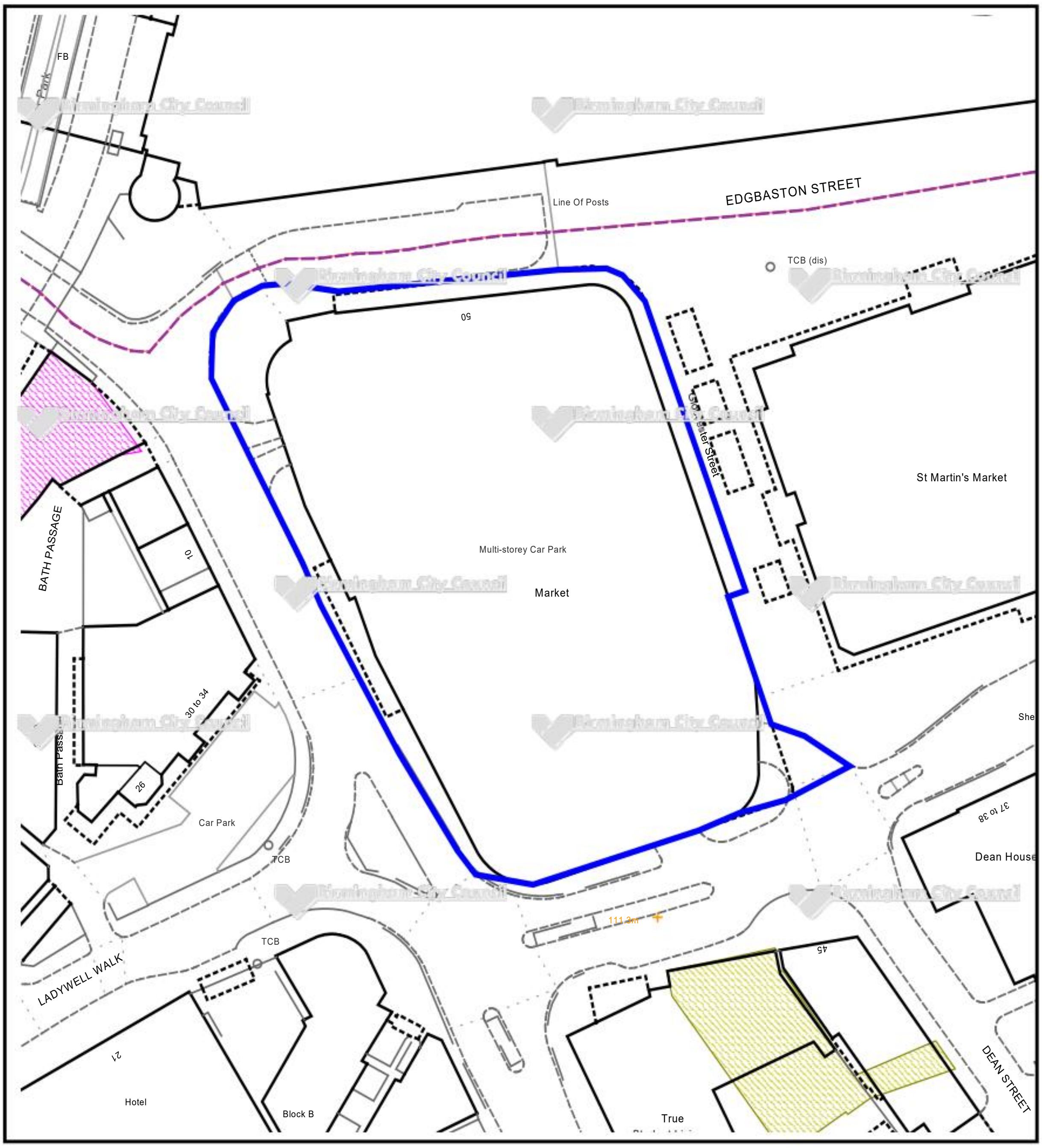
Image 1: View of Indoor market looking west from Edgbaston Street

Image 2: View of indoor market looking west from Upper Dean Street

Image 3: View of Indoor market looking east from Ladywell Walk


Image 4: View of Indoor market looking southeast from Smallbrook Queensway

Location Plan



Committee Date:	16/01/2025	Application Number:	2024/03375/PA
Accepted:	29/05/2024	Application Type:	Full Planning
Target Date:	17/01/2025		
Ward:	Newtown		

35 and 50 Cliveland Street, Birmingham, B19 3SH

Demolition of existing buildings and erection of purpose built student accommodation (Sui Generis, 279 bedspaces) in blocks of between 8 and 20 storeys with associated supporting facilities

Applicant:	Volume Clive Ltd 5 Legge Lane, Birmingham, B1 3LD
Agent:	Williams Gallagher Somerset House, 37 Temple Street, Birmingham, B2 5DP

Recommendation
Approve subject to Conditions

1. Proposal

1.1 Full planning permission is sought for the following works:

Site A – 50 Cliveland Street
- Demolition of a modern two storey brick building
- Erection of an 8 storey block of purpose-built student accommodation (PBSA) to provide 102 bedspaces. (Includes mezzanine.)
- Creation of an outdoor amenity courtyard to the rear.

Site B – 37 Cliveland Street
- Demolition of two small single storey brick structures
- Erection of a 21 storey tower with 8 storey shoulder to provide 177 PBSA bedspaces. (Includes mezzanine.)
- Creation of an outdoor amenity courtyard to the rear.

Total bedspaces: 279

1.2. Internal layout: Ground floors would provide shared amenity space, concierge/management space, laundries, refuse stores, cycle stores and plant, and some bedrooms (duplex or bed deck studios). Upper floors would comprise mainly studio rooms (each comprising en-suite pod plus kitchen area, desk study area and storage) of the following sizes:

Studio: 17-26sqm (201units/72%)
Duplex Studio: 27.4 - 40.5sqm (7 units/3%)
DDA Studio: 30sqm (6 units/2%)
Premium Studio: 21-34sqm (3 units/1%)
Penthouse Studio: 40sqm (3 units/1%)

1.3. In addition, 59 of the bedrooms would be arranged into clusters sharing an open plan kitchen/dining/living room.

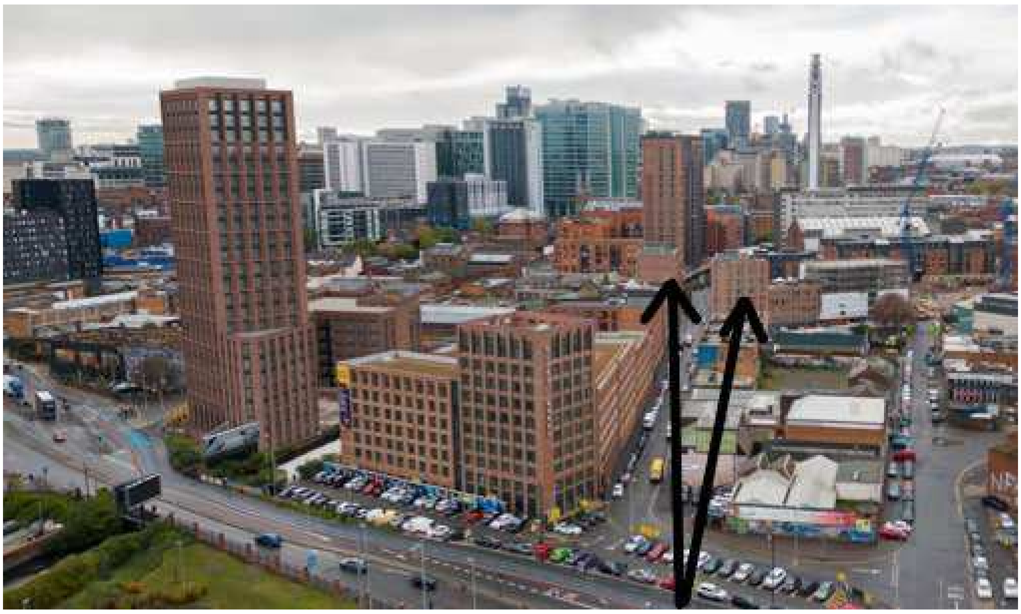


Figure 1: CGI showing proposed development; site A (R) and site B (L)

Figure 2: Proposed Level 00 Floor Plan (Block A to north, Block B to south)

1.4. Elevations would be faced principally in red brick with aluminium window frames.

1.5. Sustainability: Air Source Heat Pumps (ASHPs) and Photovoltaic (PV) solar panels are proposed. Development is expected to reach BREEAM 'Excellent' standard.

1.6. Parking: No car parking is proposed. Block A would provide 34 cycle spaces and Block B, 60 spaces, total 94. Servicing would be from proposed new loading bays on Cliveland St.

1.7. Supporting documents:

Design and Access Statement	Planning Statement
Student Demand and Supply Report	Heritage Statement
Townscape and Visual Impact Appraisal	Transport Statement
Student Management Plan	Travel Plan
Preliminary Ecological Appraisal	Biodiversity Net Gain Metric
Noise Impact Assessment	Air Quality Assessment
Fire Statement	Daylight/Sunlight Assessment
Wind Microclimate Assessment	
Tree Survey and Arboriculture Impact Assessment	
Flood Risk and Sustainable Drainage Assessment	
Phase 1 Geo-Environmental Assessment Report	
Sustainable Construction and Energy Statement	

1.2 Link to Documents

2. Site & Surroundings

2.1. The application site is located within the Gun Quarter part of the city centre. The Birmingham and Fazeley Canal runs through the Quarter and is the focus for a transition from industrial/commercial uses to residential, including PBSA due to the proximity to the Aston University and Birmingham City University campuses. Beyond to the north is the Summer Lane Core Employment Area.

2.2. Site A is approx. 0.06ha and comprises No. 50 Cliveland St, a modern two storey commercial building and associated surface car park. Site B is also approx. 0.06ha and comprises private surface car parks with small single storey brick structures.

2.3. The proposed development is the third in a series of PBSA schemes put forward by the applicant which in total would provide 434 bedspaces across three phases. The first two phases are complete. These earlier phases are located immediately to the west of the application site.

2.4. The site is not within a conservation area however the Birmingham and Fazeley Canal is considered to be a non-designated heritage asset within the city centre. The closest listed building/structures include the Grade II Barker Canal Bridge to the south west and 37-38 Lower Loveday Street. The closest locally listed buildings include 29-31 Lower Loveday Street to the west and the Tower with Conical Roof to the rear of 31/32 Cliveland Street.

2.5. The site is within Flood Zone 1.

2.6. Site location

3. Planning History

3.1. 01/03/2019 – 2018/03661/PA – 37 Hanley Street (Volume Works Phase I) - Demolition of existing building, erection of 5 storey frontage building and single storey rear building containing 47 student studios (sui generis) and associated works – Approved with conditions.

3.2. 05/03/2021 – 2020/02735/PA - 41-45 Hanley Street (Volume Works Phase II) – Demolition of existing building and erection of 7 storey building to provide 107 student bedspaces and associated works including a single storey amenity building to the rear, cycle storage and landscaping – Approved with conditions.

3.2. 18/11/2021 – 2021/05154/PA – 43 Cliveland Street – Demolition of existing building and erection of a 6 storey development comprising 20 one and two bed apartments and ground floor commercial unit for Class E use – Approved with conditions and subject to a legal agreement securing a Canal Improvement sum.

3.3. 24/04/2023 - 2023/02054/PA – Nos. 35 and 50 Cliveland St - Demolition of existing buildings and erection of Purpose-Built Student Accommodation (sui generis) (220 bedspaces) in blocks of between 6 and 14 storeys with associated supporting facilities – Withdrawn.

4. Consultation Responses

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

- Cycle parking to be installed prior to occupation.
- Highway works to be completed prior to occupation and delivered through the relevant S278 Highway Agreement; works require redundant footway crossings to be reinstated and a Traffic Regulation Order to relocate pay and display bays and provision of the loading bays on Cliveland Street.
- Prior submission of a Construction Management Plan.
- Prior submission of a Student Term Time Management Plan and to be reviewed annually.

The scheme provides 94 cycle parking spaces which meets the Birmingham Parking SPD expectation with 33% provision, and zero car parking. To assist with the limited servicing activity and term start/finish, Traffic Regulation Orders are proposed to be amended along with increasing on-street kerbside active space by the removal of redundant footway crossings, to relocate Pay and Display bays and provide loading bay space on each side of the street fronting each block.

4.2. **Environmental Protection Unit**: Objects on grounds of noise impact.

Air Quality: The Air Quality Assessment presents a demolition and construction dust risk assessment and recommends suitable measures to mitigate any adverse impacts. The proposed dust mitigation measures should be incorporated into a Construction Management Plan. The report also assesses the suitability of the site for residential in terms of the exposure of future occupiers to adverse air quality. A more detailed assessment approach should have been adopted, however given the nature of the proposal (near car free) and the location, air quality matters are not likely to be an issue for the development.

Contaminated Land: Potential contamination sources identified in Geo-Environmental Desk Study Report. No objection on this ground subject to conditions requiring an intrusive site investigation and verification report.

Noise: The Noise Impact Assessment (NIA) has assessed the prevailing noise environment via a largely unattended noise survey to capture traffic noise and music noise from Robannas Studios. An assessment of industrial noise, primarily relating to the former DRB Engineering site, is also presented based on measurements taken in 2017 during a study for an adjacent development site. it is understood that this industrial unit is no longer operational but has been included as it still has valid planning consent, and operations could resume in the future. The NIA states that due to the nature of the noise survey it is not possible to accurately describe the dominant noise sources, but that during the attended periods at the start and end of the survey (15 minutes each) the noise climate was dominated by road traffic, although intermittent music noise from Robannas was clearly audible. The potential industrial noise would have a significant adverse impact on the development should operations at the DRB Engineering site resume.

A noise model has been developed to predict incident noise levels of the proposed buildings, and this data has been used to develop preliminary acoustic specifications for the external building fabric elements that will be required to achieve an acceptable internal acoustic environment. An initial assessment has also shown that it will not be possible to open windows for background ventilation and overheating control and that windows will need to be kept closed to control noise break in. EPU does not support the reliance on closed windows, and should industrial operations resume, industrial noise would be such that with open windows the impact might constitute a statutory nuisance.

However, if on applying the planning balance the application is to be supported, the following conditions are recommended

- Submission of a Contamination Remediation Scheme
- Submission of a Contaminated Land Verification Report
- Submission of a Demolition Management Plan
- Submission of a Construction Management Plan
- Submission of a noise insulation scheme
- Submission of a noise mitigation scheme
- Submission of extraction and odour control details
- Limit to the Noise Levels for Plant and Machinery

4.3. **Employment Access Team**: No objection subject to the following condition:

- Prior submission of a Construction and End Use Employment Plan

4.4. **City Design Team**: No objection subject to the following conditions:

- Prior submission of details of the external materials to be used.
- Prior submission of architectural detailing of ventilation, windows and entrances.
- Prior submission of a visual mock up panel (4m wide and 3m high) to capture a full architectural bay of the top floor (including parapet) of each block.
- Prior submission of landscaping details.

No existing buildings or structures on either site are worthy of retention.

Layout: Both plots propose development that sits at the back of pavement and encloses the street properly, with courtyards on the inner face, which in the case of Plot B. Entrances and ground floor arrangements of both buildings achieve the best they can within the constraints of these two very difficult sites.

Scale, height and massing: Cliveland street has new residential development ranging between 4, 5, 6 and 10-storeys in height. The highest block (10-storeys) is on New Town Row where one would expect to see scale and it forms part of an emerging corridor of towers running into the City Centre down this main artery from the north. Hanley Street has a similar range of mid-scale buildings (constructed and approved) which are between 5 and 7-storeys in height. Nothing taller than this has been approved as both Cliveland Street and Hanley Street are tertiary streets. The eight-storeys to Plot A is rather tall however if well executed this could be allowed as a maximum. The tower overlooks the pocket park at the western end of Block B and a strategic access down onto the canal from the Lower Loveday Street Bridge. It is the only location where some significant height could be supported.

Architecture and materiality: This is broadly reflective of the character of this area, which is developing out as a background district of the City using traditional red/orange brickwork tying it all together. The design concept shows a robust architectural grid with relatively generous modelling of reveals and a bespoke parapet of scalloped masonry is also offered up.

4.5. **Principal Conservation Officer**: The conclusions of the Heritage Statement are supported.

By virtue of scale the proposed development would cause a low degree of 'less than substantial harm' to the setting of the grade II listed Barkers Bridge, a moderate degree of 'less than substantial harm' to the grade II listed Nos. 37 & 38 Princip Street and a low to very low degree of 'less than substantial harm to the setting of the grade II listed Bull P. H. and Nos. 44A, 44B & 45-49 Loveday Street The tests of paragraph 208 (now 215) of the NPPF will apply.

By virtue of scale the proposed development would cause a low degree of harm to the setting of the locally listed Nos. 29-31 Lower Loveday Street. The tests of paragraph 209 (now 216) of the NPPF apply.

4.6. **City Ecologist**: No objection subject to the following conditions:

- Submission of a scheme for ecological/biodiversity/enhancement measures
- Provision of bat and bird boxes
- General On-site Biodiversity Net Gain Condition
- Submission of a Construction Ecological Management Plan
- Submission of a Landscape and Ecology Management Plan
- Submission of a lighting scheme
- Submission of details of biodiversity roofing

4.7. **Principal Arboriculturist**: Three trees on the site would be affected only one of which, a Whitebeam, is significant. Its presence in its setting is welcome, although it is already hemmed in on two sides by a boundary wall. It is unprotected. It would be permanently cropped and asymmetric should the development go ahead.

4.8. **Lead Local Flood Authority**: No objection subject to the following conditions:

- Requires the prior submission of a sustainable drainage scheme
- Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan

A discharge rate of 0.5 l/s is proposed from each development site which is considered to be the lowest safe practicable discharge rate that can be achieved using a vortex flow control. There is strong support for the proposed use of a blue roof system with vegetated green areas for attenuation and SuDS for the development. Not only will this manage rainfall, providing attenuation, but it will also support the thermoregulation of the building, create biodiversity and habitat creation within the scheme, and comply with the requirements of Policies TP2 & TP7 of the adopted Birmingham Development Plan.

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

- Prior submission of drainage plans for disposal of foul and surface water flows.

4.10. **Canal and River Trust**: Objects. The proposed development, by virtue of its height, scale, massing, bulk, and elevation adjacent to the canal, and the existing context of lower height built form alongside this part of Birmingham's canal network, to the east of Barker Bridge (Grade II Listed Building) would create an overbearing visual impact causing harm to:

- the existing relatively open character of the canal corridor in this location;
- the setting of the canal and listed Barker Bridge;
- the appearance of the area from the canal corridor; and
- the amenities enjoyed by users of the canal corridor;

noting that the canal towpath is also part of the National Cycle Network Route 533.

4.11. **Birmingham Civic Society**: Supports the proposal for the following reasons:

- Site is within a mile of three universities.
- This is the third phase of a wider development so the use is suitable in this location.
- The assessment of heritage impact is supported.
- There are other recently developed tall buildings along this stretch of the canal.
- The tower would be visible from the Jewellery Quarter Conservation Area but the verified views illustrate that the impact would be minor.

4.12. **West Midlands Police**: No objection subject to the following conditions:

- Prior submission of details of a site-wide CCTV system
- Prior submission of details of a lighting scheme
- Prior submission of secure cycle storage
- Prior submission of a Moving In Moving Out management strategy
- Access points to be fitted with self-closing mechanisms

4.13. **HSE – Fire Safety (Gateway One):** Concern due to the absence of a protected lobby between the firefighting shaft and ancillary accommodation (including laundry room) in Block B.

5. Third Party Responses

5.1. The application has been publicised by the posting of site and press notices and consultation with the local MP, Councillor, residents' groups and the occupiers of properties in the vicinity of the application site.

5.2. 1 representation has been received making the following comments:

- The development fails to activate the ground floor on a street where the opportunity has already been lost on every development so far. Without a commercial activation the development will fail to improve safety and vibrancy of the street and contribute to additional anti social behaviour.
- The detailing is attractive but the colour palette is boring and bland and should be changed to avoid valid refusals on the ground of design.
- Signage shown is tacky.
- S106 contributions should be secured for Staffordshire blue brick paving along the boundary and contributions towards lighting, CCTV and new trees along the canalside.

6. Relevant National & Local Policy Context

6.1. National Planning Policy Framework, especially but not exclusively the following sections:

Section 2: Achieving sustainable development
Section 4: Decision-making
Section 5: Delivering a sufficient supply of homes
Section 11 Making effective use of land:
Section 12 Achieving Well-Designed Places
Section 14: Meeting the challenge of Climate change, flooding and costal change
Section 16 Conserving and enhancing the historic environment

6.2. Birmingham Development Plan 2017

PG1 Overall levels of growth
PG3 Place making
TP1 Reducing the City's carbon footprint
TP2 Adapting to climate change
TP3 Sustainable construction
TP4 Low and zero carbon energy generation
TP5 Low carbon economy
TP6 Management of flood risk and water resources
TP7 Green infrastructure network
TP8 Biodiversity and geodiversity
TP12 Historic environment
TP17 Portfolio of employment land and premises
TP26 Local employment
TP27 Sustainable neighbourhoods
TP28 The location of new housing
TP29 The housing trajectory
TP30 The type, size and density of new housing
TP33 Student accommodation
TP37 Health
TP38 A sustainable transport network
TP39 Walking
TP40 Cycling
TP44 Traffic and congestion management
TP45 Accessibility standards for new development

6.3. Development Management DPD

DM1 Air quality
DM2 Amenity
DM3 Land affected by contamination, instability and hazardous substances
DM4 Landscaping and trees
DM6 Noise and vibration
DM14 Transport access and safety
DM15 Parking and servicing

6.4. Supplementary Planning Documents & Guidance

Purpose Built Student Accommodation: Supply and Demand Update (October 2024)
Birmingham Parking SPD 2021
Birmingham Design Guide 2022
City Centre Canal Corridor Development Framework 2002
Central Birmingham Framework 2045

7. **Planning Considerations**

Principle

7.1. The existing modern building on Site A is an office and Site B is a largely cleared site which has most recently been used for surface car parking. Based on these uses, there is no presumption in local or national planning policy against the change of use based on the need to retain the current uses.

7.2. The application site falls within the City Centre Growth Area as defined by BDP policy GA1. This policy includes an objective to provide a high quality environment and visitor experience and it states that new development should make a positive contribution to improving the vitality of the City Centre and should aim to improve the overall mix of uses. It also states that '*Residential development will continue to be supported in the City Centre where it provides well-designed high quality living environments. Development will need to provide flexible and adaptable accommodation meeting a range of needs including for families.*' Developments within the Gun Quarter, where this site is situated, should maintain the area's employment role and industrial activity, complemented by a mix of uses around the canal and improved connections to neighbouring areas.

7.3. Paragraph 11 of the December 2024 NPPF sets a presumption in favour of sustainable development, under which there is a 'tilted balance' in favour of granting planning permission where local authorities cannot demonstrate a 5 year supply of land for housing development or where the delivery of new housing over the past three years has been less than 75% of the government's targets under the Housing Delivery Test.

7.4. The City Council achieved 79% under the Housing Delivery Test 2023, resulting in a requirement to apply a 20% uplift to the city's local housing need requirement for the next five years from 22,240 to 26,688 new dwellings. As of 1st April 2024 a deliverable housing land supply of 29,959 new dwellings has been identified. When compared with the uplifted housing requirement this results in a housing land supply of 5.61 years. As this is above 5 years and because the city did not fall below the 75% Housing Delivery Test threshold, this means that the 'tilted balance' under national planning policy does not apply to applications for new housing development.

7.5. While the tilted balance does not currently apply, there is still an ongoing need for new dwellings across the city and proposals for new housing development should be permitted where they accord with local and national planning policy unless material considerations suggest otherwise.

7.6. The provision of PBSA can be counted towards the city's overall housing supply at a rate of 1 unit per studio/1-bed apartment and (using the Housing Delivery Test ratio for student accommodation) at a rate of 2.5 for cluster rooms. The proposed development comprises 220 studio bedspaces, alongside 59 bedspaces within cluster units. Using the test ratio, the Proposed Development would therefore contribute 244 units to the city's housing supply (59/2.5 + 220 = 244).

7.7. The Council's *Housing and Economic Development Needs Assessment* (HEDNA) provides guidance on the mix of dwelling sizes, required in different parts of the city, and replaces the existing SHMA referred to in Policy TP30. The HEDNA recommends that "*student accommodation is located as centrally as possible, as this will, among other things support the nighttime economy*".

7.8. Policy GA1 and the evidence contained in the HEDNA indicate that in broad terms the location of the site is suitable for residential development, including student accommodation.

7.9. Looking ahead, the site falls within the Gun Quarter Growth Zone identified in the Central Birmingham Framework 2045. The Framework states the northern quarters of Central Birmingham hold great potential as locations for growth in new homes, modern employment space, improved social and community infrastructure, and greener neighbourhoods.

7.10. The Gun Quarter Growth Zone is expected to be formalised through the new Birmingham Local Plan which is currently being prepared. The Preferred Options document was the subject of public consultation in the summer of 2024. It recognises that the Gun Quarter still retains an important economic function and that the HEDNA identifies a demand for suitable small-scale premises. There continues to be a need to protect viable businesses and employment generating uses in the Gun Quarter but balanced with the delivery of housing growth. The existing Core Employment Area, immediately to the north of the application site, may not be carried forward as a new Core Industrial Area, thereby allowing for a greater mix of uses in the area around the application site.

7.11. Together the Central Birmingham Framework and the Birmingham Local Plan Preferred Options indicate a direction of travel in planning policy terms for the Gun Quarter, towards a greater mix of uses. However, the Framework is not a statutory planning document and the Birmingham Local Plan is at an early stage so neither document holds significant weight in the determination of this planning application.

7.12. In terms of more detailed considerations, PBSA proposals must be assessed against BDP policy TP33 and that assessment is set out below.

TP33: Need for the development

7.13. TP33 requires applications for off-campus accommodation to demonstrate a need for the proposal and, accordingly, a Student Supply and Demand Report has been submitted. The Applicant's Report was updated in November 2024 to take account of the Higher Education Statistics Agency's (HESA) most recently published data from the academic year 2022/23. It should be noted that the Applicant's Report assesses PBSA demand from 7 universities within the city (Aston University, Birmingham City University, Buckinghamshire New University, Roehampton University, University College Birmingham, University of Bedfordshire and Ulster University) plus 11 'Other' universities with a presence in the city centre. It excludes University of Birmingham and Newman University as their campuses are not within the city centre. However, the Council's PBSA Supply and Demand Update (Nov 2024) considers only the city's five largest universities (University of Birmingham, Aston University, Birmingham City University, University College Birmingham, and Newman University). The data is not, therefore, directly comparable.

7.14. The Applicant's report concludes that in the event the entire consented pipeline of PBSA is built out, the level of unmet demand would be between 4,560 and 16,437 beds by 2026/27. Their Assessment also identifies that over half of existing PBSA in the city centre was built prior to 2015, suggesting some of the available facilities may not be commensurate with modern day student expectations. Market research suggests that in 2022/23 there could have been 12,794 to 24,028 full time students studying in the city centre who potentially required PBSA bedspaces but were unable to access them in the current market conditions. The planned practical completion of the subject site is estimated to be 2028 and this is aligned to and would support the anticipated forecast growth of the major universities.

7.15. The Council's 2024 *PBSA Supply and Demand Update* shows a greater increase in demand for PBSA bedspaces than in 2023, projecting an increase of 6,000 bedspaces by 2027/28. The increase in demand is expected to be greatest in the city centre, and, based on existing and committed supply (Scenario 2 in the table below) a shortfall of 4,779 bedspaces is predicted in this part of the city. Members approved two planning applications for PBSA in the city centre at your meeting on 28th November (2023/07784/PA 70-73 Cecil St & 86 Cliveland St, and

2023/08709/PA Pershore St). In the event that the remaining current planning applications for PBSA in the city centre are also approved (Scenario 3 below), including this application, supply would meet demand and provide a modest surplus, relative to overall demand, of 833 bedspaces. This surplus would allow for some flexibility should some of the schemes not be delivered. It should also be noted that in all of the first three scenarios there remains a significant shortfall for PBSA bedspaces city-wide.

Table 4: Demand/ supply analysis

Blue = surplus
Red - shortfall

	Selly Oak/ Edgbaston	City Centre	Bartley Green	City-wide
Scenario 1				
Existing demand	24,784	22,413	237	47,434
Existing + Committed Supply*	11,249	22,238	306	33,792
Shortfall/ surplus	-13,536	-176	69	-13,642
Scenario 2				
Potential future demand	26,184	27,016	276	53,476
Existing + Committed Supply*	11,249	22,238	306	33,792
Shortfall/ surplus	-14,936	-4,779	30	-19,684
Scenario 3				
Potential future demand	26,184	27,016	276	53,476
Existing + Committed supply + Current applications	11,249	27,829	306	39,383
Shortfall/ surplus	-14,936	813	30	-14,093
Scenario 4				
Potential future demand	26,184	27,016	276	53,476
Existing + Committed supply + Current applications + HMOs	25,727	39,148	311	65,185
Shortfall/ surplus	14,021	23,451	40	37,511

Figure 3: BCC PBSA: Supply and Demand Update 28th November 2024

7.16. It is acknowledged that taking account of HMOs as a form of accommodation for students shows a significant surplus citywide and in the city centre. If HMOs are taken into account (as shown in Scenario 4 above), then there would not be a shortfall of accommodation for students. However, it is difficult to compare HMOs and PBSA because they provide a different kind of offer in terms of their quality and facilities for students at different stages within their academic careers. In addition, supplying more PBSA within the City Centre could help to address the imbalance and over-reliance on HMOs and diversify the accommodation offer in the area.

TP33: Location relative to educational establishments

7.17. TP33 requires new PBSA to be "*very well located*" in relation to the university it is intended to serve and to local facilities. The Guidance Note on Student Accommodation Statements defines 'very well located' as 15-20 minutes/around 1.5km based on Policy TP45 of the BDP accessibility standards.

7.18. The proposed PBSA could be occupied by students from any of the city's universities. The Applicant's Student Demand and Supply Report illustrates that the site would be within a 20 minute walk of the following city centre campuses:

- Aston University
- Birmingham City University
- Birmingham School of Art
- School of Jewellery
- St Mary's University, Twickenham at the Elizabeth School of London Birmingham campus
- University College Birmingham
- University of Law

7.19. There is also very good access to shops, services and public transport within the city centre.

TP33: Impact on local neighbourhood and residential amenity

Noise

7.20. The site is in an area which is transitioning from being largely industrial to a more mixed industrial, commercial and residential area. PBSA and apartments are located close by, including on Cliveland St, Hanley St and Lower Loveday St. This juxtaposition of uses introduces a noise-sensitive use into an area where industrial premises have generally been able to operate freely without causing noise and disturbance to residential neighbours.

7.21. The Noise Impact Assessment (NIA) submitted by the Applicant identifies two main sources of noise: road traffic and music noise associated with the rehearsal space at Robannas Studio, a music recording and rehearsal studio at No. 54 Cliveland St. Traffic is the dominant noise source, while the music noise is intermittent. DRB Engineering is located to the north of the site on Hanley Street and does not appear to have operated for several years. Noise levels from DRB were assessed in 2017 to inform planning applications for earlier development in the vicinity and these have been included in the current NIA to show the situation should this site be reopened.

7.22. The NIA shows there is likely to be a significant adverse impact to proposed residents without noise mitigation measures. This is largely due to the predicted noise levels should heavy industrial operations resume at the DRB site. To deal with industrial noise, open windows to facilitate background ventilation would not be suitable on any façade across the development and therefore an alternative means of ventilation would be required allowing windows to be kept closed to ensure an acceptable internal noise level. Mitigation would also be required to deal with overheating. External amenity areas are largely screened from primary noise sources and predicted noise levels are expected to fall below the target range. Windows would have to be closed for the mitigation to be effective but it is not proposed they would be sealed. The Applicant has suggested a restrictive covenant could require windows to be closed between 11pm and 5am, and a reliance on mechanical ventilation during this time period, to limit noise nuisance should it occur.

7.23. The Council's Environmental Protection Unit (EPU) is not satisfied with mitigation which relies on closed windows and objects to the application on the basis of poor resulting amenity. However, noting that some other schemes in the vicinity which also proposed reliance on closed windows to control noise impacts have recently been approved, EPU has offered conditions should Members be minded, on applying the planning balance, to approve the application.

7.24. Three factors support approval despite the closed (but not sealed) window situation: firstly, that DRB Engineering may never resume operations; in my view it would be unreasonable to require the development to have sealed windows as a precaution against something which might never happen. Secondly, Robannas Studio is open 10am to 10pm Sunday to Friday and 10am to 8pm on Saturdays, which are not particularly unsociable hours. Thirdly, several other residential/PBSA schemes have been approved in recent years despite also being in close proximity to the DRB site, as the map below indicates:

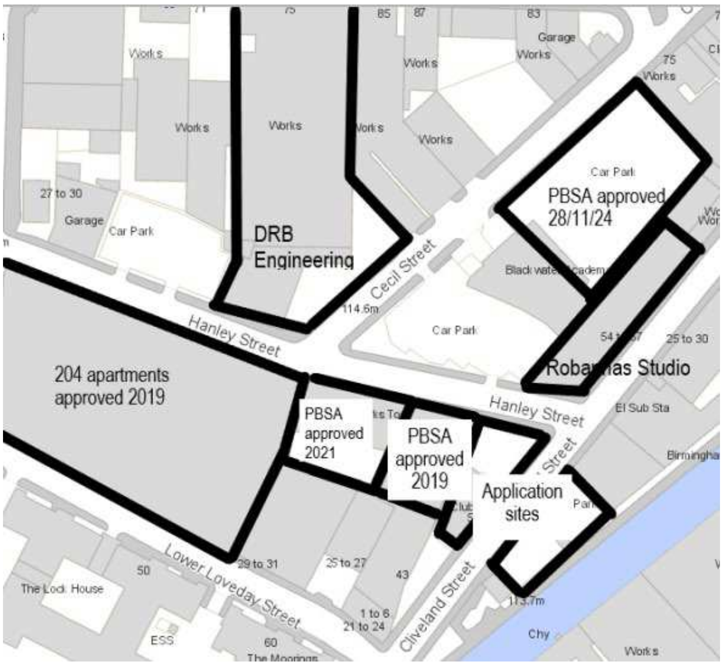


Figure 4: Plan showing noise sources and other approvals

7.25. Taking these points into account I am not convinced that there is a reason for refusal based solely on noise impact. Furthermore, I do not consider there is certainty that the noise climate would be unacceptable to the extent that a restrictive covenant could be justified to prevent noise complaints being made.

Overshadowing and loss of light

7.26. The BRE Guidelines provide two methods of assessing daylight to existing buildings:

- Vertical Sky Component (VSC): this assesses the quantum of skylight. Guidelines suggest a noticeable effect would likely occur if the VSC with the development in place is both less than 27% and less than 0.8 times its former value.
- No Sky Line (NSL): this considers the distribution of light within a building. Guidelines suggest a noticeable effect would likely occur if the area of a room that receives direct sky light is reduced to less than 0.8 times its former value.

7.27. For assessing sunlight to existing buildings, Annual Probable Sunlight Hours (APSH) is considered. The APSH calculation is assessed on the centre of a main window located within 90° of due south. The BRE Guidelines recommend windows should receive at least 25% APSH, with 5% APSH in the winter months. A noticeable effect would likely occur if the window receives less than 0.8 times its former sunlight hours and if there is a reduction in total APSH which is greater than 4%.

7.28. For overshadowing, BRE Guidelines recommend that at least half of a garden or amenity area should receive at least two hours of direct sunlight on 21st March. If the area which receives two hours of direct sunlight is less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable.

7.29. Paragraph 2.250 of the Birmingham Design Guide Healthy Living and Working

Places City Manual (2022) states "*the City Council recognises the levels reflected within the BRE guidance relate to a suburban environment, whereas tall buildings are largely located in dense urban environments where levels of daylight and sunlight can typically be below these targets. Therefore, the weight attributed to the conclusion of these studies will be balanced against the scale of the impact, character and nature of the surroundings, site constraints, policy aspirations and other material planning considerations*.

7.30. In the case of the proposed development, the Daylight and Sunlight Effects Report submitted by the Applicant assesses the impact on several nearby properties in the event that the development is approved. This demonstrates impacts on daylight beyond the BRE guidelines to three neighbouring properties:

a) *43 Cliveland St:* This site has planning permission for a 6-storey block containing 20 apartments. The previous building has been demolished and the site is vacant awaiting implementation of the extant permission. 18 of the 30 windows assessed fall below BRE guidelines for VSC partly because they are tucked underneath their own balconies which, combined with the proposed development, would inhibit daylight to the face of each window. However, the NSL assessment demonstrates that distribution of daylight into all 30 rooms is fully compliant.

b) *37 Hanley St*: This is another Volume Works PBSA site to the north of the proposed block A. 34 of the 45 windows assessed fall below BRE guidelines for VSC; 25 of the 45 rooms fall below the NSL assessment criteria.

c) *33-35 Princip St*: This is a hostel to the south of the site on the opposite side of the canal. None of the 28 windows assessed meet BRE guidelines for VSC and 11 of the 28 rooms meet the NSL criteria.

7.31. For sunlight, acceptable levels were maintained in all neighbouring properties except the following:

a) *43 Cliveland St:* 8 of the 30 rooms considered fell below BRE guidelines for annual and winter sunlight, due to the placement of their own balconies.

b) *41-45 Hanley St*: 7 of the 61 rooms considered fell below BRE guidelines for winter sunlight due to their lower position on the ground floor.

c) *37 Hanley St*: 12 of the 25 rooms considered fell below BRE guidelines for annual and winter sunlight.

7.32. In respect of sunlight to neighbouring gardens/amenity space, of the 3 spaces assessed 2 fell below BRE guidelines for sun on the ground and neither meets the guidelines in the existing situation either.

7.33. There would clearly be an impact on neighbouring buildings in terms of daylight and sunlight and in respect of sunlight to their outdoor space. However, this would affect buildings in close proximity to the site and would be relatively limited, affecting only three properties and not all of the windows in each property would be impacted. Furthermore, this is an urban site where development is typically taller and more dense than in suburban locations.

7.34. The Daylight and Sunlight Effects Report also assessed the impact on proposed windows and rooms within the development itself. The results show that 44% of habitable rooms would fail to satisfy the BRE guidelines for daylight illuminance and 43% would fail to meet sunlight exposure guidelines. The report states it is not possible to fully adhere to sunlight recommendations considering the broader context of the site and the orientation of the blocks. It advises in overall terms, the internal daylight and sunlight would demonstrate a reasonable level of adherence for an urban PBSA development.

Impact on heritage assets

7.35. Your Principal Conservation Officer (PCO) notes the location of the site within the Gun Quarter and, while this is not a designated Conservation Area, it is a highly significant historic area which contains a number of Listed and Locally Listed buildings. A Heritage Statement (HS) has been submitted with the application which discusses the significance of some of these buildings and the likely impact of the proposed development, but in some cases your PCO has considered this herself to ensure that all relevant buildings are reviewed.

<u>Barker Bridge, Grade II Listed</u>

7.36. Proposed Block B would occupy a prominent position in views from the bridge. The HS identifies that the proposed development would lead to perceptible changes to the built environment within the setting of this Grade II Listed bridge, although it would not interrupt views along the canal and would fit stylistically with existing modern developments along the canal. The development would not impact on the key heritage interests of the bridge, which derives from its architectural and historic value, or alter the relationship and legibility of this asset with the canal or Lower Loveday Street, which provides the key setting interest of this Listed Bridge. The proposals are therefore considered in the HS to result in Minor Adverse Magnitude of Effects to the heritage significance of the Barker Bridge.

7.37. Your PCO considers this to be a fair assessment and she agrees with the concluded impact on this listed structure. The impact would equate to a <u>low level of ‘less than substantial harm’</u>.

Figure 5: Barker Bridge
(Google Streetview)

<u>Nos. 37 & 38 Princip Street, Grade II Listed</u>

7.38. The HS identifies that the proposed development would lead to perceptible changes within the setting of this Grade II Listed building although it would not impact on the key heritage interests of this building, which derive from its architectural and historic value. In addition, it would not alter the relationship of this asset with the canal, the road junction it overlooks, or the built environment along Princip Street, which provide the key settings interest of this Listed Building. The concluding position of the HS is that the proposals are considered to result in a Negligible Adverse Degree of Impact to the setting of 37 & 38 Princip Street and this results in a Minor/Not Significant Adverse Magnitude of Effects to the heritage significance. The HS acknowledges that this effect would lead to ‘less than substantial harm’ to this asset but does not conclude to what degree this would sit on the ‘less than substantial’ scale.

7.39. Your PCO notes there would be intervisibility between the proposed development and the rear of 37 & 38 Princip Street but no views have been provided to demonstrate inter-visibility between the proposed development and the principal elevations of the building from Loveday Street and Princip Street. It is likely that the 20-storey element of this proposal would be quite visible in the backdrop of the building from these elevations which are the ones from which the asset is best experienced and appreciated in its prominent corner position. Therefore, she would argue that the effect of introducing a building of this scale into the appreciable historic scale of this building which is currently free from such large-scale modern development in its backdrop would be a "*Detectable impact which alter the baseline condition of a heritage receptor to a moderate degree"* which in line with the methodology used in the HS equates to moderate adverse impacts. This would equate to a <u>moderate degree of 'less than substantial harm'</u> in Framework terms.

Figure 6: 37 & 38 Princip Street
(Google Streetview)

<u>The Bull P.H., Grade II Listed</u>

7.40. This listed building has not been assessed in the HS despite Viewpoint 9 of the TVIA showing the impact of the 20-storey building rising above the building, encroaching on its roof form and chimneys. Your PCO notes the pub is a recognisable element in this view and in its position on the edge of the Gun Quarter which is currently experienced without any large development rising up within the central streets of the Quarter. The impact is however localised and minor and would see its setting changed but within a context of other large-scale surrounding development (e.g. Onyx) which moderates the impact to a degree. The best appreciation of this building from Loveday Street and Price Street would not be affected due to the containment of the streets and orientation. The overall effect is therefore considered to be minor to negligible adverse (in line with methodology of the HS) which equates to <u>'Less than substantial harm' at the low to very low end of the scale</u>.

Figure 7: The Bull PH
(Google Streetview)

Nos. 44A, 44B & 45-49 Loveday Street (consecutive), Grade II Listed

7.41. This row of listed buildings has not been assessed in the HS but your PCO considers the impact of the proposed 20 storey tower likely to be similar to that concluded for The Bull. Although the harm could be moderated due to large-scale development in the wider townscape, the proposal would introduce a distracting element into localised views and disrupt appreciation of these listed buildings and their historic relationship and group value with The Bull. The overall effect is therefore considered to be minor to negligible adverse (in line with methodology of the HS) which equates to ‘less than substantial harm’ at the low to very low end of the scale.

Figure 8: 44a, 44b, 45, 46, 47, 48 and 49 Loveday Street
(Google Streetview)

Nos. 16-18 Princip Street, Grade II Listed

7.42. This listed building has not been assessed in the HS and there are no viewpoints to help support an assessment of impact. Along Princip Street the mid-section of the street is quite enclosed within the canyon of the street and due to orientation it is not considered the proposed development would be perceptible behind the listed building. In views along Princip Street from the west the tower element would likely be perceptible rising behind the listed building but the Lancaster Wharf development currently under construction would likely remove any perception of the proposed development in these views. Impact would be neutral.

Cathedral Church of St. Chads, Grade II* Listed

7.43. St. Chad’s is the most significant building within the setting of the development however it has not been assessed in the HS. Viewpoint 12 of the HS shows that the development sits behind the Snowhill Wharf Tower on Shadwell Street and therefore the impact would be neutral.

29 – 31 Lower Loveday Street, Locally Listed Grade C

7.44. The HS considers the proposed development would not impact on the key heritage interests of this building, which derives from its architectural and historic value, and it would not alter the historic street plan which provides the only setting interest of this heritage asset. The proposals are therefore considered to result in no impact to the heritage significance of 29 – 31 Lower Loveday Street.

7.45. However, your PCO does not agree that the historic street plan provides the only setting interest of this building and considers the other historic buildings of the Gun Quarter make some contribution to its setting through age, scale, materiality and use. In this context, she considers it highly likely that the proposed tower would be visible in the backdrop of the locally listed building from several vantage points, including of its principal elevation, and would be much closer than other large buildings along Newtown Row. The development would disrupt the appreciation of the scale and form of the building and would appear uncharacteristic against the traditional low scale of the buildings of the Gun Quarter which make some contribution to the setting of this asset. She therefore considers there would be an adverse impact on the setting of this locally listed building causing harm. The harm would be low and arising through a diminished ability to appreciate and experience this asset within the context of the historic scale of the Gun Quarter.

Figure 9: 29-31 Lower Loveday Street
(Google Streetview)

Tower with conical roof, Locally Listed Grade C

7.46. The HS identifies that the proposed development would not impact on the key heritage interests of this building, which derives from its architectural and historic value. It would not alter the relationship between this asset and the adjacent works building, or canal, which provides the setting interest of this heritage asset. The proposals are therefore considered to result in no impact to the heritage significance of the tower with conical roof. Your PCO considers this to be a fair assessment and agrees there would be no impact to heritage significance.

No. 350 Summer Lane, Locally Listed Grade B

7.47. The HS considers the proposed development would not impact on the key heritage interests of this building, which derive from its architectural and historic value, and it would not alter the historic street plan which provides the only setting interest of this heritage asset, concluding that the proposals would result in no impact to the heritage significance. Your PCO considers this to be a fair assessment and agrees there would be no harm caused to setting.

Transportation/highway safety matters

7.48. In accordance with the Birmingham Parking SPD, no car parking spaces are proposed and cycle storage is provided instead to a ratio of 1 space per 3 bedspaces plus visitor spaces. With regard to the moving in/moving out period, this is proposed to be managed through allocated time slots, with students provided with information about local on-street parking and surface car parks. For loading/servicing, existing parking bays and double yellow lines are proposed to be rearranged to provide a loading bay outside each block.

7.49. Transportation Development has no objection to the proposal, subject to conditions to ensure that, among other things, the on-street changes are carried out appropriately and the cycle spaces are provided prior to occupation.

7.50. I note there is already a significant student population in this area and that there have been no objections on the grounds of parking or highway safety. Free on-street parking to the north of the site is generally occupied during the day by staff working in local industrial premises and to the south on-street parking is provided on a Pay & Display basis. Given these circumstances, and the proximity to city centre campuses, especially Aston University and Birmingham City University, it seems highly unlikely that students would keep a car at the site.

Wind Microclimate

7.51. Wind tunnel modelling and CFD have been undertaken due to the height of the proposed tower. Conclusions show that wind conditions in and around the existing site are suitable both in terms of pedestrian safety and comfort for the intended uses. Also that with the introduction of the proposed development, in the context of existing and cumulative surroundings, the vast majority of locations remain suitable for pedestrian safety and comfort. However, there are two exceptions:

- On the south-west corner of the proposed development, both in the context of existing and cumulative surroundings, in terms of comfort and safety; and
- At the service entrance on the south side of Cliveland St, in the context of existing surroundings, in terms of comfort only.

7.52. Mitigation in the form of a chamfered south-west corner of Block B is proposed to address the comfort and safety shortfall. Perforated screens would close the gap between the walls and the corner column. This would be on the ground floor and mezzanine level:

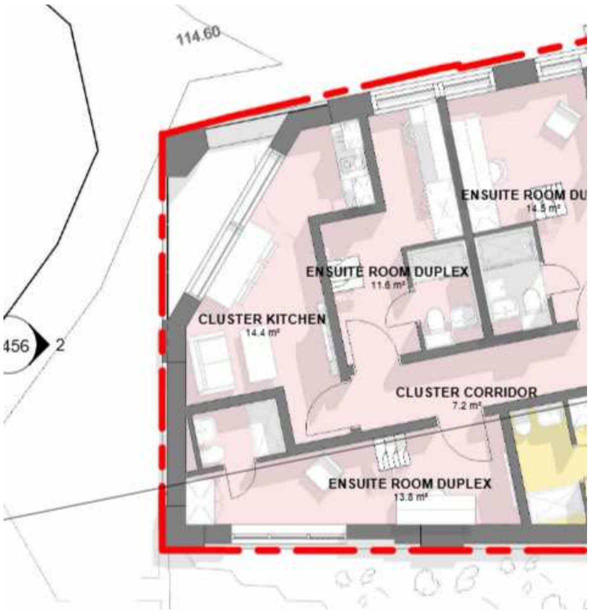


Figure 10: Ground floor plan, Block B

TP33: Scale, massing and architecture is appropriate for the location

7.53. The architectural approach and materiality would be similar to other development in the vicinity and, subject to conditions to secure suitable detailing, would complement the general appearance of the streetscene. It is the scale and massing of the two blocks which require more detailed consideration.

7.54. Block A would sit on the north side of Cliveland St at the junction with Hanley St, where existing new residential development is mid-scale, ranging from 4 to 10 storeys. The tallest blocks are on New Town Row (10 storeys) and at the junction of Hanley St and Summer Row (7 storeys) which is logical since these are primary and secondary roads. The proposed 8 storeys for Block A in this context, on a tertiary road would be taller than the surrounding development, however, the site is located on a road junction where height can be tolerated more comfortably than in the middle of a ribbon of development lining a street. The site also benefits from the topography, with Hanley St sloping down from Summer Lane towards Cliveland St and a smaller incline up from the site along Cliveland St towards Lower Loveday St.

Figure 11: Site of Block A

7.55. Block B would overlook the pocket park at its western end and this provides access onto the canal towpath from the Lower Loveday Street bridge. Your City Design Manager has advised this is the only location along this stretch of the canal where some significant height could be supported, although he still considers the rationale to be weak.

Figure 12: View of pocket park from Barker Bridge

Figure 13: CGI of proposed development viewed from Barker Bridge

7.56. In my view, the tower would act as a marker for the pocket park and access to and from the towpath at the halfway point between accesses at New Town Row and Summer Lane/Constitution Hill which are approx. 500m apart. Canal access could be particularly important for students living in the Gun Quarter and attending Aston University and Birmingham City University, providing a possible short cut to the campuses. The legibility the tower would offer to those using the canal would be a benefit.

7.57. It is important to note that this block would have two levels – the 20-storey tower element and an 8-storey shoulder, so the footprint of the tower would be significantly smaller than the overall footprint of the block and this would affect the massing. The taller and more visible half would be slimmer than the lower portion of the block.

7.58. I am also mindful of the tower at Snow Hill Wharf, seen on the photograph below to the left of the following image (Figure 14). This is 21 storeys and sits on the south side of the canal. The proposed tower could be considered to balance the Snow Hill Wharf tower, being on the north side of the canal.

Figure 14: CGI showing proposed development looking west

7.59. While acknowledging your City Design Manager's reservations about the weakness of the rationale in support of a tower at this location, I am more persuaded in respect of the benefit of marking this access point to the canal, particularly given the growing student population in the immediate vicinity.

TP33: Design and layout creating a safe, secure and welcoming living environment

7.60. A range of bedroom sizes and types are proposed. 220 bedspaces would be in studio apartments, mostly within a range of 17-26sqm. 59 bedspaces would be arranged in clusters with bedroom sizes either 14.5 or 16sqm. On the ground floor, where the building sits at the back of the pavement, duplex studios and bed decks provide some separation from the street for sleeping spaces.

7.61. Internal shared amenity spaces would provide reception and post room facilities, breakout space, cinema room, gym, study room and lounge. This would be mainly located in Block B but with students from Block A having access as well. Total internal amenity space would be 334.9sqm across the two blocks.

7.62. The provision of outdoor amenity space is very restricted due to the size and shape of the sites and would amount to only 138sqm across the two sites. This would comprise of small courtyard spaces, one to the rear of Block A and two to the rear of Block B arranged on different levels and overlooking the canal. The plans show an aspiration to connect the courtyard behind Block A to the larger courtyard of the adjoining site to the north, which is also operated by the applicant, which would certainly benefit prospective occupiers, however that is not part of this application.

7.63. According to the Birmingham Design Guide (City Note LW-13), PBSA should provide 10sqm of outdoor amenity space per resident. In this case, the 138sqm proposed equates to approx. 0.5sqm per bedspace which is a significant shortfall.

7.64. Considering other options for outdoor recreation, Tower St Recreation Ground is approximately 500m north of the site and beyond this there is St George's Park, but these are within a more typically residential area and accessed via an industrial area and it is unlikely that students would use them. It is more likely they would use green spaces associated with university campuses, in particular at Aston University or possibly the Eastside City Park next to the main BCU campus, although this would not offer the same level of amenity as outdoor space on the doorstep.

7.65. Considering security and safety, the site is in an area policed by Aston Neighbourhood Team and calls to service are high. The top four recorded crimes in the area in the year to April 2024 were violence, vehicle crime, theft and anti-social behaviour. The Applicant already operates other PBSA in the immediate vicinity of the application site and is therefore aware of the mixed character of the area and the type of security required.

7.66. West Midlands Police supports the various access and security arrangements proposed by the applicant, in particular the installation of CCTV. I note a concern regarding a pedestrian exit from the courtyard of Block B directly onto the towpath. This is intended to be for emergency use only and the main access into the building would be off Cliveland St.

7.67. Conditions relating to lighting, self-closing door mechanisms, secure cycle storage and the Moving In Moving Out Management Strategy are also recommended. I am not convinced that the self-closing door mechanisms is within the scope of planning and this, along with other detailed recommendations have been passed to the agent for consideration separate to this planning application.

TP33 Conclusion

7.68. The scheme is able to demonstrate a need for the development and it would be very well located to several city centre campuses. However, there would be adverse impacts on the local neighbourhood and residential amenity, in particular in terms of daylight and sunlight and on heritage assets; and on the proposed living environment, including through noise and a lack of outdoor amenity space. These harms will be considered in the planning balance towards the end of this report.

7.69. In addition to its compliance with TP33, there are other relevant BDP policies against which the application has to be assessed and these are addressed below.

Sustainability

7.70. In broad terms, the application site comprises previously developed land within the city centre. It is well located in terms of city centre university campuses and all of the other shops, services and leisure activities found in the city centre. It also has good access to public transport.

7.71. In respect of BDP policies TP3 Sustainable Construction and TP4 Low and Zero Carbon Energy Generation, a BREEAM pre-assessment has been submitted which identifies that the development proposal is capable of meeting the Excellent BREEAM standard. A Sustainability Construction and Energy Statement has also been submitted which demonstrates that, adopting a fabric-first approach, for example by improving u-values, airtightness and lighting efficiency, the development can achieve a 5.32% reduction in CO_2 emissions and 6.11% reduction in Primary energy beyond a Part L 2021 baseline. It also identifies that air source heat pumps and solar photovoltaics are the most feasible low and zero energy generation technologies to be accommodated within the development.

Ecology/trees/landscaping

7.72. The application site is located within a highly built-up part of the Gun Quarter with surrounding land use comprising a mix of residential and commercial buildings, bare ground and hardstanding. The hardstanding has little invasive vegetation due to previous frequent movement of vehicles. The boundary to the canal comprises a brick wall covered in extensive woody ivy growth. Surveys completed to inform the application found no indication of the Metro Building on Site A to be used as a bat roost or hibernation site, or a Black Redstart breeding site, although EcoRecord indicates their presence, along with various other protected/notable species within 1km of the site. Given the loss of all buildings within the site and some of the vegetated boundary between the site and canal, there would be some loss of bird nesting habitat.

7.73. The development is subject to the mandatory 10% biodiversity net gain (BNG) and this has been the subject of much discussion between the City Ecologist and the applicant's representatives. The City Ecologist is now satisfied that the baseline and post-development habitats on site have been shown in the BNG Metric. Proposed habitat creation would comprise: wildflower rooftop blanket, 4 small trees, sedum blanket/PV panels, and ground level planters. This would result in a net change of 0.14BU equivalent to a <u>297.62% uplift</u>.

7.74. As the site is adjacent to the canal, there must also be 10% BNG in relation to the watercourse module with the BNG Metric as well. On-site watercourse enhancement would comprise a landscaping scheme to be implemented 6-10m from the edge of the canal. The inclusion of the rooftop wildflower and sedum blankets would also fall within the riparian (riverbank) zone. The enhancement to the riparian zone will result in a <u>56.33% uplift in watercourse units</u>.

7.75. The City Ecologist is supportive of the new planting that is proposed, given the constrained size of the site. The newly created habitats will need to be appropriately managed to ensure the target conditions are achieved and the biodiversity units realised. She suggests monitoring reports should be provided in years 1, 3, 5, 10, 15, 20, 25 and 30. As the on-site enhancement does not, in her opinion, constitute "significant" enhancement, monitoring reports and their subsequent review by the LPA should be secured by a planning condition.

7.76. In respect of trees, there is only one of significance which would be affected by the proposal, a Swedish Whitebeam which is located at the boundary of Site B with the pocket park. This is not within the applicant's ownership as the pocket park appears to be Council-owned.

Figure 15: Swedish Whitebeam within pocket park
(Google Streetview)

7.77. The Whitebeam, a category B tree, is proposed to be retained and the Arboricultural Impact Assessment (AIA) notes that given the presence of the former garage wall on the boundary and its foundations, the tree roots are likely to be largely within the pocket park area. The AIA details how the development could be undertaken whilst retaining the tree, with pruning of the canopy and specific construction methods to protect the roots. As the tree is mature, further growth is not expected to significantly increase its size. Your Principal Arboriculturist notes the benefit of the tree to the streetscene, particularly in the absence of significant other soft landscaping. An Arboricultural Method Statement could be secured by condition to ensure that the development is carried out in a manner which retains and protects the tree.

7.78. Concerning landscaping within the site, your City Design Manager notes the constraints of the site. Planting beds offer some scope for soft landscaping and would enhance biodiversity beyond the existing situation as already discussed.

Flooding/drainage

7.79. The site is within Flood Zone 1 and is at lowest risk of flooding. It is sequentially the most preferable for residential development. The Flood Risk and SuDS Assessment submitted notes that flood risk from rivers, sea or reservoir/infrastructure failure is 'very low' however an area of 'low' risk of surface water flooding exists towards the northern proportion of Block B.

7.80. Drainage via infiltration into the ground is not expected to be suitable given the likelihood of the site having some ground contamination. The Assessment instead proposes that surface water run-off from both blocks be discharged into the combined public sewers. A discharge rate of 0.5l/s is proposed, incorporating mitigation measures (mesh gratings) to alleviate the potential for blockages. Given the unrestricted discharge rates at present, this would result in a significant post-development benefit particularly during extreme storm events. Foul water would be discharged into the foul public sewers. Given the level of attenuation required, it is proposed to accommodate the volume requirements on the roofs in a blue roof system with green features. I note the LLFA welcomes the sustainable drainage and has no objection to the scheme.

Planning obligations/CIL

7.81. As PBSA the development is liable for a CIL payment in the region of £989,572.28. There are no other planning obligations associated with the development.

Other matters

7.82. *Canal and River Trust comments*: Some of the concerns raised by CRT are addressed above, however, I note particularly here the assertion that the development would harm:

- the existing relatively open character of the canal corridor in this location;
- the appearance of the area from the canal corridor; and
- the amenities enjoyed by users of the canal corridor.

7.83. While, for a very short section of the canal corridor, there is a degree of openness due to the absence of a building on the application site, the overriding impression while using the canal corridor as a pedestrian is that of enclosure, in my view. There are buildings along its length on both sides and on the south side there is no towpath so there is no setback of buildings in some cases (see Figure 16 below). There is no reason in planning policy terms to protect this site from development in order to preserve the openness to which CRT refers. As it passes through the city centre, the canal is typically lined with development and whilst the heights of buildings proposed now may be greater than in previous times, in my experience a sense of openness is not seen until the canal reaches the suburbs, in particular through Edgbaston.


Figure 16: CGI showing development along canal

7.84. Concerning the appearance of the area from the canal corridor, again, I disagree. In general terms, the development is appropriately designed for its location and would be an improvement on much existing development lining the canal corridor.

7.85. In respect of the amenities enjoyed by users of the canal corridor, I cannot see how harm would arise. There would be benefits in terms of overlooking and increased activity which do not currently exist and there would be no impediment to use of the towpath or the canal itself.

7.86. *HSE comments*: Concern regarding the absence of a protected lobby between the firefighting shaft and ancillary accommodation in Block B is noted. This is a matter which would be considered more closely through the Building Regulations approval process.

7.87. *Third Party Representations*: I note the concern about ground floor activation of the street frontage and have some sympathy with this view. Buildings in this area are generally built at the back of the footpath, having previously been mainly in industrial use and requiring no defensible space. However, as the area shifts to include more residential accommodation, the impact of having habitable rooms at the back of the pavement is a greater consideration in the interests of privacy and security for residents. PBSA developments tend to incorporate a reception area and post room and often some shared indoor amenity space on the ground floor, along with the necessary plant rooms, cycle and refuse stores. This provides some active frontage but does not always extend across the full ground floor area, as in this scheme. Some recent developments in the vicinity have incorporated a commercial unit to provide additional active frontage however these have not all been occupied, in some cases due to lack of demand or unsuitable servicing arrangements, and consequently they fail to provide the activity expected.

7.88. Where ground floor bedrooms are proposed, various architectural techniques can be implemented to give a degree of separation between the pavement and habitable rooms which maintains a strong building line but protects residential amenity; for example, a setback of the ground floor; winter gardens; areas of obscure glazing; and, as in this case, duplex or mezzanine arrangements for sleeping space.

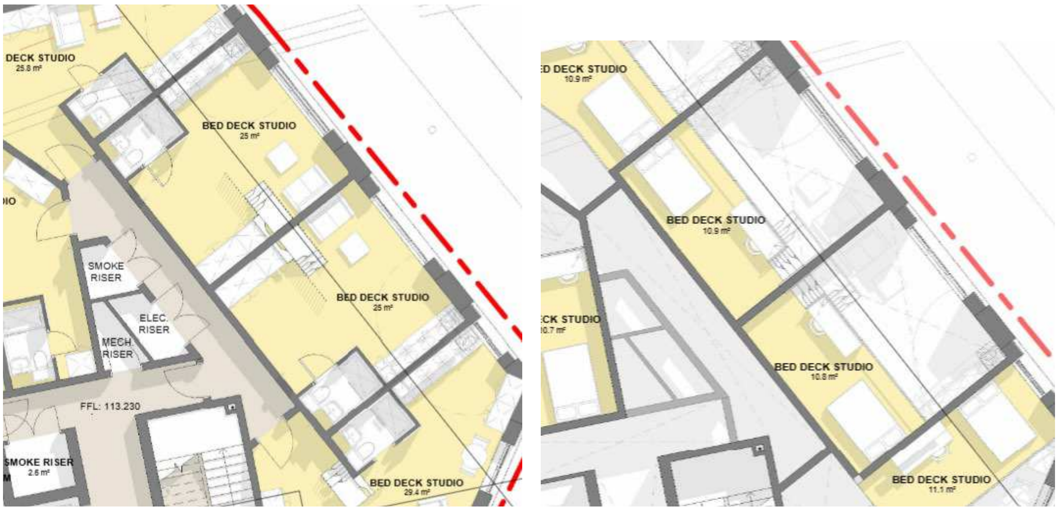


Figure 17: Bed deck arrangement showing ground floor (L) and mezzanine (R)

7.89. In my view, the balance between active and inactive frontage is satisfactory and the internal arrangements for lifting sleeping areas away from the back of the pavement would provide suitable amenity for residents. I am mindful that the bed deck arrangement at the back of the pavement only affects 6 of the 279 units proposed across the two blocks. Based on experiences at other similar developments, I do not consider it appropriate or justifiable to require a commercial unit to be incorporated into the scheme.

7.90. Third party comments concerning the colour palette and signage are noted; these are both matters for subsequent determination but at this stage I do not consider the colour palette to be inappropriate. Finally, while environmental improvements would be welcome, they must be justified in planning policy terms and in this case there is no policy basis on which to specifically require the improvements suggested.

Planning Balance

7.91. Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with proposals for planning permission, regard must be had to the provision of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that *'If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.'*

7.92. Considering the development against planning policies, it would provide 244 units of residential accommodation on previously-developed land within a very sustainable location, thereby helping to deliver housing in accordance with the Government's commitment to significantly boost housing delivery. I am particularly mindful of the newly phrased para. 125c) of the NPPF, which requires planning decisions to,

> "c) give *substantial weight* to the value of using suitable brownfield land within settlements for homes and other identified needs, proposals for which should be approved *unless substantial harm would be caused*, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land" (my emphasis).

7.93. In accordance with the NPPF, substantial weight should be afforded to the value of using suitable brownfield land within the urban area for homes. This weighs heavily in favour of the application. Whilst not traditional housing, the proposed development meets a demonstrated need for specialist student housing. Parts of the site are also derelict and likely to be contaminated so its re-use would also present the opportunity to remediate it.

7.94. There is a demonstrated need for PBSA in the city centre and sufficient capacity to accommodate the proposed net increase in bed spaces, based on current data and notwithstanding recent approvals. The site is very well located to several educational institutions as well as being accessible to city centre services and public transport.

7.95. The development is, in my view, a suitable scale based on its specific location and other redeveloped sites in the vicinity and takes a similar architectural approach which, assuming further redevelopment in the vicinity follows in due course, would bring some cohesion to the residential buildings in this part of the Gun Quarter. There would be improvements to the drainage, ecology and sustainability of the site through the detailed design of the building and the landscaping. There would also be some economic benefits through the capital investment, student spend, and the creation of jobs.

7.96. Notwithstanding these benefits, the development would cause some harm, namely:

- Potential noise and disturbance due to having openable windows, should operations resume at the DRB Engineering industrial site.
- Loss of daylight and sunlight to some neighbouring residents.
- Less than substantial harm to heritage assets as follows:

    Nos. 37 & 38 Princip Street, Gr II Listed – Moderate
    Barker Bridge, Gr II Listed – Low
    The Bull P.H., Gr II Listed – Low to very low
    Nos. 44A, 44B & 45-49 Lower Loveday Street, Gr II Listed – Low to very low
    29 – 31 Lower Loveday Street, Locally Listed Grade C - Low

- Very low provision of outdoor amenity space compared to Birmingham Design Guide expectations.

7.97. Considering firstly the heritage harm, in accordance with para. 215 of the NPPF, where a proposal would 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 including, where appropriate, securing its optimum viable use. The harm identified to designated heritage assets ranges from 'moderate' to 'low to very low' so it is not at the upper end of the 'less than substantial' scale. Furthermore, the assets affected are all Grade II Listed and are already impacted by existing modern development and the changing character of their surroundings. Giving substantial weight to the use of a brownfield site for the provision of housing for which there is a recognised need, I do not consider the harm identified to these heritage assets would be so great as to outweigh the public benefit deriving from the PBSA to be provided.

7.98. In respect of the non-designated heritage asset, again, the harm would be 'low to very low' and the asset is Grade C. Applying the balanced judgment required by para. 216 of the NPPF, I conclude the harm is not sufficient to outweigh the benefits deriving from the scheme.

7.99. In respect of the remaining harms (noise, daylight/sunlight, outdoor amenity space), these are all typical when introducing residential development into a dense urban environment and in particularly into a former industrial area. There is no reason in planning policy terms to resist the transition to a greater mix of uses, and therefore the question is whether individually or collectively with the heritage harm they amount to substantial harm as per NPPF para. 125c). In my view, they do not. While they are clearly not desirable effects of the scheme, they may not come into existence (industrial noise) or they are not substantial enough even collectively to justify refusal of the application given the substantial weight which must be given to the use of suitable brownfield land within settlements for homes.

8. Conclusion

8.1. The application would bring into use a long-vacant brownfield site for student accommodation for which there is a demonstrated need, in a sustainable location. Whilst there are conflicts with some elements of BDP policy TP33 and other adopted guidance, on balance and overall, the development complies with the aims of development plan and with the most recent version of the NPPF.

8.2. Conditions are attached, including as recommended by consultees, in accordance with the tests set out in the NPPF para. 57.

9. Recommendation

9.1. Approve subject to conditions

1	Implement within 3 years (Full)
2	Requires the scheme to be in accordance with the listed approved plans
3	Requires the prior submission of a Demolition Method Statement/Management Plan
4	Requires the prior submission of a construction method statement/management plan
5	Requires the prior submission of a Construction Ecological Management Plan
6	Requires the prior submission of a Construction Employment Plan.
7	Requires the prior submission of a contamination remediation scheme
8	Arboricultural Method Statement - Submission Required
9	Requires the prior submission of a Sustainable Drainage Assessment
10	Requires the prior submission of a foul water drainage scheme
11	Requires the prior submission of noise insulation (variable)
12	Requires the prior submission of a Noise Mitigation Scheme
13	Requires the submission of extraction and odour control details
14	Requires the submission and approval of external materials
15	Requires the submission and approval of architectural detailing
16	Requires the construction and approval of sample panels on site
17	Requires the submission of a scheme for ecological/biodiversity/enhancement measures
18	Requires the prior submission of details of bird/bat boxes

19	Requires the submission of details of biodiversity roofs
20	Requires the prior submission of a Landscape and Ecology Management Plan
21	Requires prior submission of wind mitigation measures
22	To ensure information on the proposed low/zero carbon energy technology is submitted
23	Requires the submission prior to occupation of the properties of a Sustainable Drainage Operation and Maintenance Plan
24	Requires the submission of a contaminated land verification report
25	Requires the submission of hard and/or soft landscape details
26	Requires the submission of boundary treatment details
27	Requires the submission of a lighting scheme
28	Requires the prior submission of a lighting design strategy for biodiversity
29	Requires the submission of a CCTV scheme
30	Requires the provision of cycle parking prior to occupation
31	Requires the submission and completion of works for the S278/TRO Agreement
32	Requires the prior submission of a Moving In Moving Out Management Plan
33	Limits the noise levels for Plant and Machinery
34	To ensure energy and sustainability measures are delivered in accordance with statement
35	To ensure that the development achieves BREEAM rating level Excellent
36	General On-site Biodiversity Net Gain Condition

Reason for Approval

1	Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply. Biodiversity gain plans are required to be submitted to, and approved by, the planning authority before development may be begun.

Case Officer: Amy Stevenson

Photo(s)

Photo 1: Pocket park

Photo 2: South side of canal opposite Site B

Photo 3: Site A

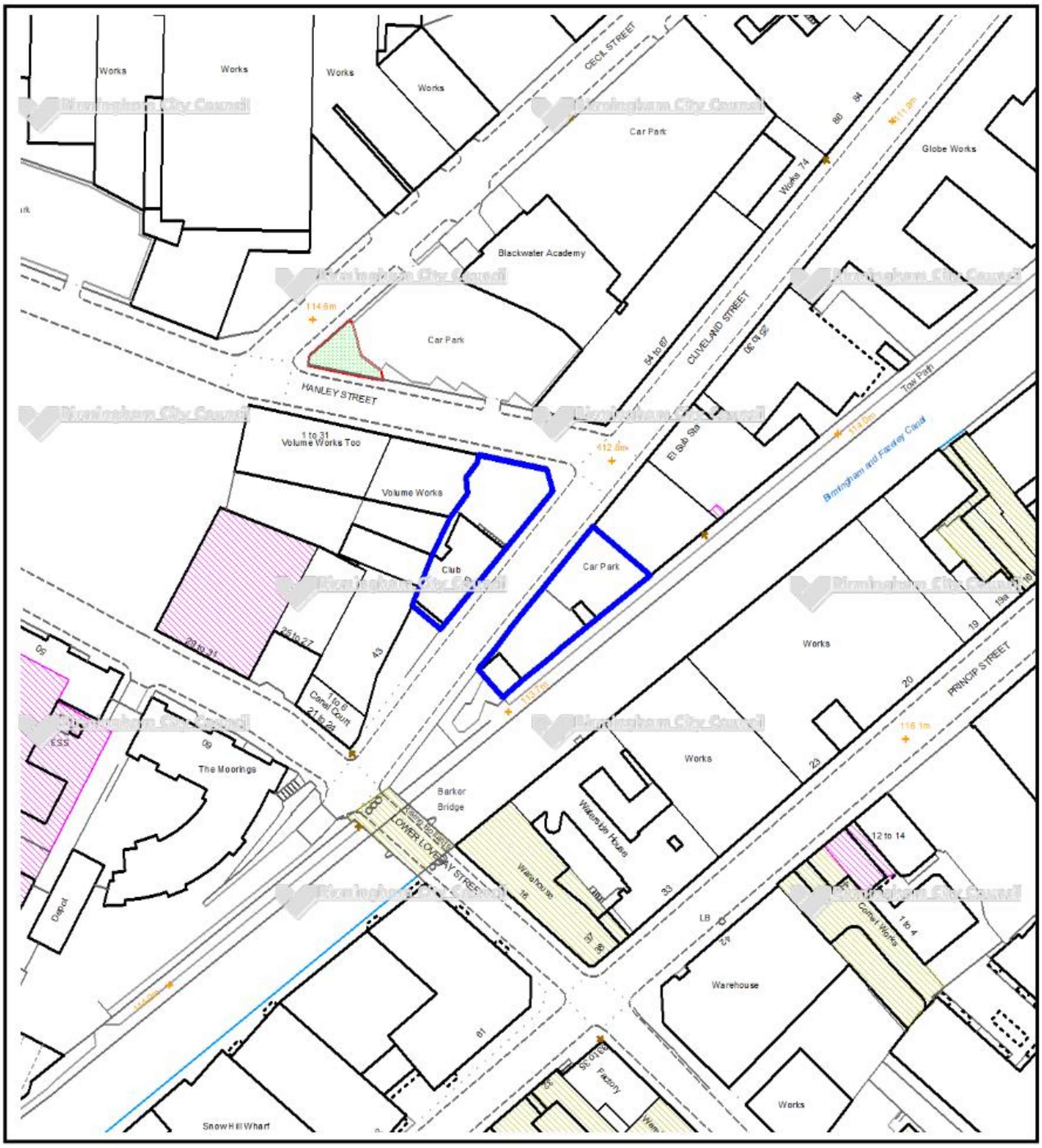
Photo 4: Land to west of Site A

Photo 5: Pocket park leading to towpath

Photo 6: Towpath

Photo 7: Site B, Cliveland St frontage

Location Plan



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Birmingham City Council

Planning Committee 16th January 2025

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

Recommendation	Report No.	Application No / Location / Proposal
Approve – Conditions	8	2024/01398/PA 15 Finch Road Lozells Birmingham B19 1HS Erection of first floor dormer roof extension and insertion of new glazing and doors within existing ground floor side elevation.

Assistant Director of Planning

Committee Date:	16/01/2025	Application Number:	2024/01398/PA
Accepted:	05/03/2024	Application Type:	Full Planning
Target Date:	17/01/2025		
Ward:	Lozells		

15 Finch Road, Lozells, Birmingham, B19 1HS

Erection of first floor dormer roof extension and insertion of new glazing and doors within existing ground floor side elevation.

Applicant:	Mr Mohammed Yousaf c/o Anjum Design Ltd, 435 Stratford Road, Shirley, Solihull, West Midlands, B90 4AA
Agent:	Anjum Design Ltd 435 Stratford Road, Shirley, Solihull, West Midlands, B90 4AA

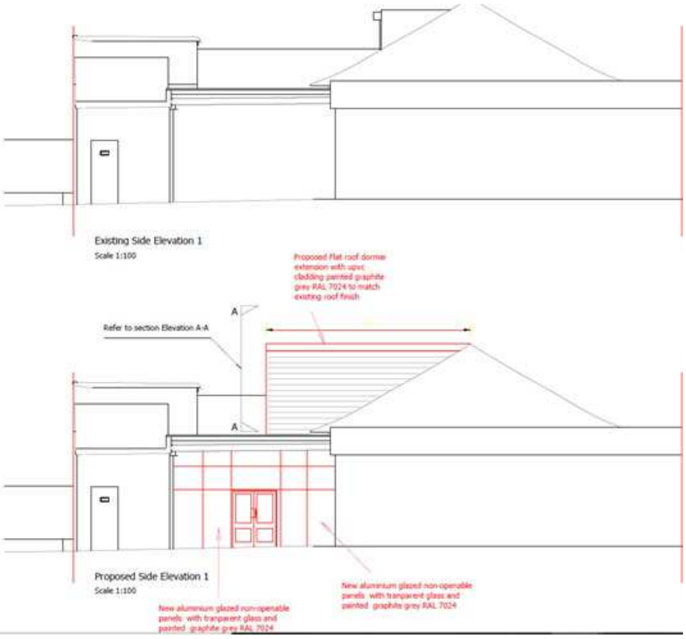
Recommendation
Approve subject to Conditions

1. **Proposal:**

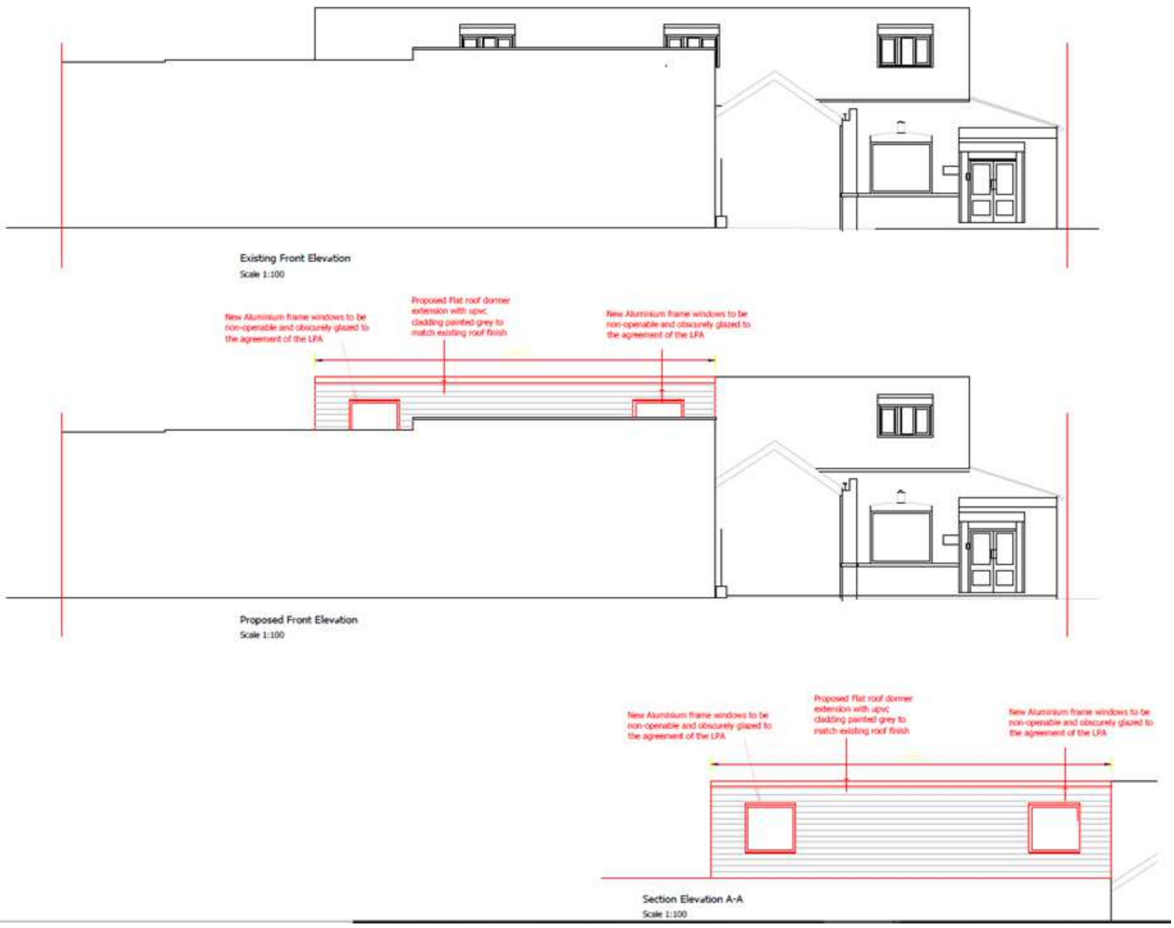
1.1 The applicant proposes the erection of a first floor dormer roof extension and insertion of new glazing and doors within existing ground floor side elevation.

1.2 The new roof dormer would have an exterior that would be clad in UPVC cladding and painted grey to match the existing. It would have windows along its north eastern façade that would be obscurely glazed and non openable. The internal layout shows the dormer extension would provide additional floorspace for office use. The new glazing and entrance doors to the ground floor would lead to an internal lobby area.

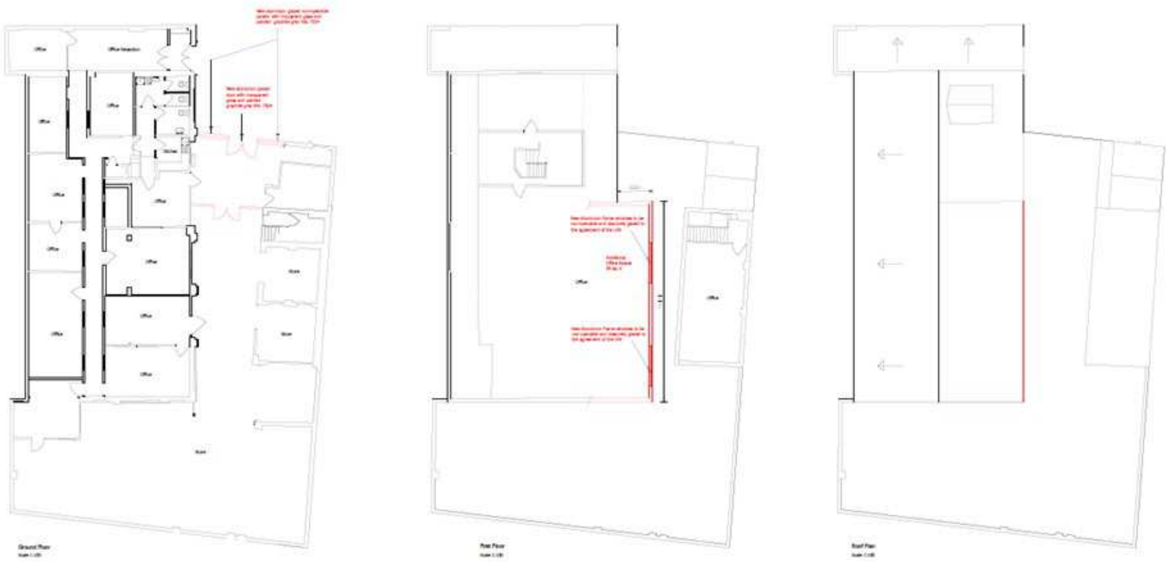
1.3 The stated existing use of the premises is as offices whilst the new floorspace within the proposed extended dormer would also accommodate office floorspace.



The images above show the existing and proposed side elevation that faces 40 Gordon Road.



The images above show the existing and proposed front elevation which also includes an image of proposed dormer in full i.e. not obscured by existing roof feature in front.



The images above show the proposed ground, first floor and roof layout.

1.4 Link to Documents

2. Site & Surroundings:

2.1 The application premises is a two storey commercial property set in a predominantly residential area. The site area measures 878 sq.m.

2.2 Site location

3. Planning History:

3.1 08.09.2023- 2023/03568/PA- Application for a lawful development certificate for proposed use of premises as offices (Use Class E)- Section 191/192 Permission not required (Certificate issued)

4. Consultation Responses:

4.1 Regulatory Services- No objection.

4.2. Transportation Development- No objections

5. Third Party Responses:

5.1 Neighbouring occupiers and local councillor notified as well as site notices displayed- Objection from Cllr Waseen Zaffar received on the grounds that the development would have a detrimental impact on the local community and neighbourhood and requests this application be determined by committee. He has also forwarded a petition from another objector against the proposal which contains 21 names.

5.2. In addition to the above 2 responses have also been received from one objector who sets out objections to the proposal on the following grounds:-

- Impact on privacy of nearby objector (privacy concerns) including their daughter who has downes syndrome and is already affected by overlooking.

- Impact on natural light to objectors property.

- Increased noise from extension (including impact from such on their daughter who they state is particularly sensitive to loud noises).

- Traffic and parking concerns.

- They also set out that objections to this extension are not confined to them but that other residents in the vicinity share similar sentiments, viewing the proposed extension as excessive for the small residential area and unnecessary for the community's well-being.

- They then request that in light of these objections, they urge careful consideration of the adverse impacts that this planning application may have on the residents and the community at large.

- Scale and character of extensions.

- The property as already is not properly managed by owners with drainpipes affecting neighbouring property.

- Concerned about disruption caused by construction in relation to traffic and noise.

- The objector seeks peace for their family and concerns that its conversion to anything disruptive would cause constant issues for their family.

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

6.1 National Planning Policy Framework (2) Achieving sustainable development, (4) Decision making, (11) Making effective use of land and (12) Achieving well designed places.

6.2. Birmingham Development Plan 2017: PG 3 (Place making), TP 44 (Traffic and congestion management)

6.3. Development Management DPD: DM 2 (Amenity).

6.4. Supplementary Planning Documents & Guidance: Birmingham Design Guide SPD and Birmingham Car Parking Standards SPD.

7. **Planning Considerations:**

Principle

7.1. The end use of the proposed development is intended to provide additional floorspace for office purposes Use class E (g) (i). This intended use accords with the use of the premises as confirmed under a lawful development certificate granted in 2023. For this reason, the principle of providing additional office floorspace as proposed by the development is acceptable in this case.

Design

7.2. The site is located within a Victorian residential neighbourhood comprising mainly 2-

storey terraced houses with rear gardens. It is not within the Lozells and Soho Hill Conservation Area which lies to the south of Lozells road, although the houses along Gordon Road to the north, and to the south of the site entrance on Finch Road, have architectural merit with attractive Gothic revival style detailing creating a positive local character.

7.3. A collection of non-descript 1- and1.5-storey (and small 2-storey) buildings are positioned at the rear of the site (bordering the rear gardens of terraced houses off Mayfield Road) with a linear open yard on the Finch Road / Gordon Road frontage.

7.4. The overall architectural design of the application property is an eclectic mix of styles. The addition of the proposed roof dormer extension would add to this mixture, though partly reflecting the flat roof element that it would face onto. It is in this context, together with the set back of the property from the road that the new roof extension and insertion of glazed windows and doors to the ground floor are considered acceptable from a visual impact perspective.

Overlooking

7.5. The scheme has been subject to modifications and it is now proposed that the windows in the eastern elevation of the new dormer extension would be non openable and obscurely glazed. In addition to this, the new ground floor glazed entrance would be set approx. 6.5 metres from the boundary wall to number 40 Gordon Road, which falls within the range of minimum distance separation set out in the adopted Birmingham Design Guide. For these reasons, no overlooking from the end use of proposed works is identified.

Loss of light and outlook

7.6. Given the positioning of the proposed new ground floor entrance glazing (to be inserted into the existing external fabric of the building) then I conclude this new feature would not give rise to any adverse impact in terms of impact on light to and outlook from windows to nearby properties.

7.7. Given the distance between the habitable windows in the gable wall of the rear wing of number 40 Gordon Road and the proposed roof extension at approximately 12.5 m, no loss of light and outlook identified to those windows given the distance separation required in such instances by adopted policy is 12.5 metres. In addition to this, given the distance separation of the proposed extension to the windows in the rear main façade of 40 Gordon Road then no adverse impact in terms of loss of light and outlook is identified to those windows.

7.8 Whilst the new dormer roof extension would protrude in height above the existing flat roof element to the front of it, given the distance between the new extension and any habitable windows in the rear façade of premises along Finch Road would measure at a minimum approx. 21.5 metres, then no adverse impact in terms of loss of light to and outlook to such identified. I also do not consider the roof extension would have an overbearing impact to neighbouring properties or gardens (including in terms of light to and outlook from those gardens).

7.9. I note that the property to the south of the site on Lozells Road has windows in its rear elevation. However given the proposed roof dormer extension would not be in direct line of such and the distance of approx. 14metres between those windows and the roof extension, then no adverse impact in terms of loss of light to or outlook from those windows is identified.

Parking

7.10. Transportation Development raises no objection. I concur with this view. The site is located on Finch Road (unclassified road maintainable at public expense). Based on the submitted plans, the site is currently in use and would remain so for office purposes. My Transportation advisor has not identified any concerns in regard to additional parking demand that may be created by the new floorspace. Finally, the development is well within the site's red line boundary set back from the public highway and holds no highway safety issues. For these reasons I raise no objection to the scheme on parking/highway grounds.

Environmental matters

7.11. Regulatory Services raise no objection to the proposal. I concur with this view. The applicant has set out the existing use is as offices and would remain so. Given the level of new floorspace proposed I do not consider this would give rise to any adverse noise and disturbance impact. The positioning of the new entrance lobby doors are considered acceptable in that they would be set away from the boundary to 40 Gordon Road and replace an existing shutter opening and consequently given this and the end use of the works I do not raise any concerns about potential noise impact on the occupiers of nearby premises.

7.12. My environmental advisor advises there are no contaminated land issues arising from this proposal.

Other Issues

7.13. Where those matters raised by the objector to this scheme have not been specifically been addressed in this report, I set out my thoughts in regard to those matters below.

7.14. Specifically, in terms of those matters arising from the development that the objector believes would impact a person with Downe syndrome (in relation to the developments impact on them from overlooking and noise perspective), I note Section 149(1) of the Equality Act 2010 Act provides:

"A public authority must, in the exercise of its functions, have due regard to the need to –

(a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this 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."'.

7.15. The Act includes reference to disability in section 4 as a protected characteristic. By applying due regard to the material available and bearing in mind the Public Sector Equality Duty (PSED) arising from section 149 of the Equality Act 2010 I consider that the developments impact in terms of overlooking and noise generation impact does not warrant refusal of the scheme (as discussed earlier in this report). The reasons for this include that the proposal does not seek to introduce a non conforming land use into this largely residential area which thereby limits the noise impact of the development from a principle end use perspective this location.

7.16. In addition to the above, the operational use of the development would also provide enclosed floorspace thereby containing noise generated by the main use of proposed development. Furthermore, the overall extension is not deemed to be overintense to generate any materially harmful noise impact and any noise generated by its use, including from comings and goings to the premises, and such noise would be expected to be assimilated into existing background noise so as not to cause a heightened observable impact. For these reasons, it is considered the development would not be harmful from a noise perspective to those with sensitivity to noise, including those with disabilities, and its assessment in respect of such accords with Public Sector Equality Duty (PSED). Finally, in regard to the matter of overlooking impact raised specifically in relation to a person with Downe Syndrome, as discussed earlier in this report, the development would not give rise to overlooking.

7.17. In regard to concerns raised by the objector in respect of disruption that may be caused by construction in relation to traffic and associated noise, in order to try an allay concerns regarding such a condition can be applied that requires the submission and agreement of a construction management plan.

7.18. In regard to the objectors comments about the proposed extension being excessive for a small residential area and unnecessary for the community's well-being, it is noted the visual impact of the proposal has been assessed earlier in this report and to have been found to be acceptable. In regard to the questioning of the necessity for the proposal, given the end use of the extended floorspace would align with the stated existing use of the premises (offices) then the necessity for the use is a commercial decision whilst from a planning perspective the proposal has complied with relevant material planning requirements.

7.19. Finally, in regard to the objectors comments that property is already not properly managed by the owners with drainpipes affecting neighbouring property, I consider this to be a civil matter between the two parties.

8. **Conclusion**

8.1 Following amendments to the scheme it is considered the proposal is acceptable subject to conditions.

9. **Recommendation:**

9.1 Approve subject to conditions

1 Prevents the use from changing within the use class

2 Requires the prior submission of a construction method statement/management plan

3 Requires the submission obscure glazing details for specific areas of the approved development

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

5 Implement within 3 years (Full)

Reason for Approval

1 Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply. In this case that the development proposed within this submission is not 'major development' (within the meaning of article 2(1)

of the Town and Country Planning (Development Management Procedure) (England) Order 2015) and the application for planning permission was made before 2 April 2024.

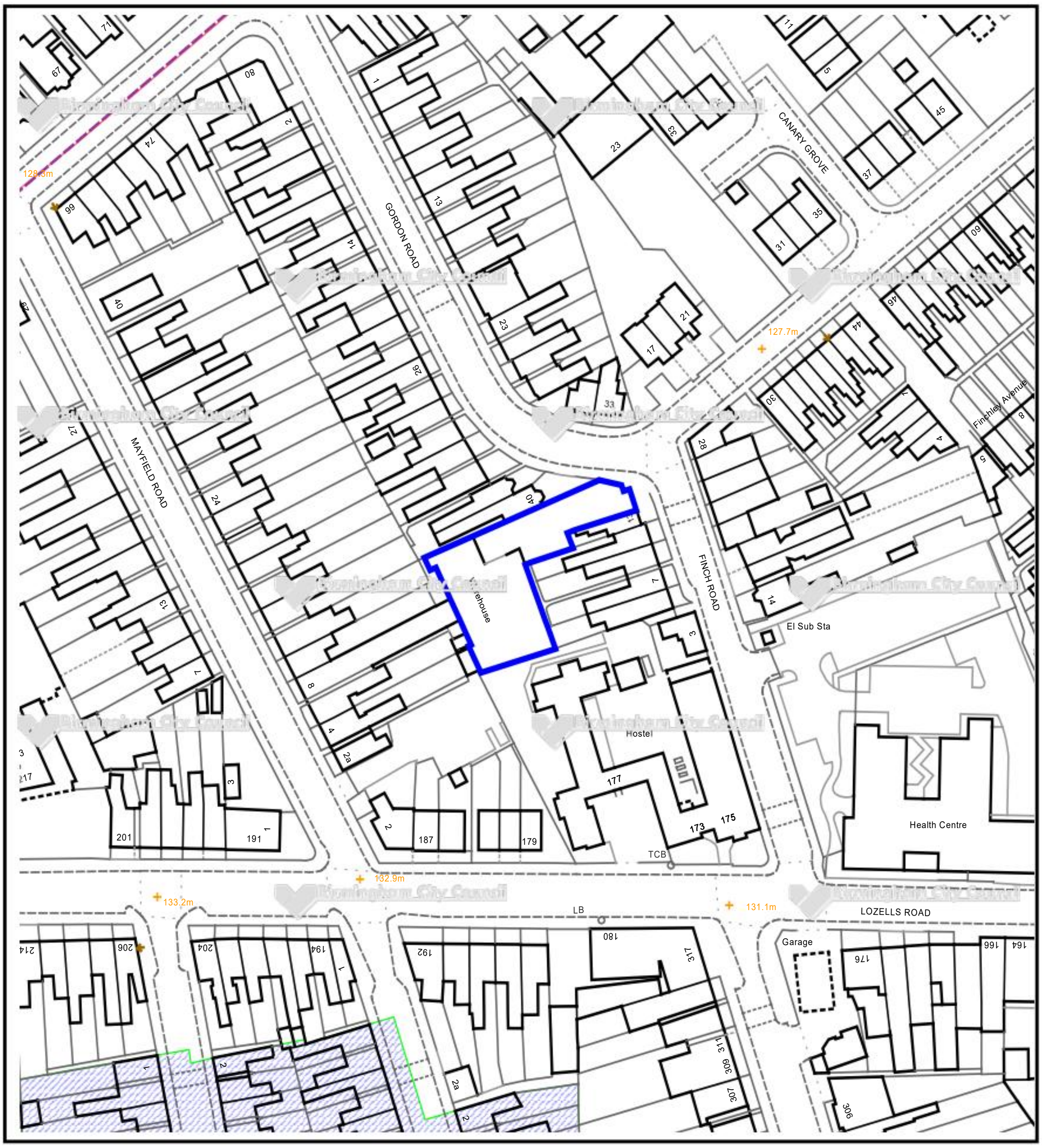
Case Officer: Wahid Gul

Photo(s)

View looking at front of application building with side of 40 Gordon Road to the right.

View looking at side and rear of 40 Gorden Road from forecourt of application site

Location Plan



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