

# Birmingham City Council

Planning Committee

27 May 2021

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve - Conditions	9	2020/08399/PA  Land off Witton Road and Tame Road Witton Birmingham B6  Development of a new Inner City Football Academy, erection of building containing indoor 3G training pitch, changing facilities, parents lounge and ancillary office space, creation of outdoor 3G training pitch, two accesses, two car parks, associated hard and soft landscaping and lighting and resurfacing of staff car park to west of River Tame
Approve - Conditions	10	2021/02809/PA  Birmingham Alexander Stadium Walsall Road Perry Barr Birmingham B42 2LR  Reserved Matters application following 2019/07968/PA for the installation of temporary lighting and catenary structures required to host the Commonwealth Games 2022.
Approve - Conditions	11	2021/00528/PA  Boldmere Gate Sutton Park Stonehouse Road Sutton Coldfield Birmingham B73 6LH  Alterations and refurbishment of existing car park

Committee Date: 27/05/2021 Application Number: 2020/08399/PA  
Accepted: 23/11/2020 Application Type: Full Planning  
Target Date: 04/05/2021  
Ward: Aston

**Land off Witton Road and Tame Road, Witton, Birmingham, B6**

**Development of a new Inner City Football Academy, erection of building containing indoor 3G training pitch, changing facilities, parents lounge and ancillary office space, creation of outdoor 3G training pitch, two accesses, two car parks, associated hard and soft landscaping and lighting and resurfacing of staff car park to west of River Tame**

**Recommendation**

**Approve subject to Conditions**

1. **Proposal**

- 1.1. The proposal is for the re-development of the site to provide a football academy for Aston Villa Football Club. The development will consist of one outdoor 3G, floodlit, pitch and one indoor 3G, floodlit, pitch with an attached single storey building providing changing rooms, parents lounge, office and storage. The proposal also includes 3 car parks providing a total of 445 parking spaces, areas of landscaping and the creation of a wildlife pond.



- 1.2. Information submitted in support of the application included: Planning Statement, Design and Access Statement, Transport Assessment, Air Quality Assessment, Contamination Report, Energy Statement, Flood Risk Assessment, Ecology Surveys and Arboricultural Impact Assessment.
- 1.3. The proposed sports facility falls under Schedule 2, 10b “Urban Development Projects” of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. However, as the site is within an urban environment and previously developed land the Council has screened the application as not requiring an Environmental Impact Assessment.
- 1.4. [Link to Documents](#)

## 2. Site & Surroundings

- 2.1. The site area is 4.24ha in total, split across 2 parcels of land either side of the River Tame. The 3.7ha to the east of the river was previously occupied by B2 industrial units which were demolished following a prior notification application in 2016. The parcel to the west of the river contained 2 gas storage units, also now demolished. The footprint of the previous buildings is still evident. Both parcels are accessed off Witton Road and the eastern part also has a secondary access off Tame Road. The land is generally flat but the western parcel is on higher ground. There is existing vegetation on the River Tame corridor and the railway to the west. It is currently used for parking for local businesses, HGV trailer storage and staff parking on match days.
- 2.2. The wider area is a mix of employment/ commercial uses and residential terrace houses. The houses on Tame Road, Deykin Avenue and Brantley Road are surrounded by the Witton Employment Area (to the east) and The Hub Employment Area (to the north). Witton train station is to the east of the site, between the site and the main Aston Villa stadium. A group of 20 houses on Tame Road, in three terraces, back onto the site. There is also residential on the opposite side of Tame Road and further south.
- 2.3. [Site Location](#)

## 3. Planning History

- 3.1. The following list is the planning history relating to redevelopment of the site. Older planning history relating to the industrial use is not considered to be relevant.
- 3.2. 2018/09436/PA – Installation of 7 lighting columns to car park – Approved subject to conditions 18<sup>th</sup> June 2019.
- 3.3. 2016/10444/PA – Prior notification for demolition of steel framed and concrete structures (western parcel) – No prior approval required 13<sup>th</sup> January 2017.
- 3.4. 2016/07889/PA – Prior notification for demolition of former Siemens, Startins and Council yard sites – No prior approval required 19<sup>th</sup> October 2016.
- 3.5. 2015/06450/PA – Replacement of perimeter fencing/ gates and creation of new access off Tame Road, new lighting and temporary security building and generator unit to existing car park. Demolition of derelict buildings to extend existing car park

to create 88 additional car parking spaces and re-grading of land to provide floodplain storage area – Approved subject to conditions 12<sup>th</sup> May 2016.

- 3.6. 2011/06441/PA – Application to replace extant consent 2008/06167/PA – Approved 23<sup>rd</sup> December 2011.
- 3.7. 2008/06167/PA – Outline residential redevelopment for approx. 130 units and associated access – Approved subject to conditions 27<sup>th</sup> February 2009.
- 3.8. 2003/04929/PA – Redevelopment of site to provide Class A1 retail store, petrol filling station, new access to Witton Road and realignment of River Tame – Withdrawn.
- 3.9. 1999/04073/PA – Provision of staff car parking for use by Aston Villa FC (western parcel) – Approved subject to conditions 3<sup>rd</sup> August 2000.

#### 4. Consultation/PP Responses

- 4.1. Surrounding occupiers, local councillors, MP and neighbourhood forums have been notified. A site notice and press notice has also been displayed. No comments have been received.
- 4.2. Sport England – No objection subject to a Community Use Agreement condition.
- 4.3. Transportation Development – No objection subject to conditions. The extent of the on-street parking bays (Tame Road) will need to be reviewed/ suitably modified to ensure that satisfactory visibility is achievable at the proposed Tame Road car parking facility.
- 4.4. Network Rail – Increased footfall at Witton Station will need to be mitigated by funding from the developer and provided advice on developing adjacent to a railway.
- 4.5. Regulatory Services – No objection subject to conditions regarding construction management, noise mitigation, hours of use, noise levels, lighting and contamination.
- 4.6. Environment Agency – No objection subject to a condition requiring the development to be in accordance with the FRA and contamination conditions.
- 4.7. Severn Trent Water – No objection subject to conditions to require details of foul and surface water drainage.
- 4.8. LLFA – No objection subject to conditions to submission of a sustainable drainage scheme and a Sustainable Drainage Operation and Maintenance Plan.
- 4.9. West Midlands Police – No objection. Recommends “Secured by Design”, a secure boundary treatment and gates, CCTV on building and car park, lighting to the car park and landscaping to consider security, CCTV coverage and user safety.
- 4.10. West Midlands Fire Service – Provided standard advice on access for fire fighting vehicles.
- 4.11. Employment Access – Recommends a condition to require local employment during and after construction.

## 5. Policy Context

5.1. The following planning policies are applicable:

- Birmingham Development Plan (BDP) 2017
- Birmingham Unitary Development Plan (UDP) 2005 (Saved Policies)
- Places for All SPG
- Car Parking Guidelines SPD
- Nature Conservation
- Aston, Newtown and Lozells Area Action Plan
- Development Management in Birmingham Development Plan Document
- National Planning Policy Framework 2019

## 6. Planning Considerations

### *Principle of development*

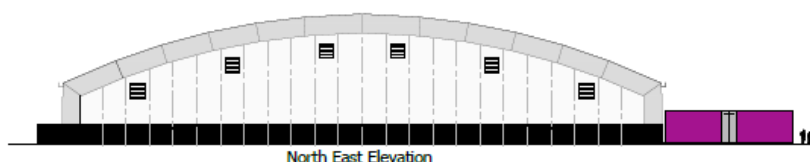
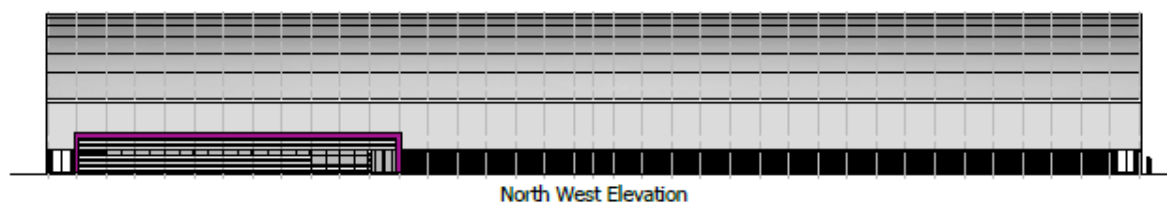
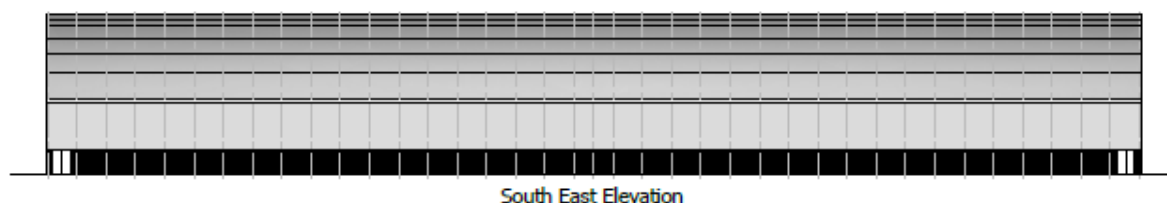
- 6.1. The site is identified in the Area Action Plan and the SHLAA for residential redevelopment. Consent has previously been granted for residential development (130 dwellings) in 2008 and was renewed in 2011. The residential consent has since expired. The current proposal will be a departure from the residential allocation the agent but advises that the consent was granted and renewed but has not been implemented and there is no viable option for residential development on the site.
- 6.2. The previous use of the site was industrial however it is not necessary to consider the proposal as a loss of employment land due to the previous residential consent and the allocation in the AAP.
- 6.3. The AAP also notes that the area lacks indoor and outdoor sports facilities and playing field provision and that the site needs to provide enhancements to the River Tame.
- 6.4. Aston Villa already operate a training facility at Bodymoor Heath which is north of Sutton Coldfield and approximately 12km from the stadium. The club have advised that the Bodymoor facility will become player training only for the AVFC players. The proposed development at Witton Road will enable growth in their youth training programme and not provide for professional player training. The application site is more accessible by public transport and is located closer to both the stadium and the residential areas in Birmingham. The academy will be run by AVFC for young people, by invitation. The facility will provide youth opportunities from age 4 upwards and expands the existing youth offer provided by the club.
- 6.5. It is proposed that the academy will run between 16:00 and 21:00 Monday to Friday and alternate Saturdays, when AVFC are not playing at home. On average there will be approximately 70 players and 20 staff and parents on site at any one time, but this could be increased up to 100 players. During the daytime week-days the facility may be used by the club as part of its community programme and foundation work, though this is not a regular use. The submitted information advises that the day-time use would finish before the academy use starts. It is not proposed to open the site to the general public.
- 6.6. Sport England have requested a Community Use Agreement, to allow the facility to be used by the community. This has been discussed between the applicant and Sport England and the scope of the CUA has been agreed. The CUA would not provide open access to the facility by members of the public but would enable/regularise the use by existing community organisations, clubs and sports teams

which are already involved with the Foundation. It will formalise the access facilitated through Aston Villa Foundation.

- 6.7. The site has been vacant for many years and attracted anti-social behaviour. Bringing it back into positive use as a sports facility is welcomed in principle and presents an opportunity to improve the local urban environment and to add to local green infrastructure. The proposal is redevelopment of previously developed land and the provision of sports facilities in a sustainable location. Accordingly, although the proposal is not for residential development, it is in line with other aims of the local plan and NPPF as a whole.

*Layout, scale and appearance*

- 6.8. The proposal is for the creation of a new football academy and proposes the creation of two new pitches, one indoor and one outdoor, both floodlit and both with 3G surface. Linked to the indoor pitch is a single storey building with 6 changing rooms, an office, WCs, parents lounge and plant room and corridor access to the indoor pitch. The single storey building is approximately 34m by 16m to be finished in claret coloured cladding with accents and a flat roof. The indoor pitch is 105m by 68m set within a curved roof building with 2.4m clad high walls with a steel structure and semi-translucent membrane cover above extending to a height of 16.4m at the highest point of the roof. The semi-translucent cover will allow natural light to enter the building. The Design and Access Statement (DAS) includes a photograph of a similar facility at another football club. The outdoor pitch is to be 92m by 55m which is suitable size for under 15/16 players. The layout of the site is shown in the plan in section 1, above. The following shows the elevations of the indoor pitch and changing facilities:



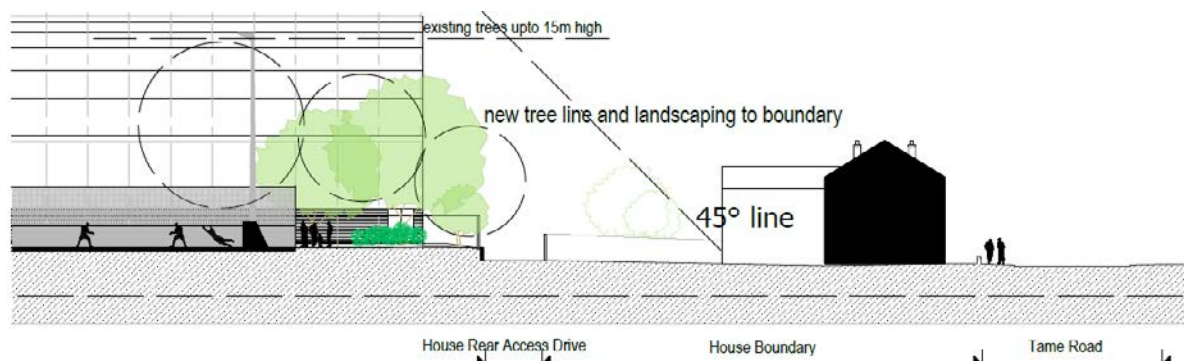
- 6.9. There are limited options to fit the proposed pitches on to the site: as proposed or by reorienting both pitches through 90 degrees. The latter could mitigate impact of the indoor pitch structure on some residents, but on balance the proposed layout appears preferable in terms of overall impacts and functionality of the site. The

agent has also confirmed that it is not possible to reduce the height of the indoor pitch building without reducing the playable pitch area.

- 6.10. The most significant structure on the site will be the up-to 17m high steel structure supporting a semi-translucent fabric covering the indoor pitch. At its tallest, it will be equivalent to the height of a 6-storey building. In design terms the structure is considered acceptable in terms of the wider townscape and will potentially become a local landmark. The design of both parts of the structures and the general layout of the site is considered to be high quality and compliant with TP3 of the BDP.
- 6.11. The edges of the site along Tame Road and Witton Road, allow space for about 2m width of planting between car parks and boundary fencing. It is welcomed that existing small trees will be retained. These need to be supplemented by additional planting, and details of consistent attractive boundary fencing around the site will need to be agreed. A landscape masterplan and planting details have been provided, which is welcomed and opportunities should be taken to promote green infrastructure for wildlife as advised by the Council's ecologist.
- 6.12. During the consideration of the application a revised planting plan was provided and the layout plan amended to include the noise barrier (discussed later in this report) and weldmesh fencing to the majority of the boundaries, except some of the existing palisade fencing on the western parcel which is to be retained, but this not visible from outside the site. These amendments and the provision of the new car park surfacing, boundary treatments and landscaping will also improve the visual impact in comparison to the current appearance of the site. Further detail of the landscaping, levels and surface materials can be secured by conditions.

#### *Impact on amenity*

- 6.13. 45 to 83 (odd numbers) Tame Road back onto the site and the proposed indoor pitch building. These properties backing onto the site have existing rear gardens, behind the gardens is a vehicle access track and a row of established trees. The revised information received from the agent has noted that a number of these trees are higher than the existing houses and therefore screen views from the houses and also result in some shading of the gardens. The following diagram shows a cross section of the end of the building and its relationship with these houses:



- 6.14. The proposal, at 16.4m high, is taller than the existing houses and with the gable end of the building closest to these houses. The fabric roof will provide a light appearance, the separation distance of 25m (to the two storey part of the closest existing dwelling) and the provision of landscaping on the boundary will reduce the visual impact of the building on these properties. No objections have been received and the agent has advised that the club undertook pre-application consultation with the neighbours. Although the building will be visible above the trees I consider that the impact is not significantly detrimental.

- 6.15. Floodlighting of both pitches and the car parks also has the potential to impact on these houses. The pitch lights will be turned off when not in use (9pm at the latest) and the car park lighting will be fitted with timeclock and photocell control. All lights are to have minimal upward light and the lights on the boundaries of the site are to be shielded/ designed to prevent light spillage. The revised lighting assessment has noted that the light spillage will be maximum of 10lux at the houses on Tame Rd with the houses near the outdoor pitch at 5lux. The indoor pitch lighting will be mainly contained within the building with spillage through fabric cover at 2.4lux. However, this should also be only up to 9pm.
- 6.16. Regulatory Services have noted the revised lighting assessment lacks detail and refers to superseded guidance. Regulatory Services have advised that the information supplied on the lighting scheme is not acceptable as there remains concern that the car park light to the rear of 107 Tame Road may still lead to adverse impacts. However, the officer is content that the lighting can be designed to ensure no adverse amenity impact and that this issue can be dealt with through a suitability worded condition.
- 6.17. Noise impact was measured during the Covid lockdown and has therefore used existing data and Sport England guidance documents. The Sport England guidance advises that 50dB activity noise, at the receptor, is acceptable. The report notes that the indoor pitch playable area is 3m from the building wall and therefore ball strike is not frequent (unlike a 5-a-side pitch where the wall is used as part of the game). The solid lower sections of the walls to the indoor pitch will also reduce noise and the fabric upper section does have a small reduction capability. The outdoor pitch has a 3m perimeter and the amended plans now also show an acoustic fence along the whole of the side and most of the end of the pitch.
- 6.18. The modelling undertaken (which included a shorter section of acoustic fence) shows 50dB or below at all except 5 dwellings which would have 51dB. The 2008 residential consent noise report noted background levels of 55-56dB and as such the noise from the pitches would be below background levels. To ensure 50-51dB the scheme requires a section of 2.5m high noise barrier between the outdoor pitch and the houses. A higher barrier would reduce the noise levels further but would also be visually intrusive. The impact on neighbours should be balanced against the benefits of the proposal. The fence would also separate the pitch from the car park area which is not for use with the pitches, and is set well back from the road.
- 6.19. Following receipt of a revised noise assessment Regulatory Services have advised that this has adequately addressed the issues of the inputs and basis of the modelling. The revised noise contour and spot levels and the 2 options for the acoustic barrier show that levels would not exceed 50dB(A) but that there would still be noise escape from the outdoor pitch around the barrier. The revised landscape drawing shows an extended barrier around two sides of the pitch at 2.5m high. Regulatory Services have advised, on this basis, that noise impacts can be controlled through conditions.
- 6.20. Air quality has been considered. The main source of emissions is from Witton Road. The proposed development will reduce vehicle movements and therefore reduce the air quality impact. Impact on the proposed users of the facility will be minimal due to the 45m distance of the pitches from Witton Road. Dust during construction is considered in the AQA to be low and the impact on human health negligible, subject to good working practices. Regulatory Services have recommend condition to require more information on dust and noise impact during demolition works due to the removal of concrete slabs.



*Access, parking and impact on highway*

- 6.21. Three access points are proposed. The existing access off Witton Road serving the proposed car parking area to the west of the River Tame, with access down the side of the existing building, will be retained as existing. The second access off Witton Road will serve the proposed academy pitches, building and car parking area. This will be widened to 8m with visibility splays of 2.4m by 43m and the carriageway markings will be repainted. The Transport Assessment (TA) also recommends the provision of a ghosted right turn on Witton Road. The third access is from Tame Road and will lead to a car parking area only. This access was previously used for access to the industrial site but was closed, the proposal is to reinstate an access onto Tame Road but the new access will be moved further from the adjacent houses.
- 6.22. The previous buildings on the site have been cleared and the site is currently in use for match day parking, 24hr parking for local businesses (approximately 100 spaces) and storage of HGV trailers. The TA details expected traffic movements for the development compared to the existing use and the previous use and utilises other youth academy schemes for information on traffic movements.
- 6.23. Witton train station is 600m and Aston train station is 1.5km from the site and there are existing bus stops on Witton Road, one directly opposite the access and one 130m northeast. Network Rail have requested funding from the developer to mitigate increased footfall at Witton Station, however there is no policy to require this financial contribution and the club already contribute towards rail travel in relation to the stadium use. The site is also close to existing segregated cycle routes and is therefore considered to be within a sustainable location and public transport can be promoted. Aston Villa stadium is 650m to the west and the site has consent to be used as staff parking on match days and for other large scale events. Match day parking is prevented on the local roads through the use of residential permits.
- 6.24. The proposed three car parking areas will provide a total of 445 parking spaces. 215 spaces on the parcel to the west of the river, 110 spaces to the north of the academy pitches, of which 10 are short stay/ drop off spaces, 5 disabled and 3 electric vehicle charging spaces, and 120 to the south of the pitches. The TA advises that on match days the site can currently accommodate 500 cars and as such the proposed car parking, which will continue to be wholly available for match day parking, is only 55 spaces less. The alternative car parking which was available at the time of the residential consent on this site, and justified the loss of the site for match day parking, is no longer available as it has consent for redevelopment. Furthermore, the agent has advised that the club employs 1,200 people on match days, an increase of 40% since the 2008 residential consent and as such there remains a demand for matchday parking to be provided on the application site.
- 6.25. The proposed development will formalise the layout of the car parking areas with better surfacing, remove existing structures and amend levels to make more useable space. As such the TA concludes that the car parking levels on match days will be similar to the existing use and will not have any greater impact on the local highway network. The removal of the existing business parking and HGV storage will reduce the impact of traffic from the site and the daily traffic movements will be lower than the movements when the site was in industrial use (and would be lower than the 130 unit housing consent).
- 6.26. The 110 spaces to the north of the academy pitches and building will be sufficient for the predicted numbers attending the facility (max. 100 players and 20 staff/ parents). 16 cycle spaces are proposed, and amendments were sought to show motorcycle/ moped parking and to move the cycle parking closer to the building. Other youth academy facilities were used to consider potential travel modes and the TA

concludes that 70% of players will travel by public transport or on foot and 25% will be dropped off by car.

- 6.27. A travel plan (TP) is proposed for the academy development and the car parking areas will be managed and fall under the existing match day management as appropriate. The travel plan includes proposals to advertise information on cycling, public transport, car share and taxi use and will be regularly monitored. The applicant has committed to increasing cycle parking if the TP monitoring shows greater demand than supply.
- 6.28. Transportation Development have no objection and recommended conditions requiring a construction method statement, submission of a parking management strategy and full travel plan, details of works to the highways and a restriction to prevent the academy/ community use on match days. The car park and cycle parking are to be provided before use and the EV charging points will need to be secured by condition. Transport Development have also advised that the cycle parking should be monitored as part of the travel plan and that the extent of the on-street parking bays (Tame Road) will need to be reviewed and suitably modified to ensure that satisfactory visibility is achievable at the access. This would be done through a S278 agreement after the planning consideration of the development.
- Ecological impact*
- 6.29. The Ecology Assessment advises that there are not any internationally or nationally designated sites (SPA, SAC, Ramsar, SSSI, NNR) within 10km of site. 2 SLINCs & 11 PSIs are within 1km. The Tame Valley SLINC runs along the River Tame through the site, the Tame Valley canal SLINC is 585m northeast, the River Tame banks are also a PSI and Wolverhampton to Gravelly Hill railway line PSI runs adjacent to the west and south of site.
- 6.30. Records of bats, nesting birds, water voles, otter, slow worm and rare plants have been identified in the area. The River Tame banks habitat also links to other habitats in the wider area and there are some trees within the site but it is predominately hard standing (79% of the site). As such the ecology assessment advises that the site has limited natural habitats but is of value in urban setting.
- 6.31. Bat roost potential has been assessed but no features or habitat were considered suitable for roosts. The River Tame corridor is suitable for foraging and commuting bats. The trees and hedges are also suitable for bird nesting and the river could be used by otters for commuting & foraging. Patches of Japanese Knotweed and Himalayan Balsam have been identified and will need to be removed/ treated. The work to construct the pitches and car parks will be carried out outside of nesting season, under a watching brief for reptiles and a construction environmental management plan.
- 6.32. The development will result in the construction of sections of gabion wall on the riverbank, where the pitches need to be built closer to the river than the existing hard standing. The scheme also requires the removal of small amounts of vegetation from the banks but the assessment considers the impact to be limited and temporary and the mitigation includes planting up the gaps in the bank vegetation. The removal of the trees and scrub within the site will have a negative impact but the scheme proposes new planting of shrubs, fruit and flowering trees, native hedgerows and wildflower grassed areas to mitigate the loss, the provision of a wildlife pond and refugia and provision of bat and bird boxes.
- 6.33. Lighting of the pitches has been designed so as not to cause unacceptable overspill on the river. The lighting will be used between 6pm and 9pm and the spillage is

shown to be 5 lux. The ecology assessment also includes a biodiversity impact assessment and the result shows a net gain.

- 6.34. The Council Ecologist has advised that the proposal offers significant new landscaping but that the pitch lighting could have a negative impact on River Tame corridor. Conditions are recommended relating to the removal of invasive species, lighting and full detail of the proposed landscaping, including rooting volumes.

*Arboricultural impact*

- 6.35. The Tree Schedule notes 33 individual trees, of which 2 (London Planes) are category A, 21 are category B and 10 are category C. The mix includes silver birch, pear, cherry, whitebeam, sycamore, goat willow, poplar and London plane. There are also 13 groups of trees, with a wide variety of species, of which 5 are category B and 8 are category C.

- 6.36. Some trees are to be removed from the eastern parcel of land. However the loss of these trees is offset by new tree planting around the car parking areas, at the vehicle access, the edge of the river and around the wildlife pond.
- 6.37. The riparian woodland along the River Tame forms both useful screening and a wildlife corridor and the Tree Officer has not raised any objection to the proposal, including the loss of some of the trees, as the proposal will retain a good number of the trees and also provides replanting mitigation.

*Flooding and drainage*

- 6.38. The FRA notes that the site is in all three flood zones (1, 2 and 3) with flood zone 3 in the south and east of the site and to the east of the river. However the river is also 4m below the site ground level. The site is at risk from flooding from rivers, groundwater and sewers and flood modelling information has been requested from the Environment Agency but not received. However, the previous residential consent for the site has accepted it as suitable for development and the current proposal is a less vulnerable/ water compatible use and therefore appropriate in flood zone 3. The scheme does propose some ground level changes, to provide level pitches, and will therefore need to offset lost flood plain storage and the finished floor levels should be set to allow for flood risk.

- 6.39. The assessment advises that ground conditions are not suitable for traditional foundations or soakaways. All types of SUDs have been considered. Green roofs are not suitable due to the size and structure type proposed and infiltration is not possible due to made ground. The drainage scheme therefore proposes attenuated discharge to the river and notes the previous residential consent allowed for 85 l/s to the river. The revised FRA and the agent's response to the LLFA comments have reduced the outflow to 22 l/s (from the 85 l/s originally proposed). The pitches are 30% impermeable and will therefore allow some natural soakaway and the stone below the 3G surface will provide some storage capacity.

- 6.40. The Environment Agency have raised no objection subject to a condition requiring the development to be in accordance with the FRA and contamination conditions. Severn Trent Water also raised no objection subject to conditions to require details of foul and surface water drainage. Following the reduction of the outflow from 85 l/s to 22l/s the LLFA have removed their objection and recommended conditions.

*Other matters*

- 6.41. BREEAM, Energy and sustainability – The BREEAM assessment notes that the proposal will target “very good” and that “excellent” is not achievable due to the nature of the indoor pitch building not meeting any BREEAM criteria because of its bespoke construction and end use. The proposal will achieve the highest possible

rating for the type of development proposed, taking into account the credits available. There is now sufficient technical justification for why the development cannot deliver the additional credits to achieve excellent standard. It is therefore recommended that a condition is applied to the decision notice to secure very good BREEAM standard.

- 6.42. The Energy Statement recommends a thermally efficient building fabric, efficient LED lights and efficient boiler (due to the high demand over a short period of time resulting from showers). In addition to these general proposals the energy statement has considered all low and zero carbon technologies and identified that air source heat pumps and photovoltaics can be provided. The report has justified discounting all other LZC technologies, including CHP which was discounted due to the space required and the noise. The statement concludes a total CO2 reduction of 45% with the above proposals (compared to without any energy efficiencies). The BREEAM Pre-Assessment Report and the revised Sustainable Construction and Energy Statement together now also provide sufficient technical information to demonstrate accordance with policies TP3 and TP4. The delivery of the air source heat pumps and photovoltaic panels should also be secured through an appropriately worded condition on the decision notice.
- 6.43. Contamination – The survey noted areas of hard standing and previous buildings. The site is at risk from contaminants, made ground and controlled waters. A phase 2 contaminated land survey is recommended. The site is also a high risk area for UXO and further surveys are recommended. Regulatory Services and the Environment Agency have both recommended standard contamination conditions.
- 6.44. Archaeology – There are no known sites of archaeological potential shown on the Birmingham HER, the proximity of the River Tame may mean that there is the potential for paleoenvironmental remains in the area but these are likely to be at a great depth if present at all. The Council Archaeologist has advised that the proposed pitches and car park surfaces would not impact upon remains and raised no objections.
- 6.45. Security, Fire service and employment – CCTV is proposed and there will also be on-site security staff. As noted above the car park management during match days will remain as existing. West Midlands Police have no objection and recommended “Secured by Design”, a secure boundary treatment and gates, CCTV on building and car park, lighting to the car park and landscaping to consider security, CCTV coverage and user safety. All of these matters can be dealt with through conditions. West Midlands Fire Service have provided standard advice on access for fire fighting vehicles.
- 6.46. Employment – The Council Employment Access Team have recommended a condition to require local employment during and after construction.

## 7. Conclusion

- 7.1. This application proposes sports facilities on a previously developed site within an area where additional facilities are required. The site is no longer suitable for industrial uses and, although allocated for residential redevelopment the previous consents have not been developed. The development is to be used in association with Aston Villa Football Club and is closely associated with the club, in a sustainable location and will also enable the continued provision of the match day parking.
- 7.2. The scale and design of the buildings and pitches, associated car parking, landscaping and lighting have all been carefully considered and, subject to

conditions, will not result in unacceptable harm to the amenities of the neighbouring residential properties, highway safety or the ecological corridor of the River Tame. Accordingly the development is considered to comply with the aims and principles of the Development Plan, relevant Supplementary Planning Documents and the National Planning Policy Framework.

8. Recommendation

8.1. Approve subject to conditions.

- 
- 1 Requires the scheme to be in accordance with the listed approved plans
  - 2 Requires the prior submission of a construction employment plan.
  - 3 Requires the prior submission of a construction method statement/ management plan
  - 4 Requires the prior submission of level details
  - 5 Contamination remediation
  - 6 Requires the submission of a contaminated land verification report
  - 7 Requires the submission of unexpected contamination details if found
  - 8 Requires the prior submission of a construction ecological mitigation plan
  - 9 Requires the prior submission of a method statement for the removal of invasive weeds
  - 10 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
  - 11 Requires the submission of a lighting scheme
  - 12 Limits the use of the floodlighting
  - 13 Requires the submission of hard and/or soft landscape details
  - 14 Requires the submission of boundary treatment details
  - 15 Requires the submission of a landscape management plan
  - 16 Requires the submission of sample materials
  - 17 Development in accordance with FRA
  - 18 Foul drainage plans
  - 19 Requires the prior submission of a sustainable drainage scheme
  - 20 Requires the submission of a Sustainable Drainage Operation and Maintenance Plan
  - 21 Requires Noise Mitigation Scheme
-

- 
- 22 Limits the hours of operation
  - 23 Limits the noise levels for Plant and Machinery
  - 24 Requires the submission of a CCTV scheme
  - 25 Requires the submission of a parking management strategy
  - 26 Requires the submission of a commercial travel plan
  - 27 Requires the provision of cycle parking prior to occupation
  - 28 Requires the provision of a vehicle charging point
  - 29 Prevents occupation until the turning and parking area has been constructed
  - 30 Prevents academy/ community use on match days
  - 31 Requires a community use agreement
  - 32 Requires provision of air source heat pumps and photovoltaic panels
  - 33 Requires BREEAM certificate
  - 34 Implement within 3 years (Full)
- 

Case Officer: Karen Townend

## Photo(s)

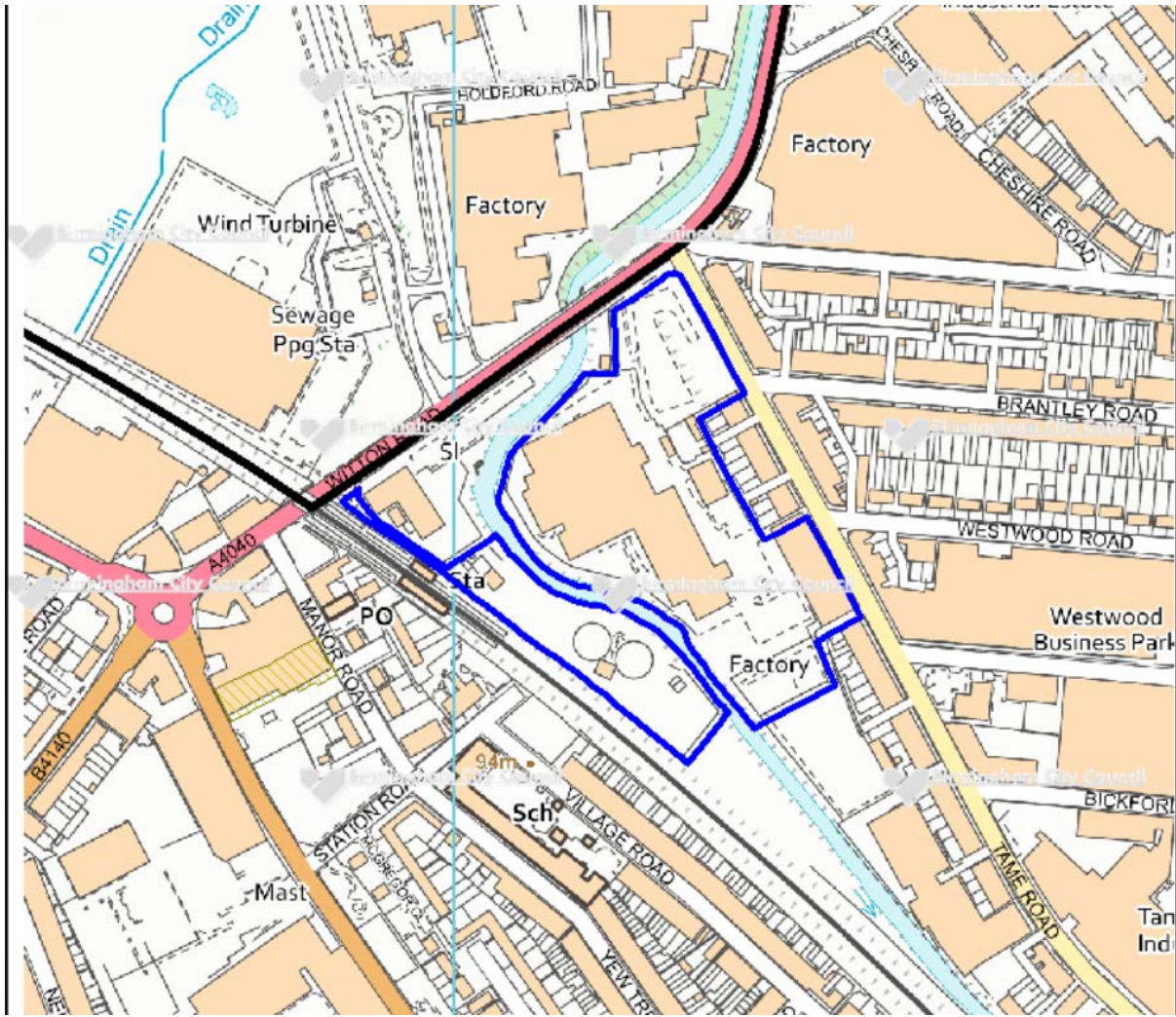


Aerial view current



Historic aerial photograph with industrial units shown

## Location Plan



This map is reproduced from the Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Birmingham City Council. Licence No.100021326, 2010



Committee Date: 27/05/2021 Application Number: 2021/02809/PA  
 Accepted: 30/03/2021 Application Type: Reserved Matters Development  
 Target Date: 29/06/2021  
 Ward: Perry Barr

**Birmingham Alexander Stadium, Walsall Road, Perry Barr, Birmingham, B42 2LR**

**Reserved Matters application following 2019/07968/PA for the installation of temporary lighting and catenary structures required to host the Commonwealth Games 2022.**

**Recommendation  
 Approve subject to Conditions**

1. Proposal

1.1 Application is a reserved matters application for temporary lighting columns and catenary structures at the Alexander Stadium for the duration of the Commonwealth Games. The 4 temporary lighting columns would range in height between 50 and 59m (including the light fittings) which would support approx 40 light fittings (covering a total area of approx..11.8m x 8.75m). The lighting columns would be positioned within the 4 temporary catenary structures of 38m in height and these structures would support the speaker system required. The structures would all be built in steel.

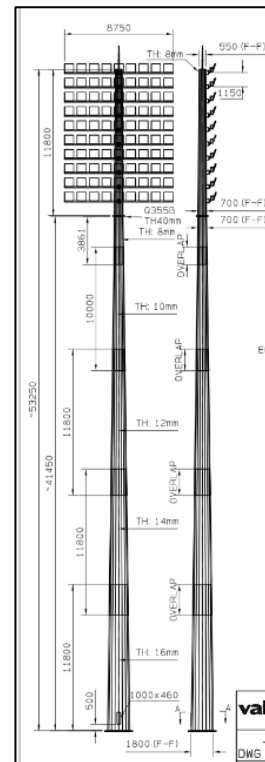
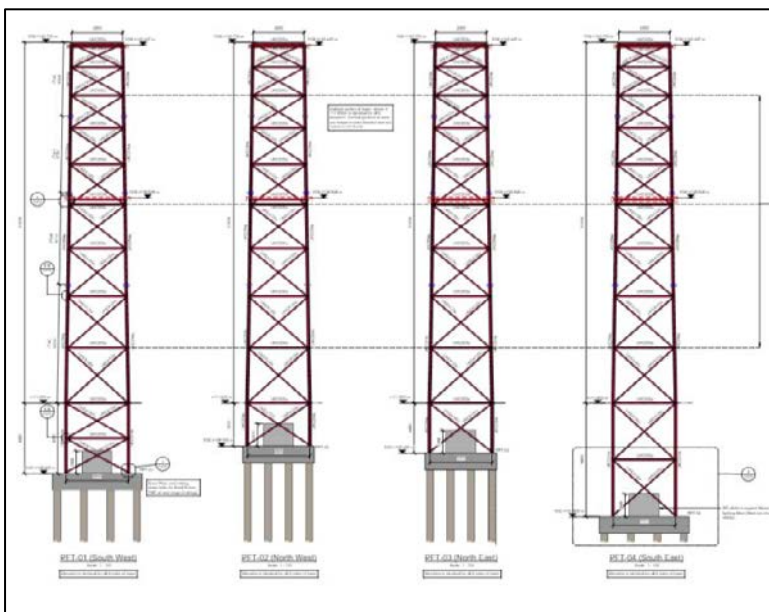


Figure 1: Images of catenary structures and lighting columns

- 1.2 The structures would be erected in June 2021 before the running track (previously approved) is installed. They would be used for the duration of the Games between 28th July and 8th August 2022 and test events prior to this only. The lighting would be used between 7pm and 12 midnight.
- 1.3 The temporary structures would be removed between September and December 2022 and legacy lighting for stadium installed as approved and in accordance with conditions attached to 2019/07968/PA.
- 1.4 Details of the sound system to be accommodated on the catenary structures will be contained within a future overlay application and not detailed as part of this application.
- 1.5 Information in support of this application includes lighting information/concept and a Planning cover letter.
- 1.6 [Link to Documents](#)
2. Site & Surroundings
  - 2.1 The wider development site, as approved under the 2019 hybrid planning application, occupies an area of approximately 33 hectares and includes the existing Alexander Stadium; Birmingham High Performance Centre (HPAC); Gymnastics and Martial Arts Centre (GMAC); and Perry Park public open space.
  - 2.2 The application site for this reserved matter application is a very small part of the wider development site and comprises of 4 small areas immediately around the approved stadium (shown below).

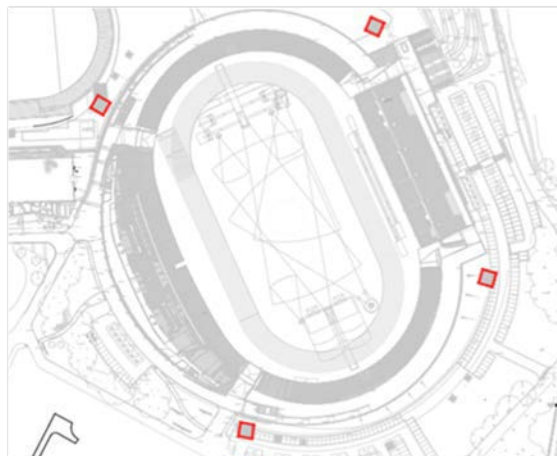


Figure 2: Location of lighting columns and catenary structures

- 2.3 [Site location](#)
- 3 Planning History
  - 3.1 31/01/20 - 2019/07968/PA Hybrid planning application to include full planning permission to provide a new western stadium, increase seating capacity to 18,000, relay athletics track, provide new warm up track, a new throwing area, sports lighting, provision of office/teaching accommodation, landscaping and all associated works. An outline application for Commonwealth Games 'overlay' to include temporary seating up to 40,000 spectators, athlete drop-off/pick-up area, temporary bus mall,

various compounds and upgrade/provision of access road, all matters reserved.  
Approved subject to conditions.

- 3.2 13/05/21 – 2021/00377/PA Reserved matters application for access road comprising a new temporary Athletes' Route between Church Road and the Alexander Stadium service road for the Commonwealth Games, and post-Games its permanent adaptation to form an accessible route for pedestrians and cyclists. Approved subject to conditions.

#### 4 Consultation/PP Responses

- 4.1 Canal and River Trust – Given temporary nature of lights no significant concerns.
- 4.2 Regulatory Services – No objection subject to iso illumination plan prior to luminaire installation.
- 4.3 Transportation – No objections.
- 4.4 Local residents' associations, neighbours and Ward Councillors were notified. A press and site notices were also displayed. 3 responses received;
- 1 letter of no objection but want reassurances on light pollution
  - 1 letter of comment complaining about wasting money on consulting people when responses are ignored
  - 1 letter of objection on the basis that the proposal will cause further disruption, noise, pollution and traffic chaos.

#### 5 Policy Context

- 5.1 Birmingham UDP 2005 saved policies; Birmingham Development Plan 2017; emerging Development Management in Birmingham (DPD); Places for All SPG; Access for People with Disabilities SPG; Floodlight SPD; Planning Policy Guidance and the National Planning Policy Framework.

#### 6 Planning Considerations

- 6.1 This application follows the previous hybrid approval, 2019/07968/PA, which granted detailed permission for legacy works to the stadium, and outline permission for various other development needed in order for the Alexander Stadium and the wider park area, to host the Birmingham Commonwealth Games 2022. The Alexander Stadium is to be the principle venue hosting the opening and closing ceremonies in addition to the athletics events.
- 6.2 Due to the need to erect the lighting columns and catenary structures ahead of the installation of the new running track an application for these matters only is submitted in advance of the wider temporary overlay reserved matters application.
- 6.3 The key issues for consideration area appearance and scale, and light spill.
- 6.4 The structures would be constructed in steel, functional in appearance and vary in height between 38 and 59m. They will be removed by the end of 2022. The structures are required to facilitate the sites successfully hosting of the Commonwealth Games I therefore consider their scale and appearance are acceptable.
- 6.5 This application is supported by a number of drawings and a lighting detailed document. However, the final design of the lighting fixtures will be determined

following appointment of the preferred supplier and the applicant is not currently able to provide details of light spill beyond the stadium. However, the applicant confirms that LED light sources will be used and that the least number of luminaires to reach the required lighting levels will be used. The lights would then be removed by December 2022 when the legacy lighting columns approved as part of the full planning permission for the site would be installed.

- 6.6 The original outline planning application was supported by an Environmental Statement and information in support of this application confirms this proposal has been assessed against the original information and that no additional impacts are identified. However, prior to installation of the luminaires I would expect to see light overspill plan to demonstrate that level of light spill from the stadium does comply with the original assessment and that it would remain in accordance with policy, not adversely impact residents amenity and minimise impact of/to ecologically biodiverse areas. However, on the basis that this is a temporary use for a large-scale one-off event which would bring significant benefit to the immediate and wider community as well as the timing associated with this application I agree with Regulatory Services that this information can be conditioned. Therefore, subject to safeguarding conditions I consider the lighting levels would be acceptable and accord with policy.

## 7 Conclusion

- 7.1 The structures it seeks consent for are necessary to support the hosting and broadcasting of the Commonwealth Games and conditions are recommended where appropriate to secure further detail and safeguard amenities. Subject to these details the application would accord with policy and should therefore be approved.

## 8 Recommendation

- 8.1 Approved subject to conditions.

- 
- 1 Requires iso illumination plan
  - 2 Requires the scheme to be in accordance with the listed approved plans
  - 3 Limits the use of the floodlighting
  - 4 Requires the submission of a scheme to show how the structures will be removed within a timescale
- 

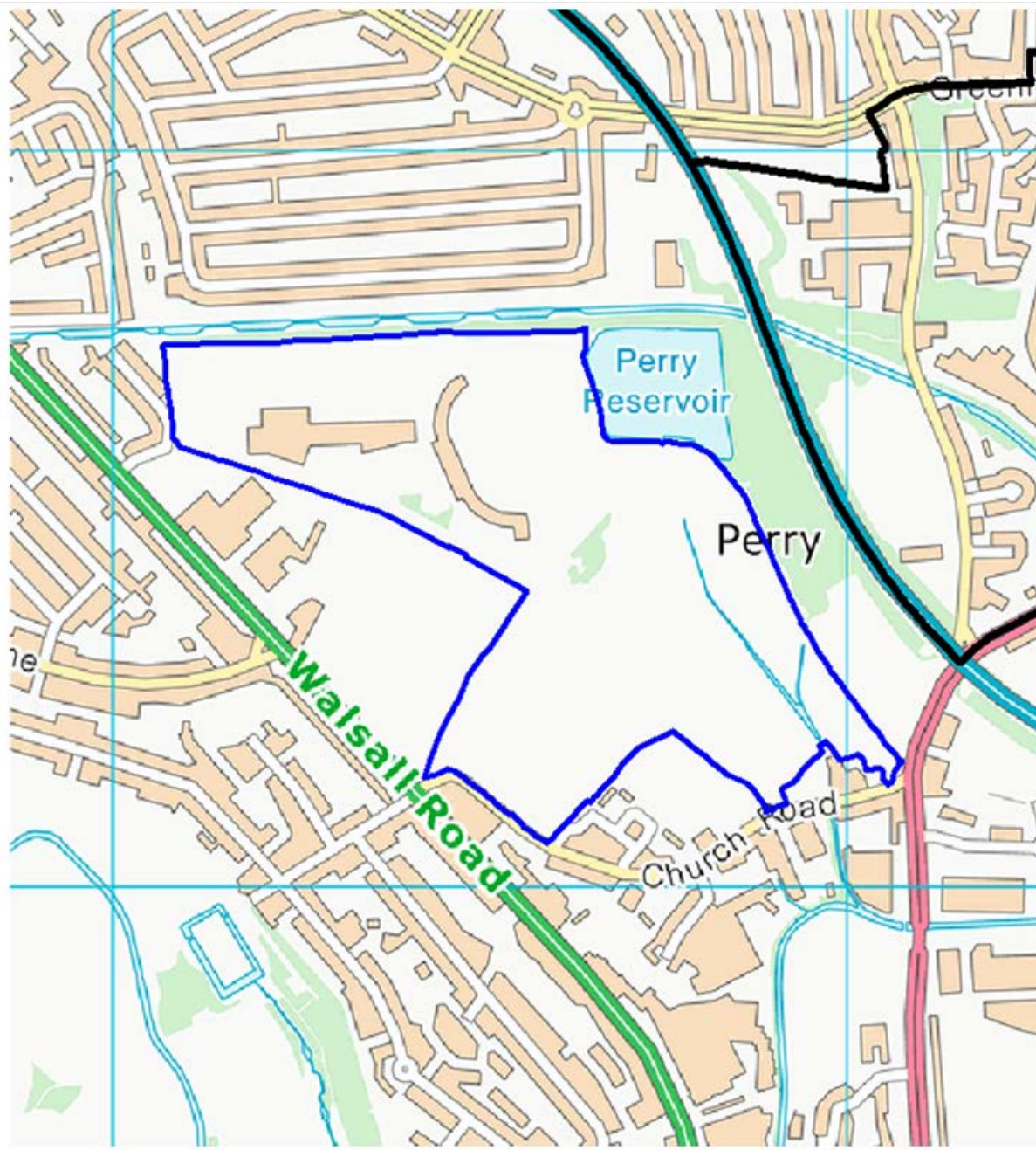
Case Officer: Joanne Todd

**Photo(s)**



Photo 1: Google photo of site

## Location Plan



This map is reproduced from the Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Birmingham City Council. Licence No.100021326, 2010

---

Committee Date: 27/05/2021      Application Number: 2021/00528/PA  
Accepted: 22/01/2021      Application Type: Full Planning  
Target Date: 11/06/2021  
Ward: Sutton Vesey

**Boldmere Gate, Sutton Park, Stonehouse Road, Sutton Coldfield, Birmingham, B73 6LH**

**Alterations and refurbishment of existing car park**

Recommendation

**Approve subject to Conditions**

1. Proposal

1.1. This planning application seeks consent for alterations and refurbishment of the existing car park at Boldmere Gate, Sutton Park, to facilitate the 2022 Commonwealth Games triathlon events which is intended to be hosted at the Park and deliver an improved permanent car park area for the benefit of park visitors post-Commonwealth Games (Legacy). The new car park would also replicate existing capacity to ensure that various car parking areas currently located further into the park can be removed and returned to grassland.



- 1.2. The existing hardstanding area is proposed to be upgraded to provide a suitable surface for the transition area and athletes zone during the 2022 Commonwealth Games triathlon events. The improvements would also seek the provision of electrical hook up points. The electrical connectivity proposed would be retained for the benefit of park visitors as a Legacy feature.
- 1.3. The proposals comprise the surfacing of three areas with a combination of porous tarmac and eco-grid reinforced grass filled surfacing. The existing overspill area is proposed to be reinstated with appropriate grass species mix.
- 1.4. A total of 221 car parking spaces are proposed to be delivered including disabled parking spaces and an area of cycle parking. Dedicated pedestrian refuge areas are also proposed.
- 1.5. The existing access would be improved to deliver a two-lane entrance / egress point for the car park from Monmouth Drive / Stonehouse Road. Improved fencing is proposed between the car park and the adjacent area of grassland which forms part of the Sutton Park SSSI.
- 1.6. The detailed layout for the triathlon is subject to a separate planning application, which.

1.7. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site is an existing 200 space car park. The car park is laid out with loosely bound gravel with the overspill car park comprised of grass and bare mineral soil with an area of improved grassland. The site is accessed from Monmouth Drive via Stonehouse Road which has a cattle grid, vehicular double gate and side pedestrian gate at the park entrance which is used to control access.
- 2.2. The application site is bounded to the north and west by deciduous woodland and parkland. Powell's Pool is located to the south. Stonehouse Road forms the eastern boundary. Grade II listed Boldmere Lodge and Sutton Coldfield Sea Cadets building lies to the south east.
- 2.3. The application site lies within Sutton Park, which is designated as Green Belt, a Site of Special Scientific Interest (SSSI) and a National Nature Reserve (NNR). The wider site comprises a Scheduled Monument and is designated a Grade II Registered Park and Garden.

2.4. [Site Location](#)

3. Planning History

- 3.1. None relevant.

4. Consultation/PP Responses

- 4.1. Transportation Development – no objection subject to conditions to secure the provision of cycle parking and storage; and informal car parking areas shall be removed prior to the use of the improved car parking facility.
- 4.2. Regulatory Services – recommend condition to secure designated parking spaces for low emission vehicles.



- 4.3. Natural England – no objection subject to condition to secure proposed grass seed mix and planting, and method statement to secure detail of how construction works would avoid damage to the SSSI.
- 4.4. Royal Sutton Coldfield Town Council – object to the application on the grounds that the proposals may appear incongruent to the character of Sutton Park and may cause harm to the wider Sutton Park as a SSSI and NNR. The Town Council express their support for the triathlon to be held at Sutton Park and acknowledge that the car park at present is in poor condition.
- 4.5. Historic England – no objection.
- 4.6. Leisure Services – no comments.
- 4.7. Site Notice displayed. Ward Members, residents groups and neighbours notified. 12 letters of objection received raising concerns on the following matters:
- Adverse impact on ecology;
  - Adverse impact on SSSI;
  - Insufficient car parking spaces proposed;
  - Inappropriate development within Green Belt;
  - Too much car parking proposed;
  - Poor use of green space;
  - Adverse impact on local roads.
- 4.8. A petition signed by 475 people was submitted in support of the application. A further 67 letters of support were received, which made the following comments:
- Would result in fewer cars driving further into the park;
  - Would improve accessibility within and to the park;
  - Would improve the appearance and utility of the existing car park;
  - The provision of designated car parking spaces would have a positive impact on the use of the car park, and improve safety for visitors;
  - Would improve pedestrian safety;
  - Would result in the enhancement and restoration of a small area of the SSSI which would have an overall positive impact on the environment;
  - Proposed car park surface would improve drainage within the car park;
  - Would achieve long-term benefits for users of Sutton Park.

## 5. Policy Context

- 5.1. National Planning Policy Framework (2019); Birmingham Development Plan (2017); Birmingham Unitary Development Plan Saved Policies (2005); Places for All SPG (2001); Car Parking Guidelines SPD (2012)

## 6. Planning Considerations

- 6.1. **Principle of Development** – The application site comprises an existing car park and areas of informal car parking with the proposals seeking to refurbish the car park and reinstate areas of informal car parking back to the SSSI. The proposals are initially to host the Commonwealth Games Triathlon but would create an improved permanent parking area post Games for users of the Park.
- 6.2. The Park is designated as a National Nature Reserve, Registered Park and Garden and is part of the Green Belt. This area of the Park is also part of a SSSI and therefore ecologically sensitive. This is recognised in the methodology for the upgrade by introducing mitigation measures such as removing excess tarmac and replacing with porous tarmac and eco-grid reinforced grass filled surfacing as well as

reinstatement of appropriate grass species where possible. The proposal would also provide connection for two EV charging points with the opportunity to provide more into the future.

- 6.3. In terms of its status as Green Belt, the application site is already used as car parking and the proposal is in line with exceptions outlined in Para 145 of the NPPF i.e. the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation etc. I am of the view that the application is acceptable in principle.
- 6.4. Given the designations for the site, however, the development must be considered in respect of Policy TP8 of the BDP, in relation to development proposals within or affecting SSSIs and NNRs. This would depend on the consideration of the proposed mitigation measures for the scheme and whether such measures outweigh any potential impact that the proposal would be likely to have on the features that make the site special and any broader impacts on the national network of SSSIs. The City Ecologist has been consulted and their assessment is covered below.
- 6.5. **Impact on Highway Safety** – The application proposals relate to the refurbishment of an existing car park whilst widening the access to the car park from Stonehouse Road. The existing car park and informal overflow parking area provides around 200 car parking spaces. The application proposals seek to deliver around 221 car parking spaces plus 12 disabled parking spaces. The submitted details refer to the proposed 20 cycle parking spaces (approximately 10% of the car parking allocation). Prior to the use of the car park, the area would be used as the transition area for the triathlon events at the 2022 Commonwealth Games.
- 6.6. Transportation Development has been consulted on the proposals and advise that the proposal would be unlikely to result in significant increase in parking provision at the site and therefore, unlikely to increase traffic to or from the site significantly. In order to ensure that an appropriate level of car parking is retained that would not significantly increase traffic at the site, it is recommended that a condition is attached to any grant of planning permission for the removal of the existing informal parking areas further into the park (as referred to within the submitted details) prior to the use of the proposed additional parking facility.
- 6.7. Concern is raised however in respect of the proposed cycle parking. Whilst a provision of 10 stands (20 spaces) are referenced, this is not clear on the plans. Secure and covered cycle parking should be provided at appropriate locations in a practical arrangement with practical access to / from them and the details including layout, type of stands & shelters to be provided. It is considered that the amount of cycle parking is insufficient, given the ambitions of Birmingham City Council and the West Midlands Combined Authority to improve cycling connectivity across the city. I do not consider that the concerns raised warrant a refusal and am of the view that the site could accommodate a greater level of cycle parking provision without compromising the level of car parking proposed. It is recommended that a condition to secure an appropriate level of cycle parking and storage is attached to any grant of planning permission.
- 6.8. **Impact on Trees** – The application site contains ten B and C category trees along the eastern site boundary adjacent to the access road and on the southern boundary at the proposed new access. Nine of the trees would be unaffected by the proposals subject to general tree maintenance, and adherence to tree protection and root protection areas. The proposed new entrance to the car park within Boldmere Gate would however require the removal of 20% of tree roots of a Sweet Chestnut tree located on the northern side of the proposed egress.

- 6.9. The proposal for the entrance to the car park would cut through a bank approximately 1.2m high above the road and is within the affected tree's RPA. The proposal has been assessed by the Council's Tree Officers and they advise that the plans to construct the access incorporating the removal of the tree roots would result in the tree becoming unviable. Whilst, typically a 20% incursion would be broadly acceptable for a tree with good vitality and with a full un-impacted RPA as long as significant structural roots are retained intact, the proposed works to this tree would result in more than a 20% incursion on at least two sides. Although the tree is of some significant age, it is in the early stages of decline and has shed a number of large limbs. A tree in decline is less likely to respond well to incursions into the rooting area, therefore hastening its decline. The prevailing wind would be from the south west and expected impacts on rooting (especially structural) would be on the south and west. Strong winds would put strain on a weakened rooting system potentially leading to catastrophic failure at the root plate, with risk of tree collapse.
- 6.10. It is considered that the proposals would require the removal of this tree for the scheme to be supported. The loss of the tree would incur a CAVAT value of £45,000. The loss of the tree has been accepted as a solution for the development by Tree Officers, on the grounds that appropriate mitigation is sought through the planting of trees to an equivalent CAVAT value, supported by a mitigation and planting plan. It is anticipated that this would amount to the planting of 10no. 20-25cm girth trees within the vicinity of the application site. A condition to secure such mitigation has been recommended to be attached to any grant of planning permission.
- 6.11. **Impact on Ecology** – The SSSI and NNR designations are significant with regards to the biodiverse character of Sutton Park. The SSSI is designated for its mosaic of open heathland, woodland, wetland and open/running water habitats. The proposals incorporate plans for the car park areas beyond the redline boundary to be restored to semi-natural heathland/acid grassland mosaic habitat. In total the area of habitat restoration proposed outside the redline boundary is approximately 2,500 m<sup>2</sup> (0.25ha).
- 6.12. The City Ecologist has been consulted and advises that the habitats within the site are of limited intrinsic botanical interest. The features of note are around the site's boundaries – the mature trees on the grass bank to the east, the tree belt to the north and the hedgerow to the south. Opportunities for protected/notable species are also limited; again, it is the boundary habitat features which offer the greatest potential, for example, for small mammals, nesting birds, foraging/commuting bats.
- 6.13. Two biodiversity net gain (BNG) assessments, using the Defra 2.0 biodiversity metric, have been completed, and submitted for consideration as part of the current planning application. One assesses BNG in the context of proposals within the redline boundary; the second also includes habitat restoration of the car park areas outside the redline boundary.
- 6.14. The redline-only BNG assessment concludes the proposals will deliver a biodiversity gain of around 30%. This is through a combination of creation/restoration to acid grassland of the area of informal, overspill car park in the north-west corner of the site and installation of Eco-grid reinforced grass across a significant proportion of the new car park. In total, 3,605m<sup>2</sup> of existing poor quality acid/improved grassland will be lost, but c. 5,600m<sup>2</sup> of grassland habitats will be created/restored. The applicant has advised that the Eco-grid grassland will be established using a seed mix agreed in liaison with Natural England.
- 6.15. The redline-only BNG assessment demonstrates the proposed development would deliver a biodiversity gain, therefore meeting planning policy requirements set out in

NPPF and BDP policy TP8. The City Ecologist is satisfied with the proposals and consider that there is no requirement for restoration of the ad-hoc parking areas further into the SSSI (ie beyond the redline boundary) to be secured as part of the current proposals. Nevertheless, the applicant has advised that these areas will be restored to heathland/acid grassland habitat mosaic as part of the Council's ongoing management of Sutton Park SSSI, and that there will be ongoing liaison with Natural England in order to deliver this restoration. This positive management is supported and this detail is recommended to be secured by condition, as must the proposals for habitat creation/restoration of the overspill parking area. Conditions to secure a landscape and ecological management plan and a scheme of biodiversity enhancement measures are also recommended to ensure that the proposed development has an acceptable impact on site ecology and biodiversity.

- 6.16. Natural England has no objection subject to securing confirmation that the construction phase of the development would suitably mitigate any adverse impact on the SSSI and confirmation of the seed mixes for the restoration of the SSSI grassland. I consider that both can be suitably secured through conditions.
- 6.17. **Impact on Archaeology and Heritage Assets** – The application site forms part of a Scheduled Monument and a Registered Park and Garden. In consultation with the Council's Conservation Officer, an archaeological evaluation of part of the car park site using trial trenches has been undertaken. Five trenches were excavated and some features were identified outside the area of the proposed car park. There were no archaeological features within the area of the proposed car park.
- 6.18. The Conservation Officer considers the proposals would cause a low level of harm to the Registered Park and Garden which is likely to outweighed by other benefits. There would be no harm to the setting of the Scheduled Monument. As a result of the archaeological evaluation undertaken, there would be no need for any further archaeological works.
- 6.19. Historic England has been consulted on the application and raises no objection. An archaeological condition would not be required and the proposals are acceptable in respect of impact on archaeology and heritage assets. I concur with this view.
- 6.20. **Impact on Visual Amenity** – The application proposals seek to improve the existing car park and reinstate overspill parking areas to appropriate grass mix. The main car park's carriageway would be laid out in permeable tarmac, whilst its parking spaces, and the whole of the overspill carpark area, would be surfaced with grass reinforced paving that will soften its appearance. The main and overspill car parks would be separated by a gabion retaining wall faced with stone reclaimed from existing steps.
- 6.21. The Council's City Design Officer is of the view that the proposed materials are appropriate. I consider that the proposals would significantly improve this gateway into Sutton Park and its surroundings. This would be appropriate as a destination for the Commonwealth Games event and achieve considerable benefits for longstanding users of the Park in the future as part of the Commonwealth Games Legacy.
- 6.22. **Other Matters** – Regulatory Services recommend that a proportion of the proposed car parking spaces are designated for use by low emission vehicles, in accordance with the ambitions to reduce air pollution. I am not convinced that a condition would meet the six tests for conditions. The electricity hook-ups proposed to facilitate the transition area is likely to be converted to electrical vehicle charging points in the future however this does not form part of the current planning application.

## 7. Conclusion

7.1. The application proposals comprise the alteration and improvement of the existing car park at Boldmere Gate, Sutton Park. The proposals seek to facilitate the triathlon events of the 2022 Commonwealth Games, acting as a transition area for the events, before being utilised as improved, car parking area. The proposals would result in the car park entrance being located closer to Stonehouse Road and reduce the distance that vehicles would need to drive into Sutton Park to access car parking. The proposals seek to reinstate the existing areas of overflow parking to grassland as part of the SSSI, and would seek to deliver 221 parking spaces, disabled parking and cycle parking within a more condensed area.

7.2. The proposals would result in a tree becoming unviable as a result of the works required to facilitate the development. This has been accepted by Tree Officers subject to securing appropriate mitigation in the form of tree planting to the equivalent CAVAT value. For the reasons set out above, the application is recommended to be approved subject to conditions.

8. Recommendation

8.1. Approve subject to conditions.

- 
- 1 Requires the scheme to be in accordance with the listed approved plans
  - 2 Implement within 3 years (Full)
  - 3 Requires the submission of cycle storage details
  - 4 Requires the removal of informal car parking areas
  - 5 Requires the submission of hard and/or soft landscape details
  - 6 Requires the submission of hard surfacing materials
  - 7 Requires the prior submission of earthworks details
  - 8 Requires the submission of boundary treatment details
  - 9 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
  - 10 Requires the prior submission of a construction ecological mitigation plan
  - 11 Requires the prior submission of a landscape and ecological management plan (LEMP)
  - 12 Arboricultural Method Statement - Submission Required
  - 13 Requires the submission of a mitigation and planting plan
- 

Case Officer: Claudia Clemente

**Photo(s)**

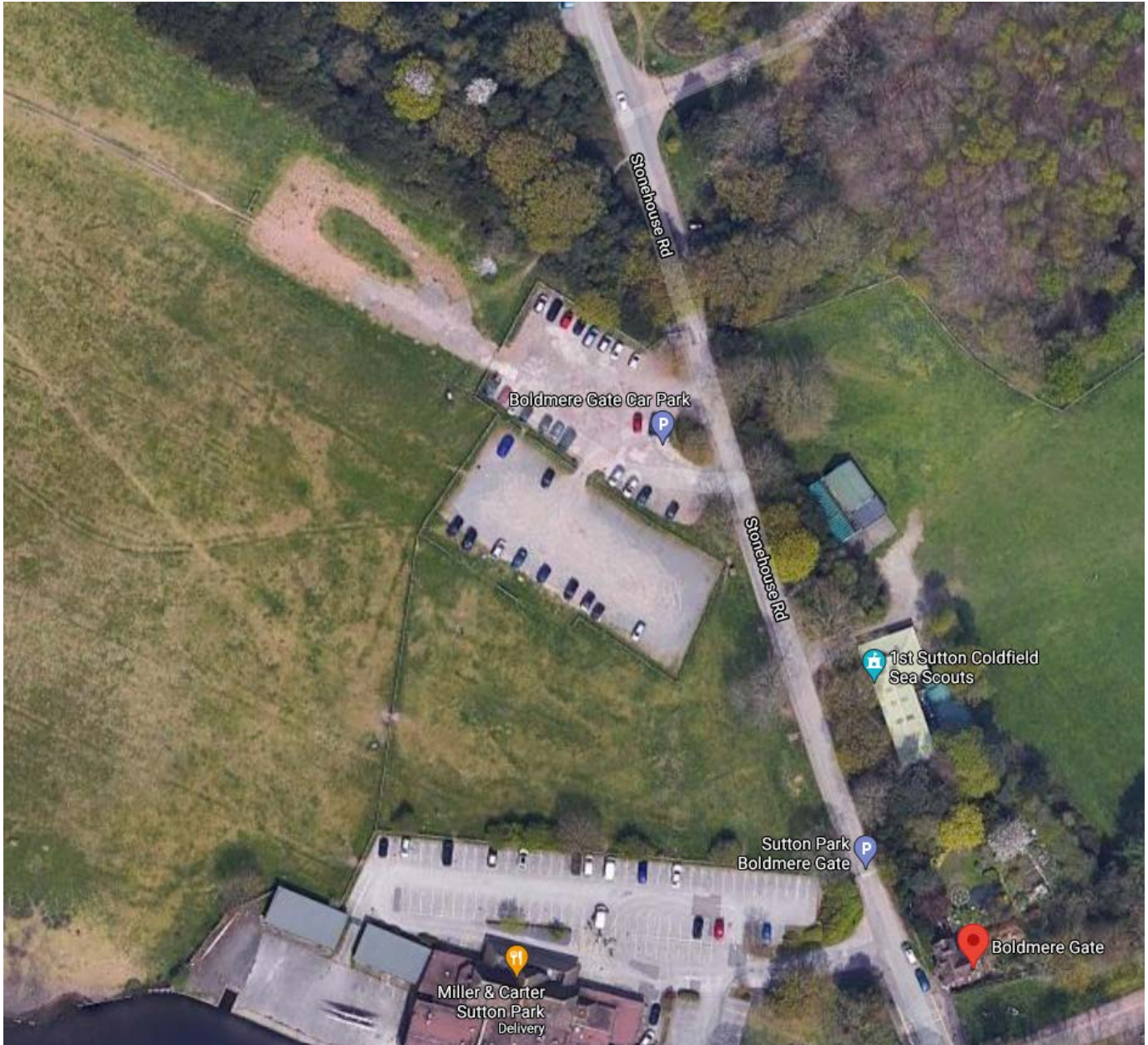


Figure 1: Aerial view of application site

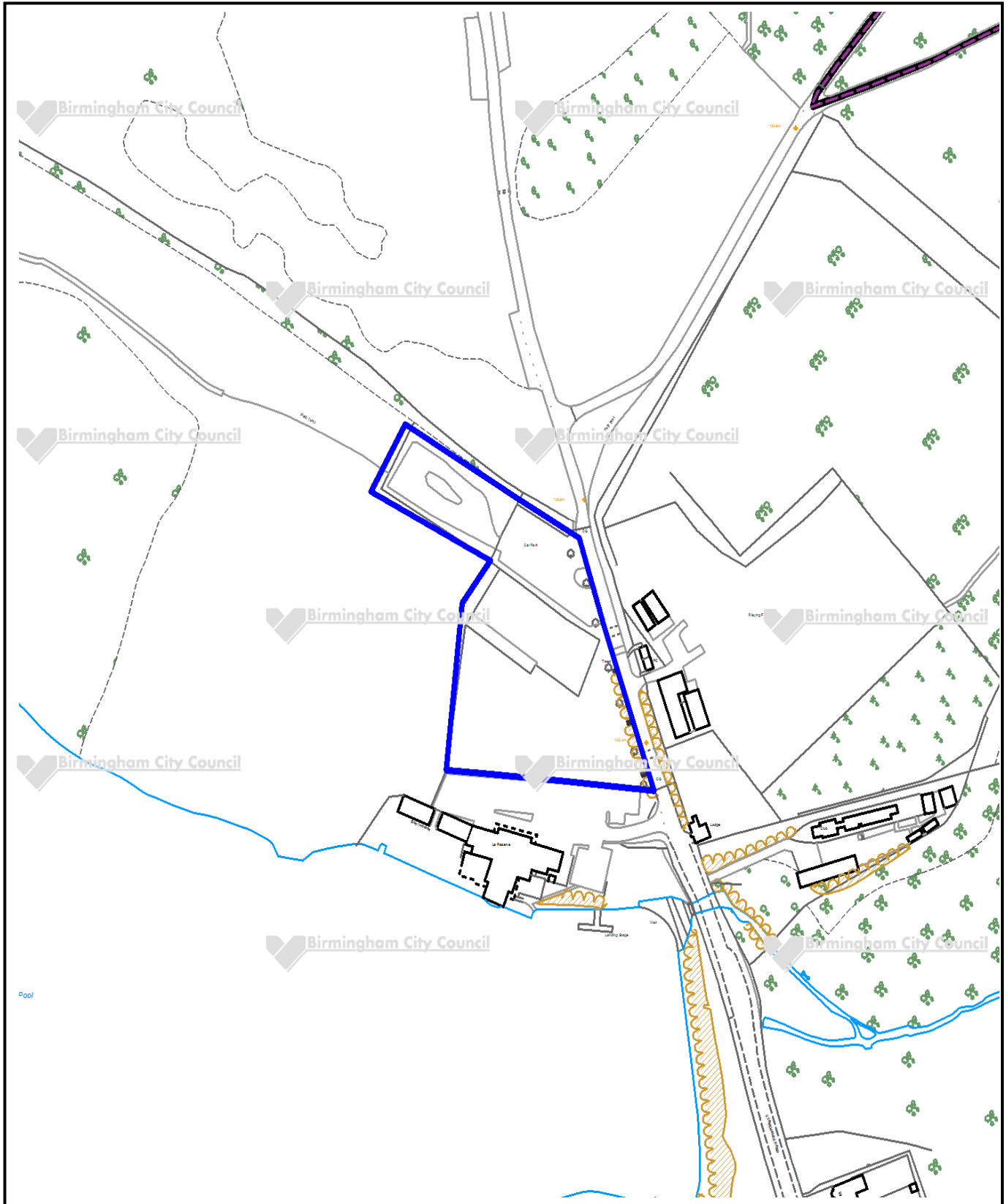


Figure 2: Application site entrance



Figure 3: Application site looking back to Boldmere Gate

## Location Plan



This map is reproduced from the Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Birmingham City Council. Licence No.100021326, 2010



# Birmingham City Council

Planning Committee

27 May 2021

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Conditions	12	2020/07339/PA  12 Calthorpe Road Edgbaston Birmingham B15 1QZ  Change of use from offices to 123 room hotel (with ancillary facilities including restaurant pavilion) and 266 bedroom student accommodation, through part demolition; external and internal alterations including proposed extension; with landscaping, access, engineering and all other associated works.
Approve – Conditions	13	2021/01760/PA  Former Selly Oak Hospital Phase 3 - C Block Land off Raddlebarn Road and Oak Tree Lane Selly Oak Birmingham B29 6JD  Reserved Matters application seeking permission for the appearance, landscaping, layout and scale of Block C within Phase 3 following outline approval 2012/02303/PA

---

Committee Date: 27/05/2021      Application Number: 2020/07339/PA  
Accepted: 21/09/2020      Application Type: Full Planning  
Target Date: 31/05/2021  
Ward: Edgbaston

**12 Calthorpe Road, Edgbaston, Birmingham, B15 1QZ**

**Proposed change of use from offices to 123 room hotel (with ancillary facilities including restaurant pavilion) and 266 bedroom student accommodation, through part demolition; external and internal alterations including proposed extension; with landscaping, access, engineering and all other associated works.**

**Recommendation**

**Approve subject to Conditions**

1. **Proposal**

1.1. Planning permission is sought for the proposed change of use from offices to a 123-bedroom hotel (with ancillary facilities including restaurant pavilion) and student accommodation (266 bedrooms), through part demolition, external and internal alterations including proposed extension. The hotel would be located within the smaller, circa 5 storey building, which runs parallel to Calthorpe Road whilst the student accommodation would be provided in the taller, circa 11 storey building, which runs perpendicular to Calthorpe Road.



Proposed Site Layout

- 1.2. The proposed development would include demolition of both the existing rooftop structures, which would allow for an upward extension. The existing link block is also proposed for demolition to separate the two halves of the building.
- 1.3. The existing buildings comprise 11,805sq.m of office floor space. The proposed extensions would add a further 3,006sq.m (taking into account the demolition) in the form of a 2-storey extension on the roof of each block and a new ancillary pavilion restaurant building with 120 covers to the front of the hotel block. The proposal would also involve building into the new undercroft space of the proposed hotel block.
- 1.4. The proposed design approach has been to maintain as much of the existing design. The proposals retain the existing marble window surrounds, which would be made good. The existing mosaic panels, which sit between the marble surrounds, are proposed to be over-clad, due to their poor condition with a reconstituted stone panel that would sit in line with the marble surrounds.



Proposed view from Calthorpe Road



Proposed Completed Development

- 1.5. To differentiate between the two blocks, a secondary vertical line is proposed to the student accommodation block using PPC aluminium fins that would sit between the

two over-cladding panels between the marble surrounds. This block would also use a slightly darker material with the hotel block having an 'off white' colour.

- 1.6. The roof extensions and the proposed restaurant pavilion have been designed on the existing buildings grid pattern appearance. The external walls of the roof extensions would be recessed. The proposed pavilion would include PPC fins on its exterior, placed closely together on the southern elevation to provide natural shading to prevent solar gain.

#### Hotel (Internal)

- 1.7. The hotel would comprise of back of house facilities at lower ground. The ground floor would include reception, restaurant and bar with additional 120 covers in the separate pavilion. Guest accommodation would be on the western and eastern elevations (looking onto Calthorpe Road and the rear of the site), leading from a central core. 5 accessible rooms would be provided.

#### Student Accommodation (Internal)

- 1.8. The ground floor of the proposed student accommodation would comprise the main entrance area, virtual training room, multimedia lounge, games area, cinema room and study rooms. The lower ground floor area would include the refuse store/laundry area, gym and maintenance/cleaning rooms.



Proposed Student Games Area



Proposed Student Communal Ground Floor Lounge Space

- 1.9. The student rooms are arranged in clusters of up to 9 en-suite rooms, each with a communal kitchen. Floors 10 and 11 (in the rooftop extension) would have 2 clusters on each end with 9 separate en-suite bedrooms but in the middle would have 4 studios and a sky lounge.



Proposed En-suite Student Bedroom



Proposed studio student accommodation

- 1.10. The proposed roof extension would include further student accommodation along with a sky lounge area. The cluster accommodation situated at the corner of each level of the roof extension would benefit from dual aspect windows within the communal space.

#### Restaurant Pavilion

- 1.11. This building would be separate from the main hotel (located to the front of the hotel building) but ancillary to it. It would measure 22.5m in width, 17m in depth and 5.4m in height. 120 covers are proposed within it. An outdoor seating area/terrace fronting Calthorpe Road is also proposed measuring 5m in depth and 19.5m in width.



Proposed hotel and restaurant pavilion

#### Access and Parking

- 1.12. The hotel would require a vehicle drop off area that would see the existing frontage to Calthorpe Road being opened to create a courtyard/entrance area. This would

necessitate the moving of three bus stops. This area would have a one-way circular system. A secondary access would be provided off St James Road for access to the rear car park.



Proposed hotel entrance – from Calthorpe Road

- 1.13. The rear of the site would continue to be used as the main car park area, with a further pedestrian/visitor access to the proposed hotel at the rear. The external space surrounding the proposed student accommodation building would include student drop off areas and parking provision along the north elevation of the building, although no parking would be provided for the student accommodation. The proposed vehicular access for the student accommodation would be via the existing access from Calthorpe Road, which would be retained.
- 1.14. The proposed development would provide 43 parking bays in the rear car park and an additional 26 in the basement underneath the hotel. Additionally, three drop off parking bays at the hotel entrance and 3 drop off bays next to the student accommodation; with a total of 75 parking bays across the site. Cycle parking would be provided in accordance with the City's requirements.
- 1.15. The service entrance would be via St James Road and would operate via a one-way route, allowing access for all service vehicles to re-join Calthorpe Road without requiring manoeuvres on site. Refuse storage would be located on the lower ground floor of both blocks.
- 1.16. The proposed development would require the loss of 19 individual trees including 6 Category B comprising Ash, London Plane, Silver Birch, Silver Maple and Tree of Heaven and 13 Category C comprising Fastigate Beech, Sycamore, Lawson Cypress, Sweet Chestnut, Ash, Himalayan Birch, Magnolia, Silver Birch and Tulip. A Category C group and hedgerow would also require removal.
- 1.17. The application is supported by a Planning Statement, Design and Access Statement, Air Quality Assessment, Noise Assessment, Arboricultural Impact Assessment, Energy Statement, Transport Statement, Framework Travel Plan, Student Needs Assessment, Ecology Report, Heritage Statement, Flood Risk Assessment, Phase 1 Desk Study-Land Contamination, Sustainable Construction Statement and a Stage 1 Road Safety Audit.
- 1.18. Amended plans have been submitted during the course of the application.



- 1.19. The proposed hotel is not liable for a CIL payment as the development falls within the CIL Hotel Rest of City Area and is not chargeable. In relation to the student accommodation, the calculation shows a negative figure and therefore there will be no CIL charge.
- 1.20. Site area: 0.68ha.
- 1.21. [Link to Documents](#)
2. Site & Surroundings
  - 2.1. The application site is located to the south of Five Ways roundabout. The site is located outside of but adjacent to the Calthorpe Estates boundary for Edgbaston Village and the adopted Edgbaston District Centre. The surrounding area also includes a mix of commercial, residential and retail. To the immediate rear of the site sits a day nursery on St James Road and residential dwellings on Frederick Road.
  - 2.2. The rear car park sits within Edgbaston Conservation Area, although the rest of the site does not. There are listed and locally listed buildings along Calthorpe Road to the south and Frederick Road to the east. The building is the site of a blue plaque for Washington Irvine.
  - 2.3. The existing building was designed by John Madin in 1962 and formed part of Madin's wider masterplan for the Calthorpe Estate. The building is made up of two main blocks joined vertically by a small link block. The smaller block is 5 storeys with a basement and plant structure on the roof whilst the taller block is 11 storeys with existing plant enclosure to the top floor. An under-croft car park exists in front of the smaller block accessed via a ramp.
  - 2.4. The site fronts Calthorpe Road, which operates a one-way traffic flow from Five Ways. Existing pedestrian access to the site is from Calthorpe Road, with vehicular access to the car parking area from St James Road, along the southern boundary of the site. Three bus stops are located directly outside on Calthorpe Road. The site is well served by public transport with several bus routes accessible within a 5 to 10-minute walk (aside from those immediately outside the site) and Five Ways Railway Station is located within a 10-minute walk.
  - 2.5. The development is approximately 0.5 km from Birmingham City University's City South Campus on Westbourne Road, Edgbaston and some 3 km from their City Centre Campus on the eastern side of the City Centre. Similarly, it is only 1.5km from the edge of Birmingham University Campus.
  - 2.6. [Site Location Plan](#)
3. Planning History
  - 3.1. The application site has an extensive planning history including those listed below.
  - 3.2. 28 April 1999. 1999/00801/PA. Planning permission approved with conditions for the extension of existing glazed link at 3<sup>rd</sup> floor level, installation of roof top plant and extension to sub-station at lower ground level at existing office building.
  - 3.3. 16 March 1998. 1998/00367/PA. Planning permission approved with conditions for an extension of plant room, single storey with under croft.

- 3.4. 23 April 1998. 1997/03095/PA. Planning permission refused for the erection of new infill extension between tower and wing, external alterations including cladding to existing and new plant rooms, new staff entrance and parapet wall to tower.
- 3.5. 15 December 1988. 72063000. Planning permission approved with conditions for the construction of a car park in place of existing pool with landscape proposals.
- 3.6. 7 January 1960. 17358024. Planning permission approved for the erection of new offices in two blocks.

#### 4. Consultation/PP Responses

- 4.1. Local residents, Ward Councillors, MP and Resident Associations notified on original and amended plans. Site and press notice posted on original submission and amended plans. 10 letters of comment/objection received on the original plans with a further 3 received on the amended plans. These included objections from Preet Gill MP and Calthorpe Residents Society. Objections and comments are based on the following points:
  - Need for further student accommodation?
  - Proposal won't enhance local area.
  - Hotel must be in keeping with local area – not a budget chain. Must be a minimum of 4 stars.
  - Adequate parking facilities for both uses must be provided on site. Inadequate parking is currently proposed.
  - Would be better as apartments.
  - Removal of mature trees to front.
  - Building line breached with proposed pavilion building.
  - Sight line issues for junction due to proposed pavilion.
  - Concern over ingress and egress for hotel.
  - What happened to the bus stops?
  - Overspill parking by students on local roads.
  - Loss of green space and mature trees to front.
  - Adverse effect on Edgbaston Village gateway.
  - Excessive noise and litter.
  - Proposal would detract from John Madin's design.
  - The hotel would overlook the day nursery – safeguarding issues.
- 4.2. One letter of support also received from a resident in Lee Crescent who supports the refurbishment of this Madin building which has been vacant and neglected for a while. The increase in height appears acceptable and the proposals for the management of the student accommodation are well thought out.
- 4.3. Preet Gill MP – Objects to the proposed development as there is no requirement or identified need for further student accommodation.
- 4.4. Brutiful Birmingham - We are pleased to see the constructive repurposing of the building. Madin created a very carefully balanced vista with two large, connected blocks, given lightness by the use of strong dark stone verticals slightly forward of a horizontal rhythm of windows and pale mosaic panels. These subtle changes of depth allow a play shadows through the day which give a feel of lightness and grace. The lightness of the whole composition is further enhanced by the “floating” the buildings clear off the ground on slender columns.  
The connection between the two building is to be removed which in itself will not make a great deal of difference to the overall look, but it appears that the supporting columns that carry both buildings are to be completely infilled with walls, and that will seriously change the visual integrity of the original design.

The proposed treatment of the surfaces seems to preserve the original design, but the cream coloured mosaic horizontals are to be over-clad with a composite sheet material different in tone for each block and bringing them flush to the verticals. This will detract from the effect of the play of light and shade across the buildings and will give them an overly blocky appearance. The addition of vertical “metal fins” to the taller block will further break the harmony and lightness of the original and add a new design element for little purpose.

An additional two storeys are to be added to both buildings which, although set back, will change the proportion and “massing” of the whole. Worse still a whole mess of service structures similar to those already there will add to the overall height.

The proposed landscaping of the site is clearly a benefit. The barren concrete car park and messy expanse of weeds along Calthorpe Road will be replaced by a landscaped, street level approach to the hotel entrance, entirely in keeping with Madin’s rule of balancing buildings with green space. Unfortunately the Calthorpe Road/St James Road corner of the site is to be filled with a large new restaurant block which, as shown in the visuals, does not harmonise with the existing design and will block the magnificent view of the sweep of the whole composition.

The row of mature trees along Calthorpe road are to be felled and although they were mere saplings in the original design do now complement and enhance the buildings. John Madin was committed to preserving existing landscapes and mature tree in his Calthorpe Master Plan and it seems a pity that these trees should be sacrificed.

- 4.5. West Midlands Fire Service – No objection. Proposal will need to comply with Building Regulations.
- 4.6. Transport for West Midlands – No objection. The proposals to move the bus stops are agreed in principle.
- 4.7. Severn Trent Water – No objection subject to a drainage condition.
- 4.8. Regulatory Services – No objection subject to safeguarding conditions relating to noise, contaminated land, construction management and extraction and ventilation.
- 4.9. Lead Local Flood Authority – No objection subject to sustainable drainage conditions.
- 4.10. Transportation – No objection.
- 4.11. West Midlands Police – No objection subject to safeguarding conditions relating to CCTV and lighting. The proposal site is covered by the Edgbaston Neighbourhood Policing Team and calls for service from the emergency services are high. In the twelve-month period between September 2019 and August 2020 the top three offences in the area were in relation to violence and sexual offences, vehicle crime and anti-social behaviour.
- 4.12. Environment Agency – No objection.

## 5. Policy Context

- 5.1. Birmingham Development Plan. Saved Policies of the Birmingham UDP. NPPF. NPPG. National Design Guide. Shopping and Local Centres SPD. Places for All SPD. Car Parking Guidelines SPD.

## 6. Planning Considerations

- 6.1. The key planning issues are; the principle of the change of use; retail impact of proposed pavilion restaurant; the siting, scale and appearance of the proposed roof extensions; 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 sustainability.

- 6.2. The National Planning Policy Framework (NPPF) advises that there is a presumption in favour of sustainable development and encourages the use of as much previously developed (brownfield land) as possible.

Principle of the proposed hotel use

- 6.3. The site is located outside but on the edge of the Edgbaston District Centre boundary and is in a prominent location for Edgbaston Village. The site is within walking distance (around 9 minutes) of Five Ways Train Station located on the Cross-City Line. As such, the site is well located for the City Centre and local tourist attractions. This use is in line with Policy TP25 which identifies that the provision of hotels that are well designed and accessible will be supported.

Principle of Student Accommodation

- 6.4. The City's Student Accommodation Supply and Demand Report identifies that based on current demand, which is derived from the overall number of students requiring accommodation against total supply, there is an overall deficit of 8,837 PBSA bed spaces in Birmingham. The submitted student needs assessment uses the City figures and sensitivity tests them relating to occupation rates and assumes an average of 97% occupancy. This then increases the bed space requirements by circa 1,369 spaces – thereby identifying a need for the proposed development. The assessment goes on to identify that even if all the consented pipeline schemes are included in the existing provision figures, the requirement per bed space falls from 2.8 to 2.2.
- 6.5. The submitted Market Demand Study includes an analysis of local supply and demand. The Study identifies that BCU has lost over 9,000 existing and planned student bed spaces due to redevelopment of its sites for the Commonwealth Games (Perry Barr) and HS2 (adjacent to BCU City Centre campus). The University guarantees accommodation for all first-year students living outside a 10-mile radius however, only two of its eight halls of residence are recommended for students attending the City South (Westbourne Road) campus. The proposed development would be the closest of all BCU affiliated halls of residence. The Council's student needs report identifies a demand estimate of 22,407 full-time students at the University of Birmingham who need accommodation.
- 6.6. The City's 2021 Paper identifies an increase in the number of students requiring accommodation since the previous paper and future increases in demand arising from the growth aspirations of the UoB, BCU and Aston University. In respect of the UoB's growth plans, the 2021 Paper identifies a need for approximately 2,000– 3,000 additional bedrooms within Birmingham. In terms of BCU, the Paper refers to the institution's forecast of a 35% increase by 2025/26 in the number of students requiring accommodation from its 2018/19 base resulting in an additional 2,846 students requiring accommodation by 2025/26 reflecting a substantial amount of stock lost following BCU's relocation from its Perry Barr Campus to the City Centre, and the subsequent redevelopment of the Perry Barr site for the Commonwealth Games Athlete's village. The requirements for Aston University are smaller, with the institution identifying a need for a further 593 bed spaces by 2025/26.
- 6.7. On the basis that all students requiring accommodation want to live in PBSA and all PBSA planning consents are built out, the 2021 Paper identifies a substantial deficit of around 12,225-13,225 bed spaces city-wide, with 11,273 in the Selly Oak area and around 1,058 in the City Centre. The 2021 Paper acknowledges the benefits of PBSA over HMOs but notwithstanding, factoring in the existing supply of HMOs and

assuming all PBSA commitments are built out, there would still be a deficit of -1,476 – 2,476 bed spaces in Selly Oak but a surplus in other areas.

- 6.8. The 2021 Paper splits PBSA supply in Edgbaston (in which the Calthorpe Road scheme is located) 50%/50% between Selly Oak and the City Centre, which the applicant considers to be an acknowledgement that the proposed Calthorpe Road scheme is well located to meet the shortfalls in the Selly Oak area. In addition, Table 13 of the Paper identifies that of the five universities in the City, UoB and BCU have the highest number of students living in HMOs with 11,797 students (or 52.6% of students requiring accommodation) and 3,870 students (or 47.7% of students requiring accommodation) respectively. However, the proportion of students living in 'private sector halls'/PBSA whilst studying at Birmingham universities increased by from 6.5% in 2008/09 to 16.3% in 2018/19 whereas the proportion of students living in HMOs fell from 27% to 25.2% over the same period (2021 Paper, Table 3). Again, the applicant identifies that the Calthorpe Road scheme would be well placed to respond to the long-term trend for a growth in students choosing PBSA over HMOs.
- 6.9. A need for the student accommodation has been demonstrated.
- 6.10. Objectors have specifically raised the potential reduced demand for student accommodation since the start of the Covid-19 global pandemic. The Council's own evidence indicates that even if demand drops by 30% there would still be a shortfall of 6,000 -7,000 bed spaces serving the University of Birmingham. The applicant does however acknowledge that Covid-19 has suppressed demand for student accommodation in the current academic year, but identifies that despite the issues caused by Covid-19, Birmingham still achieved positive rental growth for PBSA between 2019/20 and 2020/21 with en-suite rooms increasing by 1.3% and studios increasing by 2.9% indicating a shortfall in supply. With applications to universities continuing to increase despite the Covid-19 outbreak, there is no evidence that a reduction in student numbers, and an associated reduction in demand for student accommodation, will occur in the medium to long term.
- 6.11. The applicant also identifies that changes in student financial support; Government policy on international students; employment prospects and the growth strategies of higher education providers are just some of the variables that can influence the demand for student accommodation. However, at present, these variables all indicate strong continued growth in demand for student accommodation in the medium to long term, and demand from BCU and UoB students:
- There is no evidence of an impending shift in Government policy in relation to student finance regimes that would deter students from enrolling at university or lead to an increase in the proportion of university students choosing to live at home for financial reasons.
  - In terms of national policy on international students studying in the UK, in September 2019 the UK Government announced a new two-year post-study work visa will be available to international students to achieve a target of 600,000 international students studying in the UK by 2030, up from 458,000 in 2017-18. The Knight Frank & UCAS Student Accommodation Survey Report 2020 notes international students are more likely to live in PBSA than domestic students and the 2021 Paper states "early indicators suggest that international student enrolments for 20/21 have outperformed UoB's expectations" (2021 Paper).
  - Graduates of BCU and UoB were the most employable of Birmingham's universities and both institutions have also invested heavily in their campus facilities in recent years to compete with other universities to attract students. This includes BCU's £5 million expansion to its City South Campus announcement last year to provide additional teaching and training space for

more than 1,000 healthcare and education students at 12 Harborne Road which lies opposite the Application Site.

- 6.12. They also identify that evidence from UCAS shows that in June 2020 there were more applicants holding a firm offer to start a course in autumn 2020 than at the equivalent point in 2019, and fewer people accepting an offer for a deferred place. In addition, full-time student numbers at BCU and UoB increased by a higher percentage in the period 2016/18 to 2018/19 (the latest figures available) than the percentage increase in UCAS applications nationally. Therefore, based on the evidence available, the applicant confirms that the growth projections for both BCU and UoB reported in the City's Student Accommodation Supply and Demand Paper remain valid and the associated upward trend in demand for student accommodation continues.
- 6.13. The scheme provides of mix of cluster units and studios which come in a variety of sizes meaning that they cover a range of price points. The student needs assessment also compares rent with other local purpose-built accommodation and HMOs. The price of rooms in the proposed scheme would be similar to other schemes of PBSA but generally more expensive than HMO rooms. However, the quality of the accommodation, the inclusion of all bills, wi-fi and access to a range of communal on-site facilities mean that it provides an attractive alternative to some students. In summary, it is considered that the scheme provides a good mix of accommodation, providing an attractive alternative for students.
- 6.14. TP33 requires developments to be very well located in relation to the educational establishment that it will serve and other local facilities in terms of walking, cycling and public transport. The nearest train stations are Five Ways and Birmingham New Street train stations which are located a circa 9-minute and 20-minute walk from the Site respectively. Five Ways station is on the Cross-City Line which runs between Redditch and Lichfield via Birmingham New Street with trains running every 10 minutes at peak times. Birmingham New Street provides trains services at national, regional and local level. The Midland Metro (the Library, Centenary Square stop) is located a circa 18-minute walk to the north of the Site. However, the tram will run along Hagley Road with a new tram stops at Five Ways and in Edgbaston increasing its accessibility. There are also bus routes on Calthorpe Road, immediately to the front of the Site including Service Nos. 1, 10, 23, 24 and 822. These services head into Birmingham and out towards areas to the southeast and southwest of the City.
- 6.15. The application site is located on the edge of Edgbaston District Centre which includes several pubs, restaurants, hotels, shops and services and a Morrisons supermarket. All of these are located within a 10-minute walking distance.
- 6.16. A reasonable walking distance is defined as a 15-20-minute walk which equates to around 1.5km. This is set out within the Council's Student Accommodation Supply and Demand Paper. The application site is located 0.5km from BCU Westbourne Road campus and 1.5km from the University of Birmingham campus. The applicant has entered into an agreement with a specialist student accommodation provider to operate the facility. Their business case for the Site is to accommodate mainly BCU and UoB students going to the local campuses. The proposal is to include all years of students. For students going to BCU's City South Campus, this is a 2-minute bike ride, 2 minutes by bus and 6 minutes on foot. The BCU main City Campus is accessible by bicycle (11 minutes), public transport (18 minutes) and on foot (36 minutes). Other off-campus BCU facilities include the Jewellery School, Vittoria Street (13 minutes by bus) and the School of Art, Margaret Street (14 minutes by bus). For students of the UoB, the campus is a maximum 15 minutes by bus, 20 minutes by train or 27 minutes on foot. On balance, the distance from the relevant University campuses is considered acceptable.

- 6.17. Whilst not specifically affiliated to BCU, the proposed development would clearly assist in addressing an identified need, especially for accommodation for students at their City South campus on Westbourne Road. Nomination rights have not been secured as the applicants wish to market the accommodation to both BCU and UoB students.
- 6.18. In summary, a need has been demonstrated and the application site is well located in term of the institutions that it intends to serve in accordance with Policy TP33 of the Birmingham Development Plan.

#### Retail Impact

- 6.19. The application includes a restaurant pavilion unit located to the front of the site. This would now fall under Use Class E. The application site is located outside but on the edge of Edgbaston District Centre. In accordance with the NPPF and Policy TP21 of the BDP, a sequential test would usually be required in such circumstances. However, the proposed restaurant pavilion would not be a separate entity to the hotel but ancillary to it, despite its physical separation. As the provision of a separate restaurant has not been policy tested through a sequential test, I consider it necessary to attach safeguarding conditions restricting its ability to change within the 'E' Use Class and to prevent the pavilion being operated as a separate entity without securing further planning permission including a sequential test assessment, as the site is located outside of an identified centre.

#### Design and Heritage

- 6.20. The application seeks to change the use of both of the buildings on the site from offices (formerly Use Class B1a and now Use Class E) to a hotel (Use Class C1) and student accommodation (Sui Generis) with roof extensions to both blocks and a new restaurant pavilion (Use Class E). As such, the issues relate to the new build elements of the proposal and external works proposed to the existing buildings – including the proposed demolitions.
- 6.21. The building is of a simplistic design displaying a Brutalist form, distinctive of Madin's Work and is considered to hold the degree of heritage value to be recognised as a non-designated heritage asset. The building borders the northern part of the Edgbaston Conservation Area and is adjacent to a few listed buildings to the south on Calthorpe Road including the adjacent No.19 which is a grade II listed early Calthorpe Estate villa c.1820. At the corner of Frederick Road and St. James Road is the grade II listed St. James House, a John Madin designed mid-1950s commercial building built as the headquarters for the Engineering and allied Employers Federation. Several other listed and locally listed buildings form part of the wider setting of this site.
- 6.22. The impact on the setting of these heritage assets needs to be considered in accordance with the NPPF and Policy TP12 of the BDP.
- 6.23. A Heritage Statement has been submitted indicating that the proposal causes no harm to the setting of these heritage assets. My Conservation Officer has reviewed the Assessment and concluded that an element of harm was generated from the following elements:
- Two-storey roof extension (less than substantial harm to setting of listed buildings on Frederick Road, to the setting of the Conservation Area and a degree of harm to the architectural interest (significance) of the non-designated asset on the application site.
  - Proposed pavilion extension (harm to architectural interest of the non-designated heritage asset)

- Demolition of link block between buildings (harm to architectural interest of non-designated heritage asset)
  - Over-cladding of elevations (harm to architectural and historic interest of non-designated heritage asset).
- 6.24. A revised Heritage Statement remains conclusive that no element of the scheme would be harmful to the significance of the identified heritage assets or their setting and overall significance is generally preserved.
- 6.25. With regards to the roof extensions and the impact on the setting of the listed buildings on Frederick Road, the Statement puts forward the argument that it is not just assumed that there is a benefit but takes the net result of removing the existing infrastructure (roof plant) and its replacement with something else giving a net neutral effect and thus preserving significance. My Conservation Officer considers that the replacement extensions would have a neutral effect but that there would be a perceptible change to scale, exacerbated by the design and materials of the extensions, which would create a visual dominance to the setting of these buildings. It has been acknowledged that the overall massing and appearance of the application building is detrimental to the significance of the listed buildings and harmful to setting but that the existing building makes a minor contribution to historic value of setting.
- 6.26. The pairing of the windows in each bay is good and provides an subtle rhythm across the elevation, however the protective railing on the roof would be highly noticeable as would the replacement roof plant structures which will be ugly and prominent on the façade, affecting the building profile and disrupting the strong horizontal proportions.
- 6.27. The proposed metal cladding on the gable would not be suitable to residential Edgbaston, where the original building uses stone to sympathetically respond to stucco and other post war Portland stone buildings. If metal is to be used, then my Conservation Officer considers that a more refined solution must be found.
- 6.28. Whilst I agree that the removal of roof plant is a benefit, the replacement roof extensions and roof plant replacements would not preserve the setting of the listed buildings and some harm will be caused to the listed buildings through development in their setting. My Conservation Officer considers that the harm is caused by virtue of the design and materials of the roof extension and would be classified as less than substantial harm.
- 6.29. My Conservation Officer also considers that there would be a degree of harm to the architectural and historic significance of the application building as a non-designated heritage asset through demolition/loss of architectural features, the design and materials of the roof extensions, and the positioning of the new pavilion extension. They do however acknowledge that there several heritage benefits to this scheme which could balance some of the harm identified. The Conservation Officer concludes that if the retention and refurbishment of existing materials could be achieved, then no objection would be raised on heritage grounds.
- 6.30. My City Design Officer has reviewed the original submission along with the amended plans and supporting information which, makes a case for the removal of the link block as this would increase pedestrian permeability, make best use of space in each building and maximise light penetration. Whilst this would impact on the original Madin design, the analysis is correct and from a design standpoint, the benefit to the use of the building going forward would outweigh the impact.
- 6.31. The broad increase in height of the existing building by two storeys on each element is considered acceptable.



- 6.32. The key issue is the design of the upwards extensions. The applicant makes the case for the vertical emphasis and taller glazed elements, on the basis that maximising the glazing would create a lighter weight addition and distinguish the extensions from the host buildings. Although my City Design Officer is unconvinced that the balance is correct, they recognise these points and consider that the design may be acceptable dependent on materials.
- 6.33. They also noted previously that the canopy feature for the hotel did not seem well integrated into the façade but that the canopy would follow the established 'grid' of the building. The concern was more that the feature would appear 'bolted on' rather than part of the building. However, the applicant identifies that the vertical detailing of the canopy would pick up on similar features in the pavilion. In this way, the canopy design would strengthen the association between the two buildings, and as such, I consider this to be acceptable.
- 6.34. The applicant recognises the value that the existing materials bring to the building and a testing regime is underway to determine whether they can be retained. However, the proposed elevations show all new materials.
- 6.35. My Conservation Officer could support the loss of the link building and the introduction of the pavilion extension subject to securing the retention and refurbishment of existing materials. This is also a key requirement of my Design Officer. I have addressed this issue with the applicant, and they confirm that they would like to keep the existing external materials. They remain however, unsure as to whether this is possible due to their condition and Building Regulation/Fire Safety requirements. On this basis, the submitted plans identify all new materials and I consider that this is the correct approach with details (whether existing or new) of the proposed materials to be secured by condition.
- 6.36. I consider the scheme to be acceptable in design. Its scale, mass and appearance, whilst being noticeable, sit within the existing street scene maintaining the character and appearance of the area. Amended plans have been received to address the concerns raised by Conservation that have altered the roof top plant, window set back and depth of fins and whilst these do minimise the harm identified, Conservation are of the view that they do not remove it.
- 6.37. Paragraph 197 of the NPPF and Policy TP12, requires that where less than significant harm has been identified that this is balanced against public benefit. In this instance, the repurposing, refurbishing and sustainable re-use of the building along with enhancements to landscape and public areas are of significant public benefit. Also, taking into consideration the proposed development's contribution towards the City's housing supply (in terms of student accommodation and its identified need), the support of the uses to the growth of key education facilities within the City and the provision of further hotel accommodation to support the City's tourism sector, I consider that the identified less than significant harm is outweighed by the public benefits of the scheme.

#### Landscape and Trees

- 6.38. While the proposed development would require the loss of the existing trees to the Calthorpe Road frontage, the arboricultural survey reports that some of these major feature trees include defects that while not imminently dangerous, would require intervention in the foreseeable future. These interventions for species such as Tree of Heaven would likely lead to a more rapid decline given the nature of the timber and susceptibility to fungal decay. As those remaining frontage trees have also been mutually suppressed, when one or more are removed, this would leave trees behind that are of a poorer form than open grown trees and a reduced aesthetic.

- 6.39. The removal of the entire group would have an adverse visual impact whilst it offers the opportunity to replant with tree stock that have the potential to provide a much longer contribution than the existing stock. My Arboricultural Officer considers the tree removal acceptable on the basis that the development would provide replacements with a higher quality tree stock.
- 6.40. A detailed landscaping scheme has not been provided however, a condition that requires details to be submitted prior to development commencing is recommended to address this issue to ensure that enough space is made available for the replacement trees to be provided and ensure that the tree canopy cover lost through these proposals is replaced.

#### Ecology

- 6.41. An extended phase one habitat survey and day-time bat assessment has been undertaken and given the nature of the site, the potential for protected species is low with bat roost potential being negligible. The greatest potential is for nesting birds but that can be addressed through appropriate timing of works or prior inspection. Options for inclusion of nest boxes should be explored for installation around the site and could include open fronted boxes fixed to a suitable post low down in soft landscaped areas if and where shrubs are planted. No objection has been raised by the City Ecologist and safeguarding conditions are recommended.

#### Student Living Conditions

- 6.42. The scheme consists of a mix of studios and cluster flats. A 6-bedroom cluster would be located in the lower ground floor with a communal area. Floors 1 to 9 would include 2 clusters, with each having a communal living/kitchen area and 9 bedrooms with en-suite bathrooms located on either end of the building. In the middle section would be two stair cores and 2 lifts along with 6 studios. Floors 10 and 11 (located in the rooftop extension) would also have 2 clusters on each end with 9 en-suite bedrooms but in the middle would have 4 studios and a sky lounge. All the accommodation is of an acceptable size and layout for the proposed occupants.
- 6.43. A good range of communal areas are shown within the ground floor comprising the main entrance area (192sq.m) with staff facilities (54sq.m), parcel room (8sq.m), virtual training room (38sq.m), multimedia lounge (49sq.m), games area (64sq.m), cinema room (50sq.m) and communal/individual study rooms (119sq.m). The lower ground floor area would include the refuse store/laundry area, gym (43sq.m) and maintenance/cleaning rooms. The sky lounge on floor 10 would provide a 28sq.m communal space. In total this provides 583sqm of amenity space within the building. This is a good level and variety of amenity spaces for the occupants.
- 6.44. No external amenity space would be provided however, the nearest park areas are located within Atwood Green (a 15-minute walk) and The Vale (a 15-20-minute walk). The privately owned Botanical Gardens, where an admission fee is payable, is a 10-minute walk. It is important to note that the buildings could be converted to residential accommodation through permitted development rights, and this remains a fallback position for the site. This would be demonstrably worse than the proposed student accommodation without amenity space.

#### Parking and Highway Safety

- 6.45. The Council's Car Parking Guidelines SPD recommends a maximum of 1 space per 7.5 beds for purpose-built student accommodation; 1 space per 4.5 bedrooms for hotel accommodation and 1 space per 9 covers for a restaurant – a maximum total of

78 car parking spaces for the proposed development. There is no minimum parking provision requirement.

- 6.46. The proposed development will provide 43 parking bays in the rear car park and an additional 26 parking bays in the basement underneath the hotel. Additionally, there are three drop off parking bays at the hotel entrance and 3 drop off parking bays next to the student accommodation; a total of 75 parking bays across the site. No car parking is provided for the proposed student accommodation. This is considered acceptable.
- 6.47. With regards to cycle parking, hotel accommodation requires a consideration for staff, 1 space per 4 bedrooms for purpose-built student accommodation and 1 space per 18 covers for a restaurant. Cycle parking would be provided in accordance with the SPD requirements. On this basis, the level of cycle storage is acceptable.
- 6.48. The service entrance would be via St James Road and would operate via a one-way route, allowing access for all service vehicles to re-join Calthorpe Road without requiring manoeuvres on site. Refuse storage would be located on the lower ground floor of both blocks.
- 6.49. Vehicle swept path analysis has been undertaken for the proposed site accesses which demonstrates that:
- A refuse vehicle can access the site from Calthorpe Road and egress from St James Road safely in forward gear; and
  - A refuse vehicle can access and egress the site from St James Road safely in a forward gear.
- An 11.73m refuse vehicle was utilised as this represents the largest vehicle that would be required to access the site (including emergency vehicles); providing a worst-case assessment of the proposed layout. Transportation has raised no objection.
- 6.50. A car park management plan details how start/end of terms drop off/collections will be managed to avoid illegal/inconsiderate parking and interference with highway free flow & safety. It proposed that the on-site spaces would be used for a timed student drop off/pick up at the start and end of terms. BCC would be contacted in advance of the start of term to be provided with the exact dates for student arrival. Temporary signage could also be erected to provide directions for new students. Each student would be advised of date and time for arrival. The management company will reserve the right to refuse access until the allotted time. Marshals would be on site to supervise the parking and appointment system. Once vehicles are unloaded, marshals would direct parents to nearby public car parks. This appointment system has been successfully implemented at other sites across the country and reduces the impact of the traffic on the local highway network at the start and end of term. At the end of term, students who leave the accommodation do not need to remove all their belongings from their bedroom and tend to only take hand luggage. Hence, the students would be more likely to travel home by public transport rather than being picked up. Given the nature of university courses, the departure of students will also be staggered due to different dates for exams etc. The demand will therefore not be the same as for the beginning of term. This parking management strategy can be secured by condition.
- 6.51. The proposed development would see a new access point provided onto Calthorpe Road, which would require the movement of three bus stops. These changes have been reviewed by Transport for West Midlands (TfWM) and are subject to a Stage 1 Road Safety Audit, alongside the proposed Calthorpe Road access. The plan below identifies the relocated bus stop positions to which neither TfWM nor Transportation raise objections.



Plan indicating revised bus stop locations

- 6.52. Transportation considers that the parking and traffic associated with the student and hotel uses is acceptable and raises no objections to the proposed development.
- 6.53. The site is located on the edge of Edgbaston District Centre meaning that there is good access to local facilities. There are bus stops located along Harborne, Hagley and Calthorpe Roads which have very frequent services into the City Centre and beyond. The site is also within a 10 minute walking distance of Birmingham City University and local facilities in Edgbaston District Centre and within bus/train distance of the University of Birmingham.

#### Amenity of Existing Residential Occupiers

- 6.54. There are several residential properties to the rear on Frederick Road. Whilst roof top extensions are proposed, the buildings would be converted to the proposed uses. As such, the separation distances, overlooking and potential overbearing of the building already exist. The key assessment in this case is therefore whether the proposal has a greater impact on nearby residential properties.
- 6.55. The closest use is Busy Bees Nursery to the rear of the site on St James Road. The existing separation distance with the nursery is 17m as existing with the nearest block being converted to a hotel. There are three side facing windows that face the rear of the hotel block and I note the concerns raised by the nursery regarding safeguarding. The garden to the nursery appears to be to the other side/rear of the nursery building. As such, I do not consider that this would raise an issue with overlooking more than if the building was reoccupied for offices. Hotel guests would generally occupy the rooms outside of the nursery opening hours unlike offices.
- 6.56. Residential accommodation is located to the rear on Frederick Road. An existing car park separates the building and the rear gardens of these premises and the existing separation distances are between 26 and 28m to the boundary from the student accommodation and 38.5m from the hotel block. I do not consider that any greater overlooking would occur from the proposed uses (including the rooftop extensions) than would currently occur from the use of the buildings as offices.

## Sustainability

- 6.57. Further information was requested in relation to Policy TP3: sustainable construction. The requested information was subsequently submitted and is considered acceptable. Further information was also requested relating to the BREEAM requirements of TP3, which requires non-residential buildings in excess of a total floor area of 1,000m<sup>2</sup> to aim for BREEAM standard excellent. This development had triggered this requirement as the extension portion of the application of student accommodation/hotel use exceeded 1000sqm (being 14,811sqm). A pre-assessment has now been submitted and has identified that the scheme is capable of meeting BREEAM 'very good' standard. In line with the guidance note, technical justification has been provided why excellent cannot be achieved. To ensure this is achieved a condition will be attached.
- 6.58. The submitted Energy Statement identifies that after analysis of anticipated energy use and CO<sub>2</sub> emissions, it is proposed that the development would exceed the expectations of Policy TP4 for renovation projects. The key details are
- Renovated thermal elements and higher standard new build additions to provide energy reduction.
  - Upgraded building services strategy including recommended energy efficiency measures to be confirmed at detailed design.
  - Implementation of low and zero carbon technologies such as Air Source Heat Pumps or roof mounted PV panels to be confirmed at detailed design.
  - A glazing strategy which provides beneficial solar gains in winter and reduce reliance on artificial lighting through natural daylight and sunlight.
- 6.59. The requirements of TP3 and TP4 have therefore been met.

## Other Issues

- 6.60. Concerns have been raised over the potential for increased crime and anti-social behaviour. Both buildings on site will have staff present 24/7 with just one pedestrian access into and out of the student accommodation and one main entrance access to the hotel. It is important to note that West Midlands Police have raised no objection to the scheme. Concerns have been raised over littering and increase in noise however there is no evidence that this would be the case. Regulatory Services have raised no objections.
- 6.61. I note the objections relating to the use and that it would be better as apartments and that the hotel should be at least a 4-star establishment to match Edgbaston. Neither of these are within the scope of the planning permission assessment.

## 7. Conclusion

- 7.1 I consider the change of use and extension of this site for student accommodation and a hotel would be acceptable in principle, given this is a brownfield site in a sustainable location within walking distance of the Birmingham City University South Campus and a short hop on public transport to the University of Birmingham campus. The siting, scale and appearance of the proposed development would be acceptable and would sit comfortably in the street scene. There would be no adverse impact on the amenity of neighbouring residential occupiers and the development would provide an acceptable living environment for future occupiers. The proposal would support the function of both the University of Birmingham and Birmingham City University as key providers of employment, culture, and learning in the City. The identified less than significant harm would be outweighed by the public benefits of the scheme. As such, I therefore consider the proposal would constitute sustainable development and I recommend that planning permission is granted.

8. Recommendation

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

- 
- 1 Implement within 3 years (Full)
  - 2 Requires the scheme to be in accordance with the listed approved plans
  - 3 Requires the scheme to be in accordance with the listed approved documents
  - 4 Requires the agreed mobility access to be maintained
  - 5 Requires the prior submission of a contamination remediation scheme
  - 6 Requires the submission of a contaminated land verification report
  - 7 Requires the prior submission of a drainage scheme
  - 8 Requires the prior submission of a Sustainable Drainage Scheme
  - 9 Requires the submission prior to occupation of a Sustainable Drainage Operation and Maintenance Plan
  - 10 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
  - 11 Requires the prior submission of details of bird/bat boxes
  - 12 Requires the submission of extraction and odour control details
  - 13 Limits the noise levels for Plant and Machinery
  - 14 Requires the submission a Noise Insulation Scheme to establish residential acoustic protection
  - 15 Requires the prior submission of noise insulation (variable)
  - 16 Requires the submission of details of a communal satellite dish
  - 17 Requires the prior submission of hard and/or soft landscape details
  - 18 Requires the submission of hard surfacing materials
  - 19 Requires the submission of boundary treatment details
  - 20 Requires the submission of a landscape management plan
  - 21 Requires the submission of a lighting scheme
  - 22 Requires the prior submission of a construction method statement/management plan
  - 23 Requires the submission of sample materials
  - 24 Requires the submission of a CCTV scheme
-

- 
- 25 Requires the submission of architectural details
  - 26 Requires the prior submission of a construction employment plan.
  - 27 Requires submission of a Local Employment Strategy
  - 28 Requires the submission of a BREEAM certificate
  - 29 The restaurant pavilion shall remain ancillary to then hotel
  - 30 Prevents the use from changing within the use class
  - 31 Requires the submission of a parking management strategy
  - 32 Requires the submission of cycle storage details
  - 33 Requires the provision of a vehicle charging point
- 

Case Officer: Pam Brennan

**Photo(s)**



Front Elevation and existing bus stops on Calthorpe Road



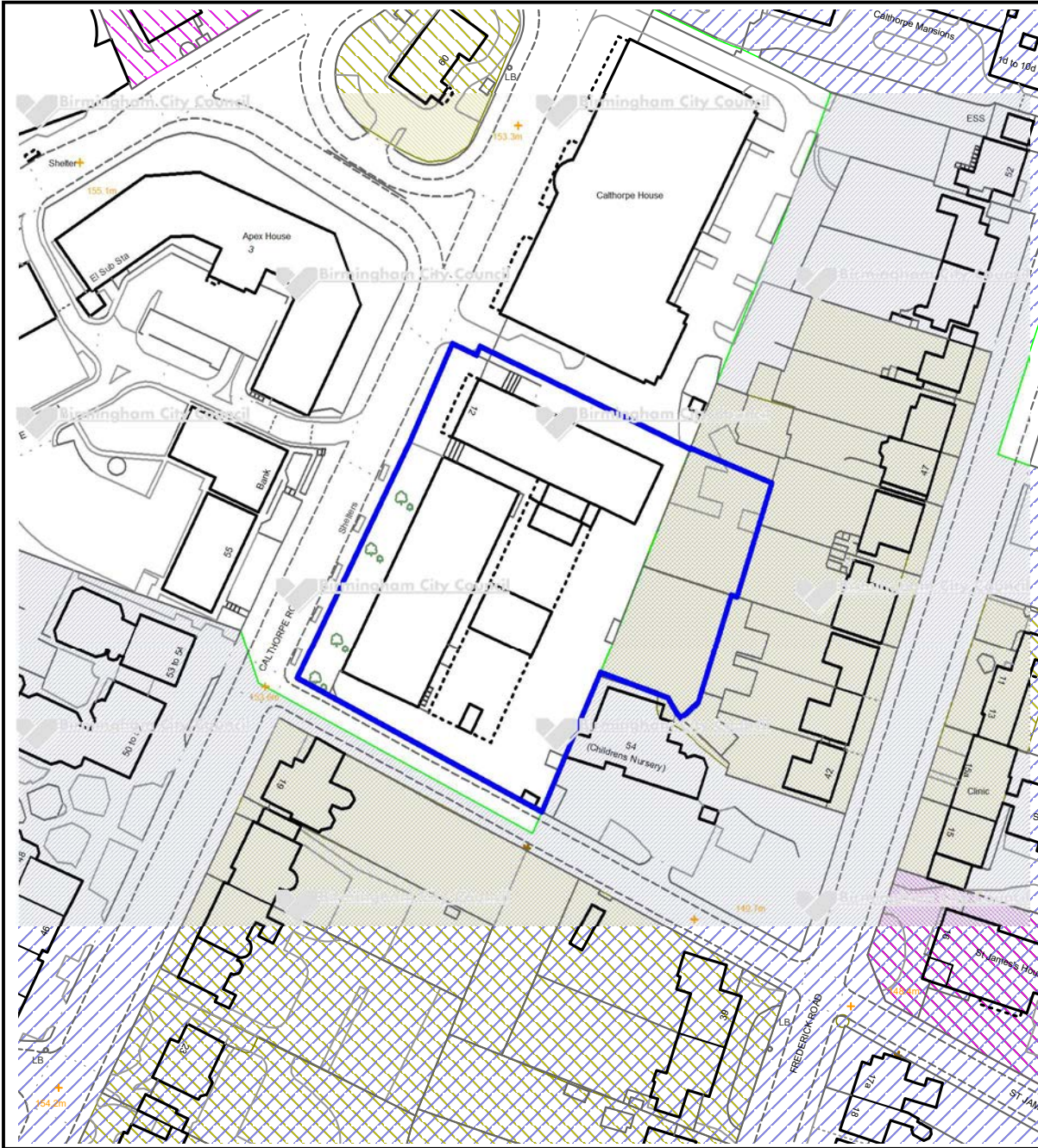
Rear Elevation and Car Park





Front Elevation of tower on Calthorpe Road

## Location Plan



This map is reproduced from the Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Birmingham City Council. Licence No.100021326, 2010

---

Committee Date:	27/05/2021	Application Number:	2021/01760/PA
Accepted:	02/03/2021	Application Type:	Reserved Matters Development
Target Date:	01/06/2021		
Ward:	Bournville & Cotteridge		

Former Selly Oak Hospital, Phase 3 - C Block, Land off Raddlebarn Road and Oak Tree Lane, Selly Oak, Birmingham, B29 6JD

Reserved Matters application seeking permission for the appearance, landscaping, layout and scale of Block C within Phase 3 following outline approval 2012/02303/PA

Recommendation

**Approve subject to Conditions**

1. Proposal

- 1.1. This application is a reserved matters submission for a four storey apartment building on the former Selly Oak Hospital site. An outline application (ref 2012/02303/PA) for demolition of existing structures and construction of a maximum of 650 dwellings, in addition to A1, A2, A3, A4, B1(a) and D1 uses on the hospital site was approved on 14th October 2013. The application included consideration of access, with all other matters reserved. The submission included a series of parameter plans, which established a number of principles for development, including land use, residential densities, scale/massing, access/movement strategy and building retention.
- 1.2. The proposed apartment falls within the area known as phase 3 where reserved matters consent was originally granted for 125 dwellings under reference 2016/01232/PA. Under the 2016 consent Block C would be a 5 storey apartment building containing 50 x 1 bedroom apartments however a further reserved matters application was approved under reference 2019/04522/PA which reduced the scale of Block C to 4 storeys containing 40 x 1 bedroom apartments. This application simply seeks alter the internal layout of block C to incorporate 10 x 2 bedroom apartments with the overall number of apartments remaining at 40.



Image 1: Site Layout

- 1.3. The proposed apartment building has a flat roof and is primarily built of brick but does contain elements of cream render. The accommodation consists of an open plan kitchen, living and dining area with 1 or 2 bedrooms and W.C.



Image 2: Proposed elevation to Raddlebarn Road



Image 3: Ground floor layout

1.4. [Link to Documents](#)

2. [Site & Surroundings](#)

2.1. This application relates to a very small part of the wider development site at Selly Oak Hospital. The hospital site lies at the southern end of Selly Oak, abutting the northern edge of Bournville Village Conservation Area. A large number of dwellings are now occupied on the former hospital site with later phases still under construction.

2.2. This application relates to a parcel of land within phase 3 located at the junction of Oak Tree Lane and Raddlebarn Road directly adjacent to 3 storey apartment blocks which have recently been constructed.

2.3. [Site Location Plan](#)

3. [Planning History](#)

3.1. Extensive planning history, the most relevant is as follows:

3.2. 14th October 2013. PA No. 2012/02303/PA. Outline application for demolition and construction of a maximum of 650 dwellings and construction of up to 1000m<sup>2</sup> (maximum) Use Class A1 (Shops); 500m<sup>2</sup> (maximum) Use Class A3 (restaurants and cafes) and Use Class A4 (drinking establishments); 1500m<sup>2</sup> (maximum) Use Class B1(a) (offices)/Use Class A2 (financial & professional services) and Use Class D1 (non-residential institution); together with access, associated public open space, roads, car parking and landscaping. Approved subject to a legal agreement.

3.3. 13th October 2016. PA No. 2016/01232/PA. Reserved Matters submission for consideration of details of appearance, landscaping, layout and scale relating to Phase 3 of outline approval (2012/02303/PA) for 125 no. new build units with associated parking and external works. Approved.

3.4. 26<sup>th</sup> September 2019. 2019/04522/PA. Reserved Matters application for the erection of a 4 storey apartment block to replace 5 storey apartment block approved under application 2016/01232/PA. Approved

4. [Consultation/PP Responses](#)

4.1. Regulatory Services – no objections.

4.2. Transportation – no objection.

- 4.3. LLFA – No Objection.
- 4.4. Local occupiers, residents' associations, Councillors and MP notified, advertised by Site Notice and Press Notice. 1 objection has been received raising the following matters:
- Impact on protected bird species needs to be considered

5. Policy Context

- 5.1. The following local policies are applicable:
- Birmingham Unitary Development Plan 2005 (Saved Policies)
  - Birmingham Development Plan (2017)
  - Places for Living (Adopted Supplementary Planning Guidance 2001)
  - The 45 Degree Code (Adopted Supplementary Planning Guidance 1996)
  - Wider Selly Oak SPD (2015)
- 5.2. The following national policy is applicable:
- NPPF – National Planning Policy Framework

6. Planning Considerations

- 6.1. This application is a reserved matters submission for an apartment building. The outline application (2012/02303/PA) included consideration of access, with all other matters reserved. It included a series of parameter plans, which established a number of principles for development, including land use, residential densities, scale/massing, access/movement strategy and building retention.
- 6.2. This application relates to an apartment building within phase 3 where reserved matters consent for 125 units of accommodation was initially granted under reference 2016/01232/PA. Since this time a further reserved matters application has been approved which substituted the original 5 storey apartment building with a 4 storey apartment building (2019/04522/PA). This application seeks to reconfigure the internal layout to turn 10 of the 1 bed apartments into 2 bed apartments creating a mix of 30 x 1bed and 10 x 2 bed apartments.
- 6.3. Established Principles/Parameters (including Scale)
- 6.4. The number of units has not altered therefore the density of the development remains at 81 dwellings per hectare.
- 6.5. The proposed apartment is 4 storeys high, the same as already approved. This accords with the Parameter Plan, which indicates a maximum of 7 storeys at the corner of Raddlebarn Road and Oak Tree lane.
- 6.6. In the light of the above, I am satisfied that the current submission is broadly in accordance with the approved parameters established at the outline stage.
- 6.7. Transportation
- 6.8. The parking layout has not altered which retains 100% parking provision for the apartments. This is a highly sustainable location and it is not considered that this small increase in occupancy will unduly impact on the local highway network. Consequently The Transportation Officer raises no objection to the proposal.
- 6.9. Layout and Appearance

- 6.10. The external appearance remains identical to that of the 2019 scheme.
- 6.11. Amenity Considerations
- 6.12. With the siting and scale not changing the proposal has no greater impact on the occupiers of nearby properties.
- 6.13. It is also important to consider amenity levels for the occupiers of the proposed dwellings. The proposed 1 bedroom apartments have a gross internal floor area of between 50 and 58sqm with double bedrooms measuring a minimum of 14sqm thereby exceeding the relevant space standards. In terms of the 2 bedroom apartments 8 have a floor area of 61sqm whilst 2 are little smaller at 58sqm. It is noted that 2 of the apartments fall short of the relevant standard. However, in the context of 40 unit scheme the minor shortfall of 3sqm on 2 apartments is considered insignificant. On balance the size of the apartments is considered acceptable.
- 6.14. The Places for Living SPG requires flats to have 30sqm of private amenity space. The original phase 3 approval identified that a total of 4,161sqm of amenity space would be provided across the phase equating to 33sqm per unit. Since this time 10 units of accommodation have been removed from the phase meaning the amount per property has increased. This current scheme does not alter the amount of open space and is therefore considered acceptable in this regard.
- 6.15. In summary, the scheme has an acceptable amenity impact on both existing and proposed occupiers.
- 6.16. Trees, Landscaping and Ecology
- 6.17. Landscaping is a matter for consideration as part of this current application. The landscaping proposals are very similar to that of the previously approved scheme with hedgerow planting around the periphery of the site and the planting of 8 trees. The planting of shrubs is also proposed adjacent to the building. The Landscape Officer raises no objection and the scheme is considered to be acceptable.
- 6.18. Other Considerations
- 6.19. Concerns have been raised over the impact on protected birds. There were conditions attached to the outline approval that required the submission of details of ecology enhancements and bat and bird boxes. These conditions have been discharged on a phase by phase basis ensuring no undue impact on protected species.
7. Conclusion
- 7.1. The principle of incorporating some 2 bed units within the apartment building is considered acceptable. The reserved matters application is in accordance with the parameters established at the outline stage and is considered acceptable.
- 7.2. The site is in a sustainable location close to Selly Oak District Centre and, as such, would assist in achieving the City Council's wider housing objectives and supply. I consider that the development would sit comfortably within its surroundings, would have no unacceptable impact on existing occupiers or the highway network, and would provide an attractive living environment for the future occupiers.
8. Recommendation

8.1. Approval subject to the condition below

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

Case Officer: Andrew Fulford



**Photo(s)**



Photo 1: Raddlebarn Road Elevation

INCLUDEPICTURE "cid:A2417C91-F3D8-4A5F-9E49-63A5D311246D" \\* MERGEFORMATINET



Photo 2: Oak Tree Lane elevation

# Location Plan



This map is reproduced from the Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Birmingham City Council. Licence No.100021326, 2010

# Birmingham City Council

Planning Committee

27 May 2021

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Subject to 106 Legal Agreement	14	2020/09322/PA  Site corner of Morville Street and Ladywood Middleway Ladywood Birmingham B16 8HA  Demolition of existing buildings, and erection of a 14 storey building comprising 80 apartments with associated works
Approve – Conditions	15	2020/02657/PA  St James' House 17 Horse Fair City Centre Birmingham B1 1DB  Part demolition, part retention, extension up to 11 storeys and change of use from offices to 156 bed aparthotel (c1) and associated facilities

Land bounded by Montague Street, The Grand Union Canal, Barn Street, Milk Street, High Street Deritend, Adderley Street and Liverpool Street, including part of the Duddeston Viaduct  
Digbeth  
Birmingham  
B12

Hybrid planning application comprising: Outline application with all matters reserved for demolition of identified buildings, conversion and alteration of existing and erection of new buildings for a mixed use development of up to a maximum of 350,000sqm floorspace (GIA) comprising up to 1,850 units of residential accommodation (Use Classes A1, A2, A3, A4, A5, B1,C1,C3, D1,D2); car parking (including multi-storey car park), student accommodation and nightclubs (Sui Generis) (up to 26,100sqm GIA) within buildings ranging from 1 to 15 storeys; associated public realm works, including new pedestrian bridges across the River Rea and the Grand Union Canal and two new bridges to form a linear sky park atop Duddeston Viaduct on land bounded by Montague Street, The Grand Union Canal, Barn Street, Milk Street, High Street Deritend, Adderley Street and Liverpool Street.

Full planning application for part demolition part conversion and construction of a mixed use development ranging from 1 to 9 storeys (Use Classes B1, A1 to A3) and associated public realm on Wild Works site bounded by Floodgate Street, Moores Row, Milk Street and the Bordesley Viaduct (Plot CF1);

Full planning application for demolition of existing buildings and erection of a residential development comprising 40 no. units within a building of 7 storeys (Use Class C3) with ground floor retail/food and drink uses (Use Classes A1 to A3) and associated public realm, including a new pedestrian bridge over the River Rea on land bounded by the River Rea and Floodgate Street (Plot CF2);

Full planning application for a three storey rooftop extension to the existing Custard Factory to form additional workspace (Use Class B1) and extension at ground floor (Use Classes A1, A3, A4 and B1a).

---

Committee Date: 27/05/2021      Application Number: 2020/09322/PA  
Accepted: 03/12/2020      Application Type: Full Planning  
Target Date: 31/05/2021  
Ward: Ladywood

Site corner of Morville Street and Ladywood Middleway, Ladywood, Birmingham, B16 8HA

Demolition of existing buildings, and erection of a 14 storey building comprising 80 apartments with associated works

Recommendation

**Approve Subject to a Section 106 Legal Agreement**

1. Proposal

1.1. The development comprises 80 residential units (Use Class C3) in a 14-storey building. The proposed mix of apartments is as follows:

- 33 x 1 bed
- 47 x 2 bed

This equates to 41% 1 bed and 59% 2 bed apartments.



Figure 1. View from Ladywood Middleway

1.2. The applicant has confirmed 9 no. apartments for affordable market sale equating to 11%.

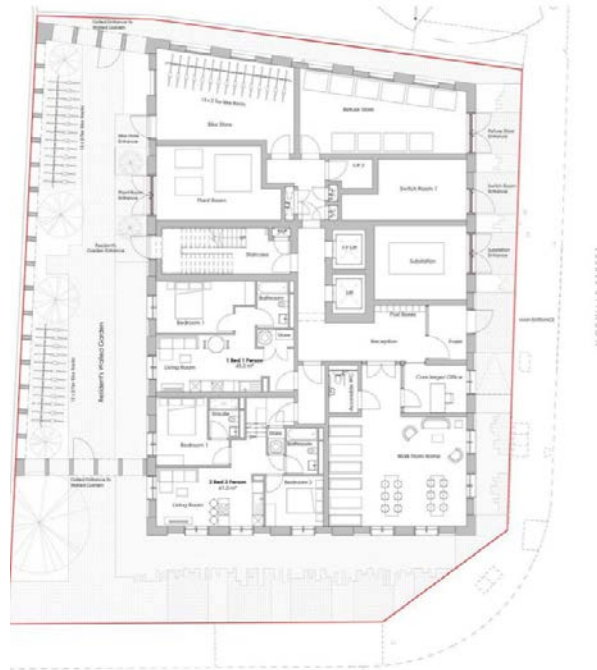


Figure 2. Ground floor layout

- 1.3. There are no car parking spaces proposed, however, an on-site cycle store would be provided for residents; 30 designated internal and 50 external cycle spaces. The internal cycle store is located at ground level accessible through a secured entrance off Morville Street and the external cycle storage is in the courtyard accessible through secured entrance off Ladywood Middleway.



Figure 3. Typical floor plan

- 1.4. The proposal also includes a private walled garden area for residents measuring approximately 160sqm, a private roof garden measuring approximately 241sqm and resident's work from home space at ground floor level measuring approximately 50sqm.



Figure 4. View at ground floor level

#### Design and Access

- 1.5. The design incorporates the idea of two stacked massed forms at points with different angles. The façade would be red brick with both stretcher bond and recessed stacked bond adding some visual articulation. The windows would be metal framed with a natural copper finish.



Figure 5. View at crown level

- 1.6. Residential access will be at the Morville Street elevation and refuse collection vehicles will be able to pull into Morville Street to collect.



Figure 6. South-west aerial view toward city centre

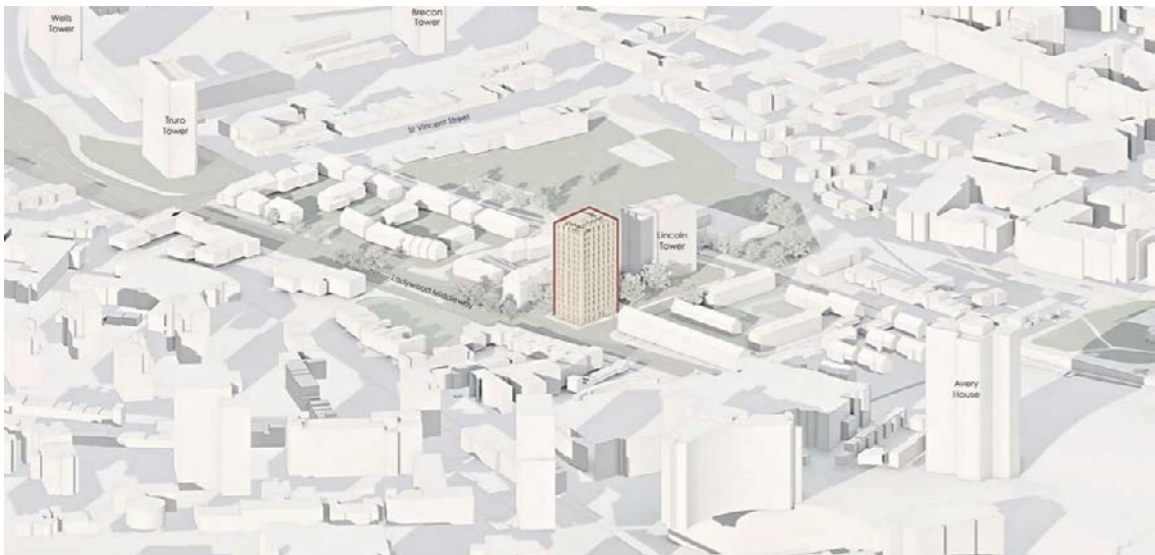


Figure 7. South-east aerial view toward Ladywood

- 1.7. The application is supported by the following:-
- Design and Access Statement
  - Planning Statement
  - Flood Risk Assessment and Outline Drainage Strategy
  - Air Quality Assessment
  - Travel Plan
  - Preliminary Pre-Demolition Ground Investigation
  - Energy Statement
  - Ecological Appraisal
  - Aborigicultural Impact Assessment
  - Daylight and Sunlight Report
  - Biosolar Roof Statement
- 1.8. A Viability Assessment has been submitted to demonstrate that the scheme cannot support the contribution toward affordable housing or any sums towards planning obligations. However, it has been agreed that the scheme can provide 11% affordable housing units (9 no. units) at 75% Market Value.
- 1.9. [Link to Documents](#)



## 2. Site & Surroundings

- 2.1. The application site is located approximately one mile south west of the city centre at the junction of Morville Street and the A4540 Ladywood Middleway, with a 4-storey residential building and associated car parking to the north west on Gilby Road and a row of garages in front of an existing 12 storey residential building to the east on Rann Close.
- 2.2. The site comprises of a 2-storey building, formerly Five Ways Health Centre and last used as a flower shop, with on-site car parking. The site is not located within a conservation area and there are no designated heritage assets on the site or within its immediate surrounding.

## 3. Planning History

### Application site

- 3.1. 2009/00266/PA – Change of use from public house (A4) to doctors surgery (D1). Approved subject to conditions.
- 3.2. 2005/03155/PA – Outline approval for erection of new dwellings. Approved subject to conditions.

### Nearby permissions

- 3.3. 2015/00738/PA – Lansdowne House, Hagley Road - Development of a 18 storey residential building comprising 206 residential units, coffee shop (A1) with ancillary gym, infrastructure, parking and landscaping at the land adjacent to no.1 Hagley Road (former Metropolitan House), and associated works. Approved subject to conditions.
- 3.4. 2017/04628/PA – Land rear of Park Regis, Broad Street – Erection of 228 residential units varying between 6 & 17 storeys together with 6 no. ground floor retail units (Use Class A1), car parking & associated works. Approved subject to conditions.
- 3.5. 2014/09348/PA & 2016/08890/PA – Sheepcote Street & Broad Street – Full Planning permission for the development of a 22 storey residential building (C3) containing 189 apartments including ground floor restaurant and retail space (A1 and A3) and a 17 storey hotel building (C1) with ancillary retail and leisure uses, including a ground floor restaurant space (A3). The development includes part demolition of the Grade II listed 78 - 79 Broad Street and will also provide associated hard and soft landscaping, infrastructure and engineering works & Full planning permission for the development of a 31 storey residential building (Class C3) containing 205 apartments including ground floor restaurant use (Class A3), internal and external residential amenity space, associated hard and soft landscaping, infrastructure and engineering works.
- 3.6. 2019/05158/PA – 100 Broad Street – Demolition of existing buildings and erection of 61 storey tower to include 503 apartments (Use Class C3), ground floor commercial/retail units (Use Classes A1-A5 , B1a, D1 & D2), flexible upper floor uses (Use Classes A3, A4 and D2), ancillary residents amenity and all associated works.

## 4. Consultation/PP Responses

- 4.1. Adjoining occupiers, residents' associations, Westside BID, Local Ward Councillors and MP notified. Site and Press notices displayed. Three objections have been received by nearby residents raising the following concerns:-
- The height is excessive in relation to surrounding structures and too high for the relatively small footprint of the land;
  - Negatively impact the sunlight on the four-storey residential building to the North-West off of Rann Close;
  - It is likely the foundation will encroach and affect the site boundary;
  - The construction works will cause a lot of noise and disruption and would impact on health and well-being;
  - The 14-storey building will block views and light.
- 4.2. One letter of objection by Councillor Kath Hartley requesting the application be withdrawn. The following issues have been raised:-
- The planning application pre-empts the Central Ladywood Regeneration Initiative (CLRI).
  - The site is within the CLRI area. It is a significant 'gateway site and requires the careful consideration by residents and Councillors in the context of a yet-to-be established CLRI Masterplan.
  - Plans should be held back until the Masterplan has been established.
  - The development will put a demand for on-street parking.
  - There is no street-level activity on the ground floor of the plans.
- 4.3. BCC Education (School Organisation Team) – Request a contribution of £206,108.74 for provision of places at local schools.
- 4.4. BCC Employment Access Team – request local employment obligations either via a legal agreement or condition.
- 4.5. BCC Leisure Services – no objections. In accordance with BDP policy, this residential development is liable for POS and play area contribution of £214,475.
- 4.6. BCC Regulatory Services – No objection subject to noise insulation scheme, contamination remediation scheme and contaminated land verification report.
- 4.7. BCC Transportation Development – No objection subject to cycle parking and refuse bin store areas being provided before the development is occupied, and a note that the redundant footway crossing needs to be reinstated before the development is occupied.
- 4.8. Birmingham Civic Society – Letter of support. Proposal has a well-considered design, is appropriate in scale, material and design quality for this site.
- 4.9. Local Lead Flood Authority – Object. Further information is required to demonstrate the proposed development can meet the minimum requirements of Policy TP6 of the adopted Birmingham Development Plan and the requirements of the NPPF. The LLFA accept the proposed maximum discharge rate of 2 l/s however to support the viability of the drainage strategy which has a proposed discharge to a public sewer, written confirmation to the developer, demonstrating that the proposed discharge rate and location are acceptable to Severn Trent Water is required.
- 4.10. Severn Trent – No objection subject to secure drainage plans for the disposal of foul and surface water flows.
- 4.11. West Midlands Fire Service – Approval of Building Control will be required.

4.12. West Midlands Police – No objection subject to the following:-

- Robust access control measures;
- Work is undertaken to the standards laid out in the Secure by Design Secure by Design 'Homes 2019';
- Build to Secure by Design standards;
- Suitable CCTV;
- Lighting strategy; and
- Suitable boundary treatment at roof level.

5. Policy Context

5.1. Birmingham Unitary Development Plan (UDP) (Save Policies 2005); Birmingham Development Plan (January 2017); Car Parking Guidelines SPD (2012); Public Open Space in New Residential Development SPG(2007); Affordable Housing SPG (2001, threshold amended 2006); Lighting Places SPD (2008); Access for People with Disabilities SPG; Places for Living SPG (2001); Places for All SPG (2001); Guidance note on Sustainable Construction and Low and Zero Carbon Energy Generation (June 2019); the emerging Development Management in Birmingham DPD and Revised National Planning Policy Guidance.

6. Planning Considerations

**Land Use Policy**

6.1. The site is located where two of the BDP growth areas overlap, the City Centre Growth Area (GA1) and the Greater Icknield Growth Area (GA2). The site is within the Westside and Ladywood Quarter (GA1.3) which has the objective of: Creating a vibrant mixed-use area. GA1.1 identifies the Role and Function of the City Centre as the focus for retail, office, residential and leisure activity. The policy also supports residential development where it provides well-designed high-quality living environments; it should also provide flexible and adaptable accommodation meeting a range of needs. GA2 and the Greater Icknield Masterplan identify housing growth as a key aim for the area.

6.2. Residential use – The proposal meets the requirements of BDP policy TP28 (the location of new housing) and given the policy context set out above, with both GA1 and GA2 supporting residential development in this location, there is no policy objection to the principle of residential development.

6.3. BDP Policy TP30 sets the requirements for the type, size and density of new housing based on the Strategic Housing Market Assessment 2013. Although the proposed development consists of 1- and 2-bedroom apartments, given the site's city centre location, it is considered that a higher proportion of smaller house types are appropriate.

6.4. The objection from the Local Councillor is noted, however, it is important to note that there is currently no policy preventing the development of this site. In principle, Officers welcome redevelopment, which would help meet the city's housing needs and as recommended by the City Council's Employment Access Team a condition is attached to secure local employment and training.

**Design**

6.5. The original design was poor and comprised a rectilinear plan with a chamfered corner to the junction defined by balconies. The design spoke nothing of the site context. A revised design has since been submitted and now forms this application.

The building is now brick and follows the alignment of the boundaries and principal street frontages before stepping back to an orthogonal form on the eighth floor (on the Lincoln Tower elevation).

- 6.6. A double floor base with four sets of three floors grouped up through the elevation and topped with an open crown around a roof garden. The plans illustrate deep reveals between the primary grid and the secondary vertical panels of projecting and recessed header brickwork and vertical panels of stack bond brickwork, then a further recess to the window alignment. Both these recesses would have reveals lined with metal framing to match the window frames.
- 6.7. The elevations comprise of stack bonded panels of brickwork and projecting header panels of brick which add further interest to the development. It is considered beneficial that the lift is located centrally with the stairs to the external envelope as this internal design arrangement allows for windows to be provided around the complete circumference of the building, without the need for blank panels. Conditions have been attached requiring the submissions of full architectural and specification details, sample materials and details regarding the phasing and implementation of all landscaping.

### **Noise**

- 6.8. The noise assessment notes that the principal noise impact is from road traffic. Highest traffic noise levels are generated by Ladywood Middleway, with some additional contribution from other roads in the vicinity including Five Ways to the south. At elevations further from or screened from Ladywood Middleway, noise levels fall off significantly due to distance attenuation and screening by the new building.
- 6.9. The report considers that the internal noise criteria of requirements of ProPG, BS 82333 and BCC PCGN can be achieved with appropriate acoustic rated glazing and acoustic rated vents to the northern, western and southern elevations. BCC Regulatory Services have no objection subject to a noise insulation scheme which has been conditioned accordingly.

### **Access and Parking**

- 6.10. The development would be car free but include 80 cycle storage spaces. A Transport Statement confirms that there are a wide range of local facilities, services and employment opportunities within easy walking distance. The site is well served by high frequency bus services and major railway interchanges, and there are a number of viable cycling options for residents, visitors, occupants and staff. The site is therefore in a highly accessible and sustainable location. It is therefore considered that the site can be seen to accord with TP27 of the Birmingham Development Plan. No highway safety concerns are raised.

### **Living and Amenity Space**

- 6.11. When assessed against the nationally prescribed housing standards all apartment sizes meet minimal standards. A private walled garden would be provided at ground floor level as well as a private rooftop garden and green roof at the 8<sup>th</sup> floor.

### **Daylight, Sunlight and Overshadowing**

- 6.12. The potential effects on daylight and sunlight to surrounding residential properties, main back gardens and amenity spaces has been assessed using the methodology recommended in the BRE guidelines. Both daylight and sunlight studies illustrate

that the effects on neighbouring properties adjacent to the site meet the VSC (Vertical Sky Component) recommendations.

- 6.13. Notwithstanding this, the results show that a few of the neighbouring windows, particularly those at 24 Rann Close, do not pass the test. However, whilst the VSC test involves comparing the existing and proposed light levels the site is currently largely undeveloped and as a result the existing light levels are exceptionally high, particularly in the context of an urban location. In the case of 24 Rann Close, all habitable rooms have at least one window which achieves a VSC of 15% and many are in excess of 20%. The independent daylight and sunlight review states that in an inner-city urban environment, VSC values in excess of 20% should be considered as reasonably good, and that VSC in the mid-teens should be acceptable.
- 6.14. It is necessary to take into consideration that the numerical guidelines in BRE Guidance should be interpreted flexibly, as natural lighting is only one of many factors in site layout design and consideration of amenity. Paragraph 123 of the NPPF is clear that local planning authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making use of a site; as long as the resulting scheme would provide acceptable living standards. The isolated areas of non-compliance with the BRE Daylight & Sunlight recommendations are not unusual in the context of a high-density urban development. Give the marginal and isolated nature of the daylight sunlight related shortfalls Officers are of the opinion that on balance the development has an acceptable impact on the sunlight received by the neighbouring properties.

#### **Air Quality**

- 6.15. The Air Quality Assessment considers both the construction and operational phases. Regulatory Services have no objection. Overall, it is considered that the proposed development would comply with relevant air quality policy.

#### **Flooding, Drainage and Ground Conditions**

- 6.16. The site is located within flood zone 1 and is therefore appropriate for a residential development. The surface water drainage strategy concludes that discharge rates are reduced as close to as possible as Greenfield run-off rates with an extra allowance of 30% in drainage network capacity to take account of climate change. The report proposes a peak surface water discharge rate of 2l/s as the lowest achievable discharge rate. The LLFA support this discharge rate, however, note that in order to support the viability of the drainage strategy written confirmation to the developer, demonstrating that the proposed discharge rate and location are acceptable to Severn Trent Water is required. Severn Trent have raised no objection to the development subject to drainage plans for the disposal of foul and surface water flows. The LLFA are of the view that the submitted details do not fully demonstrate compliance with Policy TP6 of the adopted Birmingham Development Plan and therefore conditions requiring the prior submission of a Sustainable Drainage Strategy and Sustainable Drainage Operation and Maintenance Plan are attached.

#### **Ecology**

- 6.17. An ecological records search and a walkover site survey / preliminary bat roost inspection was completed in September 2020. The ecological data search provided records of a variety of protected and notable species within 1km of the site, including several bat species, badger, black redstart, house sparrow, starling and swift.

- 6.18. The preliminary roost assessment has concluded the site has negligible suitability for roosting bats. The Council's Ecologist concurs and no further bat surveys are required.
- 6.19. The ecology report includes recommendations to enhance the site's biodiversity, notably use of locally native trees and shrubs and ecologically beneficial ornamental plants in the soft landscape scheme, and incorporation of new nesting sites for urban bird species (e.g. house sparrow, starling) in/on the new building. Further details of these enhancement measures have been secured by conditions. Overall, there are no significant ecological constraints to the development.

### **Sustainability**

- 6.20. Energy efficient measures proposed include efficient heating, improved insulation levels, high specification glazing and energy efficient lighting. The total predicted CO2 emissions of the development is 93,119.7 kg CO2 / annum. This is a reduction of 15.6% or 17,689.9 kg CO2 / annum over the baseline.
- 6.21. To provide carbon savings beyond Part L 2013 Building Regulation passive design and energy efficiency measures include building fabric U values, thermal bridging, air permeability, passive solar design, mechanical ventilation and heat recovery (MVHR), waste-water recovery and efficient LED lighting.
- 6.22. The applicant has further submitted information detailing bio-solar roof technology to be installed on pergola structures in the rooftop amenity garden. A condition has been attached requiring further details of these bio-solar roof panels to be provided prior to their installation.

### **CIL and Planning Obligations**

- 6.23. Given the number of proposed apartments the City Council's policies for Affordable Housing and Public Open Space in New Residential Development apply. The applicant has submitted a Viability Statement with the application, which has been independently assessed by the City Council's assessor.
- 6.24. Policy TP31 requires 35% of dwellings as Affordable Housing. The Council's independent assessor has concluded that the development can provide 11% affordable housing at 75% of Market Value.
- 6.25. BCC Education, BCC Leisure Services and Sport England have also requested financial contributions. However, in this instance it is considered that affordable housing is the greater priority. The proposed development does not attract a CIL contribution.
- 6.26. The application site is located outside of the defined 'High Value' area as set out in the adopted charging schedule, and on this basis the residential accommodation proposed will attract a £nil charge.

## **7. Conclusion**

- 7.1. In principle the development proposal is considered acceptable. The scheme would provide good quality housing for this area of Birmingham City Centre. The design of the building is considered acceptable and subject to conditions shall provide visual interest.
- 7.2. It is therefore considered that the application is acceptable subject to completion of a legal agreement and safeguarding conditions.

8. Recommendation

8.1. Approve application 2020/09322/PA subject to the prior completion of a Section 106 Legal Agreement to secure the following: -

- a) 9 no. affordable housing units at 75% of Market Value in perpetuity comprising the following:
  - 5 x 1 beds
  - 4 x 2 beds
- b) A financial contribution of £1,500 for the administration and monitoring of this deed to be paid upon completion of the agreement.

and subject to the conditions listed below.

8.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the 30<sup>th</sup> June 2021 or such later date as may be authorised by officers under powers hereby delegated, planning permission be refused for the following reason(s): -

- a) In the absence of a legal agreement to secure affordable housing, the proposal conflicts with Policy 8.50-8.54 of the adopted Unitary Development Plan, Policy TP31 Affordable Housing of the Birmingham Development Plan 2017 and Affordable Housing SPG.

8.3. That the City Solicitor be authorised to prepare, complete and seal an appropriate agreement under Section 106 of the Town and Country Planning Act.

- 
- 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 construction method statement/management plan
  - 4 Requires the submission of sample materials
  - 5 Requires the submission of a CCTV scheme
  - 6 Removes PD rights for telecom equipment
  - 7 Requires the provision of cycle parking prior to occupation
  - 8 Requires the prior submission of a contamination remediation scheme
  - 9 Requires the submission of a contaminated land verification report
  - 10 Requires the prior submission of a sustainable drainage scheme
  - 11 Limits the noise levels for Plant and Machinery
  - 12 Requires the prior submission of noise insulation (variable)
  - 13 Requires the prior submission of noise insulation (variable)
  - 14 Requires submission of a Noise Insulation Scheme
-

- 
- 15 Requires the prior submission of details of bird/bat boxes
  - 16 Requires the implementation of the submitted mitigation/enhancement plan
  - 17 Requires the prior submission of a construction employment plan
  - 18 Requires the submission of boundary treatment details
  - 19 Requires the submission of a landscape management plan
  - 20 Requires the submission of a lighting scheme
  - 21 Requires the submission of hard and/or soft landscape details
  - 22 Requires the submission of details of green/brown roofs
  - 23 Requires the implementation of low carbon measures as recommended within Energy Statement
  - 24 Requires details of bio-solar roof panels
- 

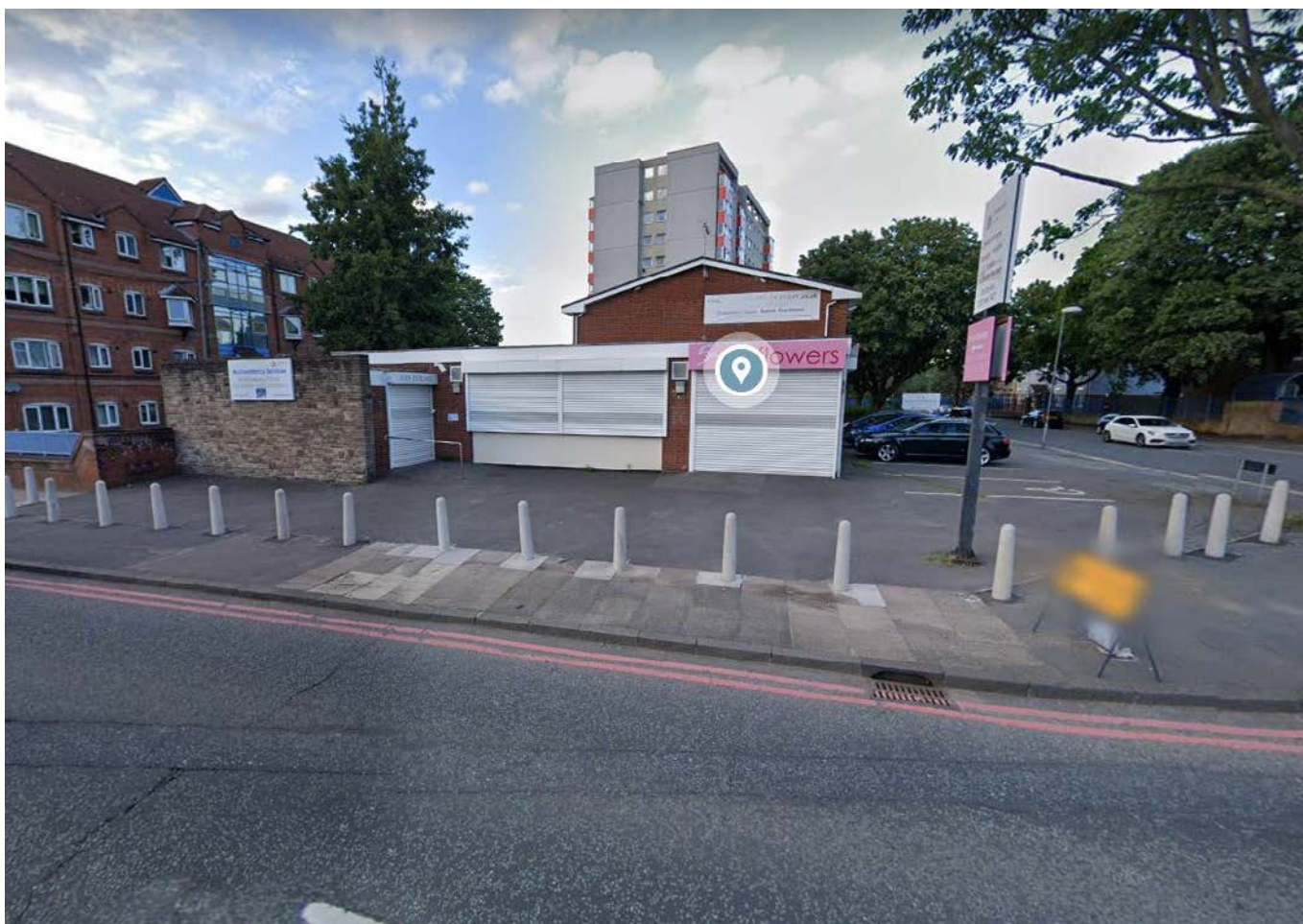
Case Officer: Miriam Alvi



**Photo(s)**



View from corner of Morville Street and Ladywood Middleway (Google, 2021)

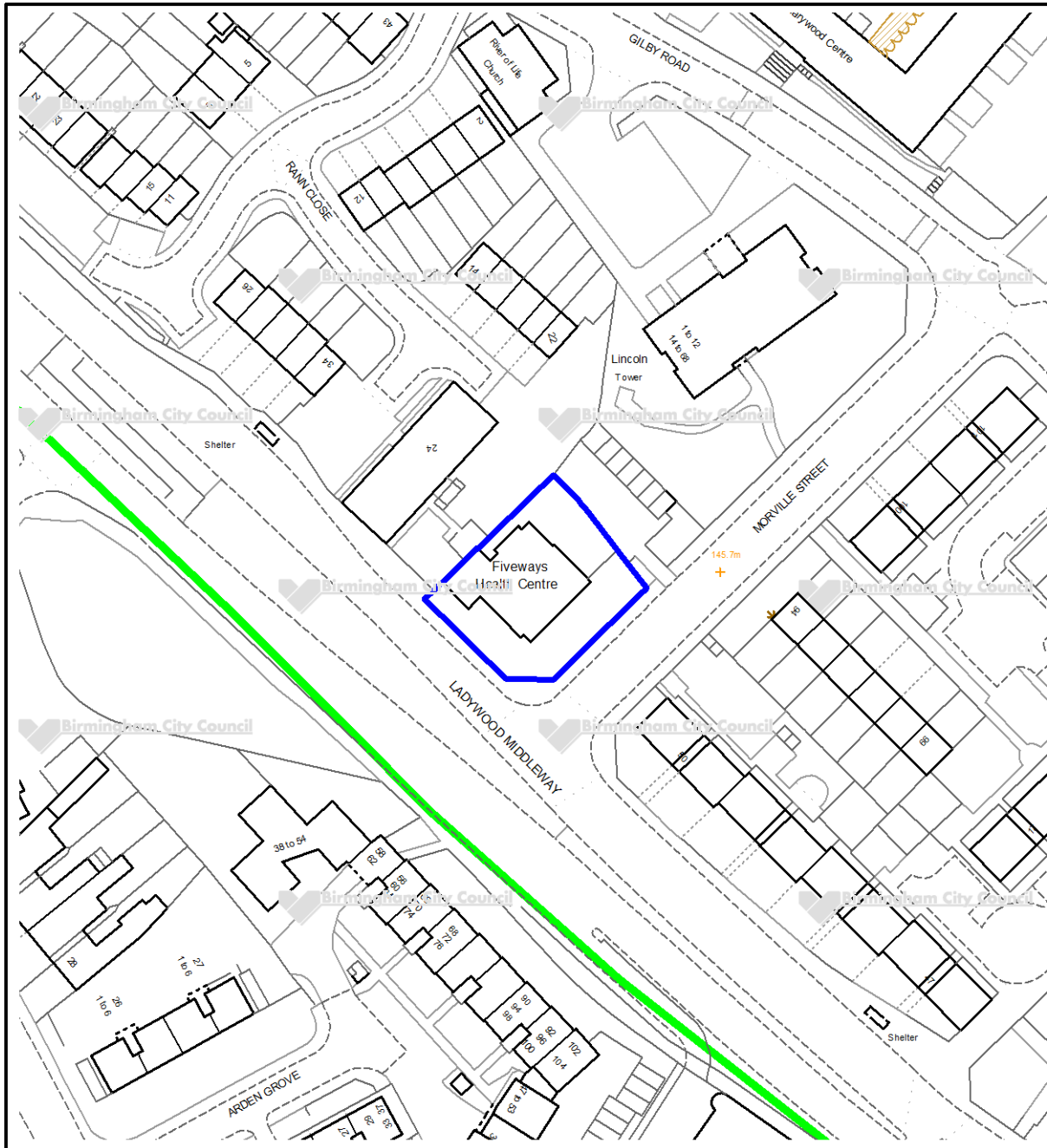


View from Ladywood Middleway (Google, 2021)



View from Morville Street (Google, 2021)

# Location Plan



This map is reproduced from the Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Birmingham City Council. Licence No.100021326, 2010

---

Committee Date:	27/05/2021	Application Number:	2020/02657/PA
Accepted:	29/01/2021	Application Type:	Full Planning
Target Date:	28/05/2021		
Ward:	Ladywood		

### St James' House, 17 Horse Fair, City Centre, Birmingham, B1 1DB

Part demolition, part retention, extension up to 11 storeys and change of use from offices to aparthotel (C1) and associated facilities.

#### Recommendation

#### **Approve subject to Conditions**

##### 1. Proposal

- 1.1 Application is for part retention and part demolition of the existing building, extension up to 11 storeys and use as a 156 bed aparthotel (C1) and ancillary facilities. The hotel would be operated by Marriott Residence Inn (an international hotel brand).
- 1.2 Floors 3-7 would be demolished and a new lightweight structure to comprise floors 3-11 (inclusive) would be erected on the same footprint. It would be constructed in a metallic finished silver aluminium cladding with a metallic powder coating which would comprise of large windows and bevelled/angular recesses and projections in a regular pattern. Copper patented cladding would be used to frame the main façade and highlight the hotel podium (within the retained building) and to construct a slim side extension on the north side of the hotel.

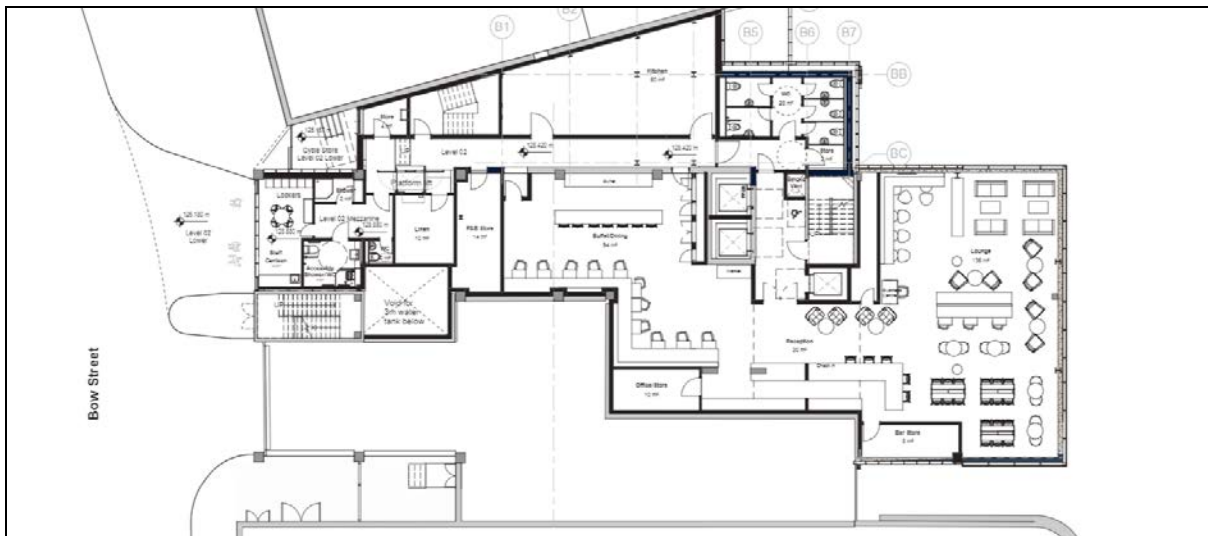


Figure 1: Proposed Bristol Street elevation and a sketch image of the site



**Figure 2: Proposed main façade and proposed north elevation**

Customer access would be via the entrance lobby on Bristol Street with staff access from Bow Street. The reception area, residents bar/dining/lounge area would be on floor 2 and overlook Bristol Street, with associated staff facilities/supporting facilities taking up the rest of this floor, including a staff room which would overlook Bow Street. A resident's gym would on floor 3. Hotel accommodation would be on floors 3-11 (inclusive) with each aparthotel comprising a double bed, living area, kitchenette and en-suite, and ranging in size from 24 to 38 sq m.



**Figure 3: Proposed ancillary uses on floor 2**

- 1.3 No car parking would be provided, but 4 covered cycle racks would be provided and accessed via Bow Street.
- 1.4 Information submitted in support includes a Design and Access Statement, Traffic Assessment, Energy Assessment, Noise and Vibration Assessment and a Planning Statement.
- 1.5 [Link to Documents](#)
2. Site & Surroundings
  - 2.1 The application site comprises a 7 storey, 1970s building of pre-cast concrete with a regular grid like pattern. Given the scale of the site's immediate neighbours and the road layout the site is relatively prominent.

2.2 Part of the building and the adjoining building to the south make up the O2 Academy, a live music venue and nightclub with three separate performance rooms. The main access and smoking area of the Academy are on the footpath immediately beneath/part of the application building. To the north is a multi-storey car park used to store rental cars. There are a mix of uses in the wider area including residential to the west.

2.3 There is an existing taxi rank on the A38 outside the O2 building.

2.4 [Site location](#)

### 3 Planning History

3.1 19th June 2013 – 2012/08409/PA Change of use from offices (B1a) to 70 rooms for student accommodation (SG). Approved subject to S106 and conditions.

3.2 31st October 2016 – 2016/05620 Part demolition and erection to front, rear and above (part 3 storeys above St James House and part storeys); conversion to create 217 student residential accommodation (SG) with ancillary cycle parking, storage and plant. Withdrawn.

3.3 27<sup>th</sup> September 2018 - 2018/06587/PA Prior approval for change of use from offices (B1(a)) to 70 residential flats(C3)). Prior approval required and approved with conditions. Prior approval required and refused.

3.4 21<sup>st</sup> December 2018 - 2018/08890/PA Prior approval for change of use from offices (B1(a)) to 70 residential flats(C3)). Prior approval required and approved with conditions.

3.5 13<sup>th</sup> June 2019 – 2019/00463/PA Erection of roof top extension to provide 7 flats, change of use of first floor, part second floor and roof storage area to provide 2 flats, ancillary residential facilities and associated external alterations. Approved with conditions.

### 4 Consultation/PP Responses

4.1 LLFA – No comments.

4.2 Regulatory Services – No objections subject to conditions to secure noise mitigation levels as identified within the noise assessment.

4.3 Severn Trent – No objection subject to drainage condition.

4.4 Transportation Development – No objections subject to conditions to secure removal of the dropped kerb (s278) and cycle parking provision.

4.5 West Midlands Police – Note the high levels of crime and anti-social behaviour in the area but raise no objections subject to conditions to secure CCTV and security/site management plan.

4.6 Local residents' association neighbours and Ward Councillors were notified. Site and press notices were displayed. 6 letters of objection have received including one from Birmingham Civic and Southside Bid. Objections are raised on the basis that;

- Poor design, out of character with the area
- Construction noise unacceptable

- Monitoring of dust/air particles required along with monitoring of traffic on A38
- Internet should be improved, and proposal should have no impact on cellular network
- Inadequate noise assessment and mitigation proposed – O2 Academy (adjoining neighbour) consider the submitted noise assessment to be inadequate. They consider a joint noise assessment is required without which they object on the basis that they consider the proposal will lead to potential conflicts between their existing use and the proposed hotel to the detriment of the existing music venue and contrary to the NPPF agent of change.

Birmingham Bid – Proposed design is poor and would be out of character with the area with inadequate soundproofing, whilst the current building is unsafe and has purposefully been left in this way

Birmingham Civic Society – The building is not listed and not likely to be listable, but we object to its loss and consider previous permissions demonstrate a more suitable redevelopment of this site.

## 5 Policy Context

- 5.1 Birmingham Development Plan 2017 (BDP), Saved policies of the UDP 2005, Emerging Birmingham Development Management DPD, Places for All SPG (2001), Car Parking Guidelines SPD (2012) and National Planning Policy Framework 2017.

## 6 Planning Considerations

- 6.1 The key issues for consideration are the principle, design and noise.

### Principle

- 6.2 The application seeks consent to demolish a significant proportion of the existing building and replace it with an 11 storey, 156 bed aparthotel (use class C1) with ancillary facilities. The application site is located on Suffolk Street Queensway within the Ladywood and Westside area of the City Centre.
- 6.2. Policies PG2 and GA1.1 outline the city's aspirations and growth vision and determines that future leisure uses in the City Centre will be located on the retail cores periphery. Policy GA1.3 identifies that Westside and Ladywood Quarter should be developed to provide a 'vibrant mixed-use area including uses needed for the visitor economy, such as hotels'. Furthermore, the location of leisure uses in the City Centre is supported by policy TP21, TP24 and TP25. I therefore consider the provision of a hotel in this location is acceptable in land use policy terms.

### Design

- 6.3 The application seeks consent to demolish a significant amount of the building. The building is neither listed or locally listed nor is it within a Conservation Area but it is a good example of Twentieth Century construction and due to the surrounding buildings and road layout is prominent within the street scene. As such it could be considered to be a non-designated heritage asset and Birmingham Civic have objected to its loss.
- 6.4 Para 197 of the NPPF states "...In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset." This is also reflected within TP12 of the BDP.

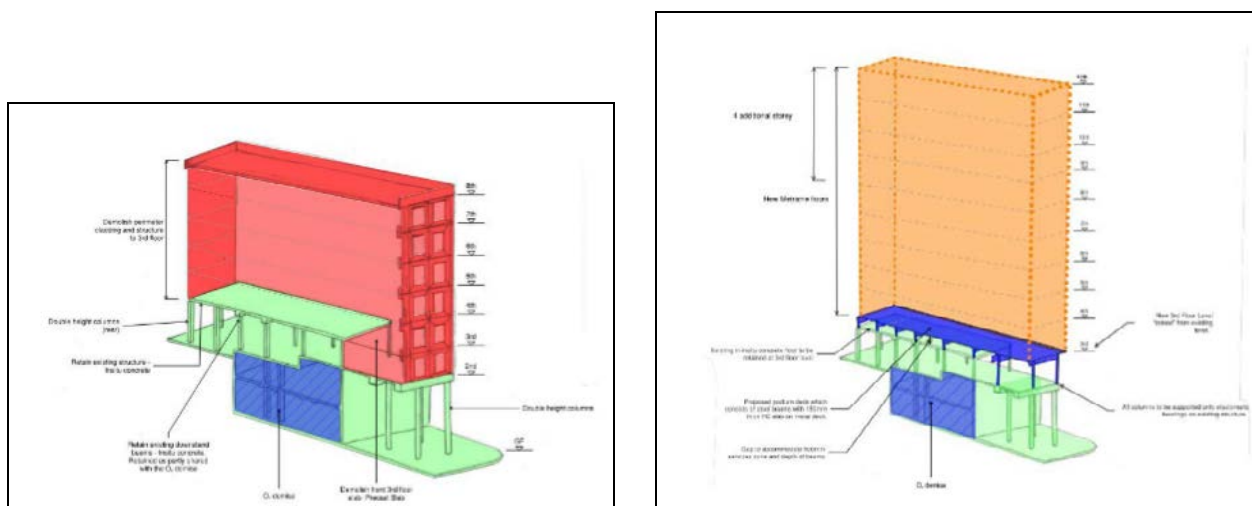
- 6.5 The building was designed by Birmingham Architect James A Roberts. However this building is not as notable as some of his other work including listed/locally listed buildings such as the Rotunda (Grade II) and The Ring Way Centre (SBQ, locally listed Grade B), Kensington House (student accommodation) is almost identical and there are better examples of office block accommodation of this time period elsewhere in Birmingham. The applicant has provided detailed commentary of the performance related issues in utilising the existing building including erosion of the pre-cast façade panels and significant noise issues associated with the existing structure. In addition, I note there have been numerous past attempts to repurpose this building with noise being a significant factor in those previous permissions not being implemented. Therefore, whilst I recognise the existing building façade does have some merit, given all of the above and the economic, social and environmental benefits such as creation of construction and operational jobs, introduction of natural surveillance, additional hotel accommodation and a BREEAM “very good” building are, on balance, considered to outweigh the loss of it as a non-designated heritage asset. Subject to an appropriately designed replacement building, I do not consider there would be sufficient planning grounds to resist it’s loss.
- 6.4 The scale, height and mass of the proposed redevelopment are acceptable given the site’s location on a strategic highway within the City Centre and reflective of increased densities and heights in the immediate and broader city-wide context. Windows are retained 360 degrees around the building, as existing, with the exception of the side extension which has windows looking east and west for design purposes and to maintain/ introduce additional activity and surveillance to both Bow Street and Bristol Street but without compromising the future redevelopment opportunities of adjacent plots.
- 6.5 Further, the applicant has worked with your Officers with regard the design appearance of the proposed building. Amendments to the proposed façade now successfully acknowledge the form and expression of the existing concrete system, with the use of the floor spanning aluminium units, large window mix and bevelled/angular recesses and projections which provide articulation and interest. The copper cladding system will create interest, visual texture and articulation. Therefore, subject to conditions, I consider the primary façade will deliver a high quality and striking outcome in accordance with local and national design guidance/policy.

#### Noise

- 6.6 The operator of the adjacent music venue (O2 Academy) are concerned that the supporting assessments were not done when their building was operating at full capacity, that the mitigation proposed will therefore be inadequate and that this then has the potential to adversely affect their future operation due to noise complaints from hotel customers.
- 6.7 Para 182 of the NPPF states “ Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities ..... Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.” Policy DM6 of the Emerging Development Management DPD also identifies the importance of design to reduce exposure to noise and vibration.



- 6.8 The adjoining music venue has accommodation at ground and 1 floor of the proposed retained building as well as adjacent and has 3 rooms that can all operate simultaneously as well as host multiple events within a 24 hour period. The nature of the events also involves deliveries, collections and the arrival/departure of touring parties, which means that there is activity in and around the venue on the majority of days 24 hours a day.
- 6.9 The application has been supported by noise and vibration surveys which included assessments of the venue in December 2019 with a 'worst case' scenario prediction used. They go on to detail how, from the 3<sup>rd</sup> floor up, the structures would be decoupled from the existing and a new insulated light weight structure positioned upon isolated springs to prevent structure borne noise travelling, in addition to detailing specific glazing and façade construction to reduce the impact of any noise external to the building.



**Figure 4: Proposed demolition (red) and proposed light weight structure (orange) on isolating springs (dark blue)**

- 6.10 Regulatory Services consider the assessment comprehensive, and subject to the submission of detailed construction drawings, consider that the measures proposed would be sufficient to mitigate the noise from the adjoining music venue to acceptable levels for future hotel customers.
- 6.11 The application is for a hotel use and the future occupants are therefore regarded to be less sensitive to noise issues than occupiers of a premises on a permanent basis and a hotel use is arguably more compatible than residential uses previously considered on this site. However, it is essential that the design of the proposed development takes into consideration the noise impact from existing businesses and I am therefore mindful of the music venue's concerns. The applicant has indicated they are happy to submit detailed construction drawings prior to façade construction and that they will also undertake a noise verification survey prior to first occupation to ensure the mitigation measures agreed are correctly installed. Therefore, on balance, I agree with Regulatory Services that subject to safeguarding conditions, the noise mitigation measures proposed should be sufficient to safeguard the amenity of future hotel occupants and thereby ensure that the existing music venue would not be significantly adversely affected. The proposal would therefore accord with policy.

Other

- 6.12 Transportation Development raise no objection subject to conditions. Given the proposed use, the sustainable location of the site, the proximity of the existing taxi rank, car parking facilities in the vicinity and wider public transport initiatives I do not

consider further traffic management would be required. An informative is attached with regard the s278 works required.

- 6.13 The BDP supports the Council's commitment to a 60% reduction in total carbon dioxide (CO<sub>2</sub>) emissions produced in the city by 2027 from 1990 levels through a number of policies including TP1, TP2, TP3 and TP4. The application is supported by an Energy Statement which identifies extensive energy efficient measures and low and zero carbon applications in the form of air source heat pumps and photovoltaic (PV) panels to enable it to achieve a 12% improvement on carbon dioxide savings when compared to Building Regulation Requirements and BRE AAM "Very Good". The proposal would therefore comply with the aims and objectives of the policies in this respect.
- 6.14 The proposed development would be liable to a CIL payment and given the nature of the proposed development, neither policy or other material considerations require any other S106 contribution but on this basis a condition to control its use would be appropriate and this and an employment condition are therefore recommended.
- 6.15 I note the concerns raised by nearby occupiers with regard noise/vibration/disruption/pollution during the construction period. However, these matters are controlled by other legislation and it would not be a reason to refuse planning permission. However, in order to ensure the site is managed effectively during construction, I recommend a construction management condition (CMP). Further whilst not a planning matter the applicant has confirmed their recent acquisition of the site and the security procedures that are in place to maintain the building currently. Improved broadband is a provider concern.
- 6.16 A drainage condition as requested by Severn Trent is recommended.
- 6.17 Finally, I note the Police's comments about crime and anti-social behaviour. The proposed re-build and occupation of the building will introduce a level of natural surveillance that should have a positive impact in this respect however I agree that conditions to secure CCTV, external lighting and a site management plan are required to ensure the amenities of future users of the site.

## 7.0 Conclusion

- 7.1 The proposal would repurpose an existing vacant building on a strategic route within the City Centre and have a positive impact by introducing additional activity and natural surveillance to the area. The loss of the building has been justified and a suitably designed replacement is proposed. Noise concerns have also been addressed. Therefore, subject to conditions the proposed development would accord with local and national planning policies and the development should be approved.

## 8.0 Recommendation

- 8.1 Approve subject to conditions.

- 
- 1 Requires the scheme to be in accordance with the listed approved plans
  - 2 Requires the prior submission of a construction method statement/management plan
  - 3 Requires the submission of sample materials
  - 4 Requires the prior submission of a construction employment plan.
-

- 
- 5 Requires construction of sample panels
  - 6 Requires operational management plan
  - 7 Requires construction details
  - 8 Requires noise mitigation verification assessment
  - 9 Implement within 3 years (Full)
  - 10 Requires the provision of cycle parking prior to occupation
  - 11 Requires the submission of a CCTV scheme
  - 12 Requires the submission of architectural details
  - 13 Requires the submission of a lighting scheme
  - 14 Requires the prior submission of a drainage scheme
  - 15 Restricts occupation
- 

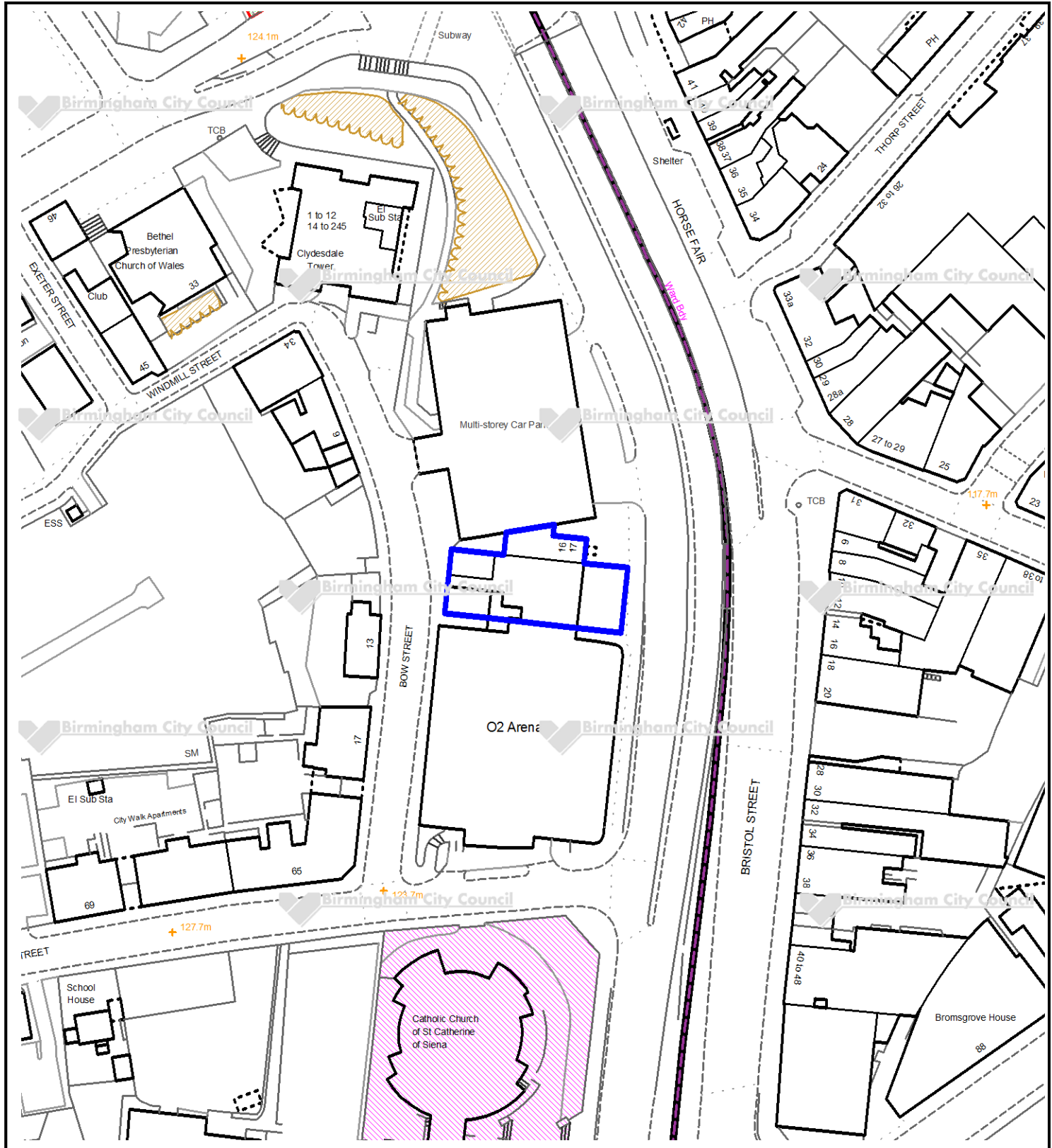
Case Officer: Joanne Todd

**Photo(s)**



Site photo from google

# Location Plan



This map is reproduced from the Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Birmingham City Council. Licence No.100021326, 2010

---

Committee Date: 27/05/2021      Application Number: 2020/03634/PA  
Accepted: 14/07/2020      Application Type: Outline  
Target Date: 03/11/2020  
Ward: Bordesley & Highgate

Land bounded by Montague Street, The Grand Union Canal, Barn Street, Milk Street, High Street Deritend, Adderley Street and Liverpool Street, including part of the Duddeston Viaduct, Digbeth, Birmingham, B12

Hybrid planning application comprising: Outline application with all matters reserved for demolition of identified buildings, conversion and alteration of existing and erection of new buildings for a mixed use development of up to a maximum of 350,000sqm floorspace (GIA) comprising up to 1,850 units of residential accommodation (Use Classes A1, A2, A3, A4, A5, B1,C1,C3, D1,D2); car parking (including multi-storey car park), student accommodation and nightclubs (Sui Generis) (up to 26,100sqm GIA) within buildings ranging from 1 to 15 storeys; associated public realm works, including new pedestrian bridges across the River Rea and the Grand Union Canal and two new bridges to form a linear sky park atop Duddeston Viaduct on land bounded by Montague Street, The Grand Union Canal, Barn Street, Milk Street, High Street Deritend, Adderley Street and Liverpool Street. Full planning application for part demolition part conversion and construction of a mixed use development ranging from 1 to 9 storeys (Use Classes B1, A1 to A3) and associated public realm on Wild Works site bounded by Floodgate Street, Moores Row, Milk Street and the Bordesley Viaduct (Plot CF1); Full planning application for demolition of existing buildings and erection of a residential development comprising 40 no. units within a building of 7 storeys (Use Class C3) with ground floor retail/food and drink uses (Use Classes A1 to A3) and associated public realm, including a new pedestrian bridge over the River Rea on land bounded by the River Rea and Floodgate Street (Plot CF2); Full planning application for a three storey rooftop extension to the existing Custard Factory to form additional workspace (Use Class B1) and extension at ground floor (Use Classes A1, A3, A4 and B1a).

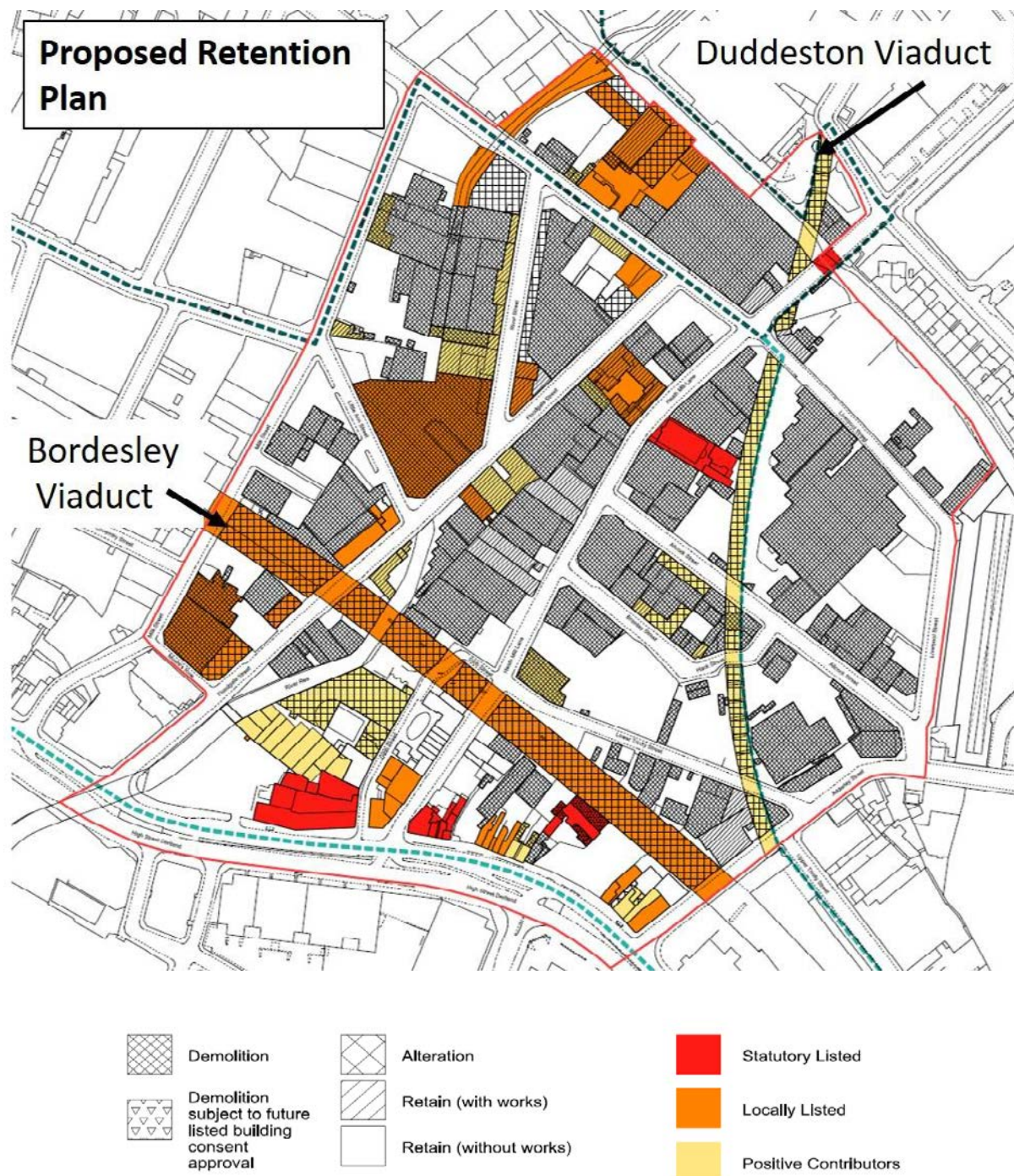
Recommendation  
**Approve Subject to a Section 106 Legal Agreement**

**Report Back**

This application was deferred from the meeting on 29<sup>th</sup> April to allow a site visit that was undertaken on 20<sup>th</sup> May 2021.

## Heritage

1. Clarification has been sought with regards to the impact upon heritage assets. This is covered in detail in paragraphs 6.85 to 6.143 of the report. The plan below indicates the existing statutory and non statutory assets within the hybrid site and those that would be retained, altered or demolished as part of the current proposals.



2. The above plan has been enlarged and broken down into 8 individual phases within the main report. To note is that all of the site to the west of the Duddeston Viaduct is

within either the Digbeth, Deritend and Bordesley High Streets Conservation Area or the Warwick Barr Conservation Area.

3. The individual and cumulative harm to these heritage assets is summarised in paragraph 6.141 of the report.
4. In terms of controlling the redevelopment of the site this would be achieved via:
  - a) The Retention Plan (as per the previous page);
  - b) The Floorspace Schedule (which restricts the amount of floorspace within each Use Class);
  - c) The Parameter Plans (01 – Plot Extents and Height, 02 – Ground Floor Land Use, 03 Typical Upper Floor Lane Use, 04 Access and Connectivity, 05 Public Realm and 06 Street Types)
  - d) The Design Code (including its mandatory requirements for each Plot); and
  - e) Planning conditions (attached to the detailed and outline consents including a requirement to provide details of a redevelopment contract prior to the demolition of any building within the Conservation Areas).
5. The Design Code has been produced by the architects who has designed the detailed application for Wild Works, Custard Factory Living and the Custard Factory Extension. It promotes the same high quality design standards for the buildings, landscape and public realm located within the outline application site. Some guidelines within the Design Code are compulsory, providing certainty with regards to the quality and character of the development. Other guidelines are flexible so that alternative design solutions can be expressed.
6. The first Parameter Plan sets the maximum height for each development plot where the existing building would be replaced. This has been provided in an illustrative form as notably the individual storey heights would change depending on the eventual use of each building.



# Illustrative Building Heights Plan



■ Hybrid planning application boundary

■ 1 storey	■ 4 storeys	■ 7 storeys
■ 2 storeys	■ 5 storeys	■ 8 storeys
■ 3 storeys	■ 6 storeys	■ 14 storeys

## Consultation Process

7. At the previous meeting Councillors queried the consultation process and how informed business owners and tenants were bearing in mind the events of the last year.
8. In addition to the statutory consultation process undertaken by the Council the applicants have submitted a Statement of Community Engagement that sets out the stakeholder and community consultation that has taken place prior to and since the submission of the current application.

9. Prior to the submission of the application the applicants submitted an Environmental Impact Assessment (EIA) Scoping Report. This document seeks agreement as to the important topics that the Environment Statement will cover. In September 2019 a letter was issued to Oval tenants via email, and to other occupiers located within the site to inform them of the EIA Scoping Report. A pre organised BBQ event was used as a forum for any tenants to raise queries.
10. Tenants and owners were thereafter invited to attend an exhibition held in November 2019. In addition, a leaflet was sent to 2,000 residential and business properties around but outside the application site advising of the exhibition and it was covered widely by the local media including the Birmingham Live and Birmingham Post websites and promoted on social media. A 'consult Digbeth' website was also launched. The exhibition explained the approach to the long-term vision for the area and elements of the forthcoming planning application. Approximately 80 people attended the event and within a 2 month period the website received over 7,500 page views from 2,741 individual users. A total of 50 pieces of feedback were received during the consultation period through the various feedback channels provided. This included a form that asked for qualitative feedback regarding the themes of transport, public realm, character, heritage, detailed elements of the planning application and impact on existing occupiers.

#### Additional Comments Received

11. As reported verbally at the last meeting the Canals and Rivers Trust (CRT) have highlighted the recent planning permission at The Bond as a material consideration. This is listed within the Planning History section at paragraph 3.10.

#### Amendments to Conditions

- Additional condition (new No.39) to clearly require details of the redevelopment contract prior to demolition of any part of detailed site;
- Clarification of condition 46 regarding for which use classes a noise assessment is required to be submitted at the reserved matters stage;
- Clarification of condition 47 to include submission of railway noise and vibration mitigation measures; and
- Additional condition (new No.50) to require a sustainable construction statement at reserved matters for buildings that have in excess of 1,000sqm non-residential floorspace.

### **Original Report of 29<sup>th</sup> April 2021**

#### 1. Proposal

- 1.1 This is a hybrid planning application; part is in full and part is in outline. The whole site covers approximately 18.9 hectares of which 1.01 hectares form the full application and the remaining 17.88 hectares comprises the outline site.

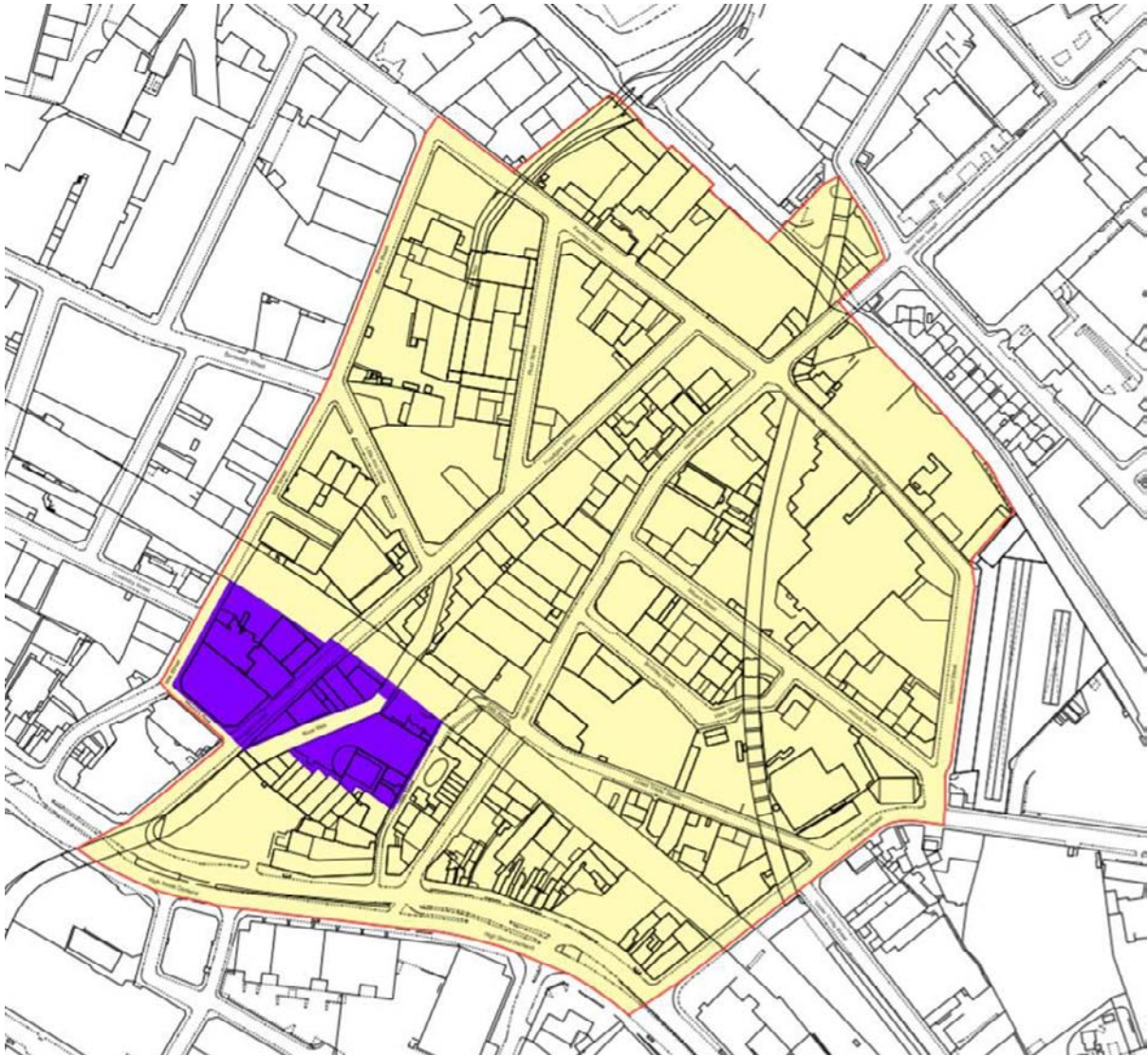


Fig. 1 – Hybrid Planning Application Site Boundary –  
Detailed part in purple, outline part in yellow

- 1.2 Taking the application as a whole the development proposes to redevelop a total of 67 plots for the following range of uses and maximum quantum of development within buildings ranging from 1 to 14 storeys in height:
- i. A1 (shops and retail outlets) / A2 (professional services) / A3 (food and drink). A4 (drinking establishments) / A5 (hot food takeaways) – up to 18,900sqm GIA;
  - ii. B1 (office & business) – up to 180,000sqm GIA;
  - iii. C1 (hotel). – up to 14,400sqm GIA (350 rooms);
  - iv. C3 (residential) – up to 153,000sqm GIA (1,850 units);
  - v. D1 (education/community facilities) – up to 9,900sqm GIA;
  - vi. D2 (leisure) – up to 2,000sqm GIA; and
  - vii. Sui Generis – up to 26,100sqm GIA (between 700 and 850 student bed spaces), up to 800 car parking spaces, nightclub.

- 1.3 It is proposed that the new floorspace would replace the demolition of over 59 buildings within the site.
- 1.4 In addition to the above the whole scheme would provide a wide range of improvements to the public realm, delivering 31,256sqm of public open space, including:
- The opening up of the unused Duddeston Viaduct as a publicly accessible thoroughfare known as Viaduct Park with up to four vertical access points;
  - Providing a new pedestrian bridge over the Grand Union Canal;
  - The opening up of part of the River Rea with an associated bridge and publicly accessible areas of public open space
  - Providing a new east/west route through Digbeth via a new bridge structure
  - Providing a replacement pedestrian bridge over the River Rea and improved pedestrian link between Floodgate Street and Gibb Street
  - Providing a new public link between floodgate street and Heath Mill Lane

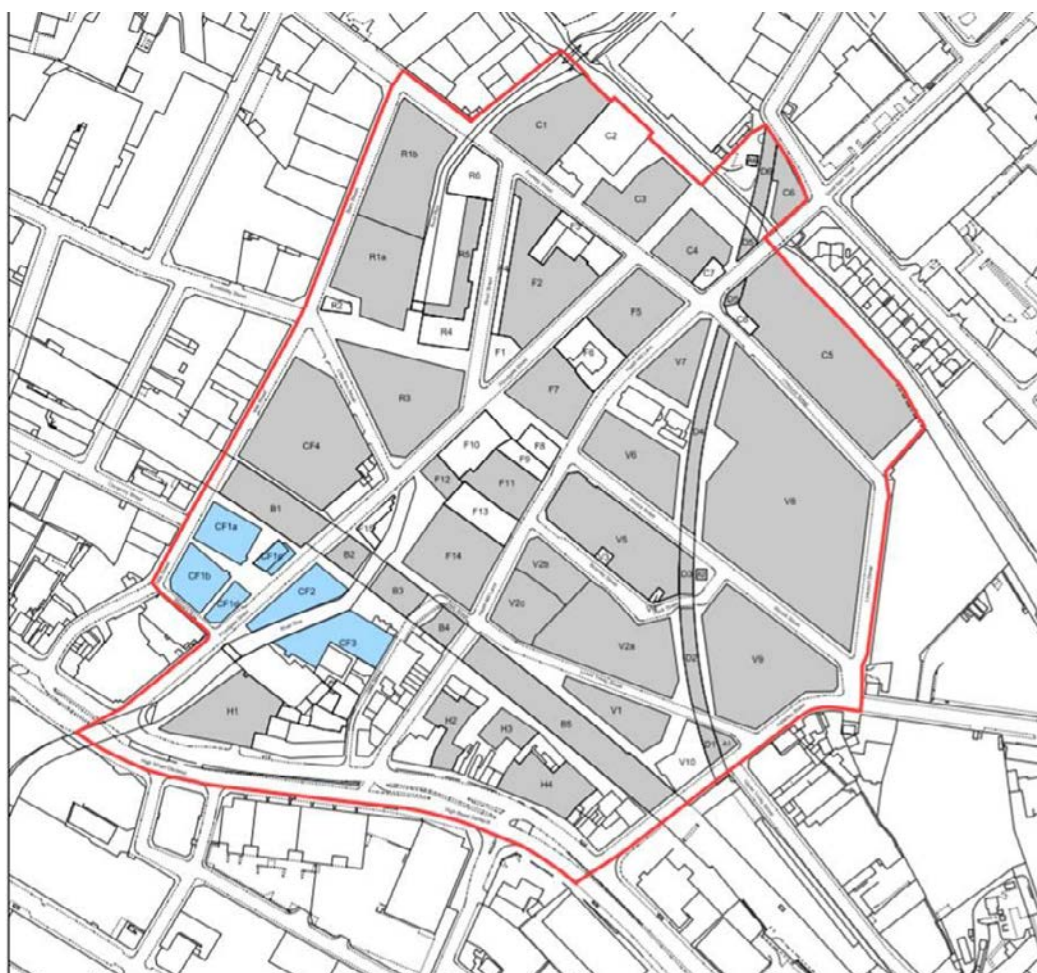


Fig. 2 - Application site boundary with Individual Development Plots Identified  
Full Application Plots in blue, Outline Plots in grey

The Outline Application

- 1.5 The redevelopment of the 67 development plots would be controlled via firstly the quantum of development (listed above), secondly by a set of approved Parameter Plans, thirdly by a building Retention Plan and finally by a Design Code. The Parameter Plans define the following:
- 01 – Plot Extents and Height – defines the maximum height of each plot and the maximum horizontal extent of the building envelope. It also sets the maximum width of the proposed bridges;
  - 02 – Ground Floor Land Use – described in use class terms
  - 03 Typical Upper Floor Land Use - described in use class terms
  - 04 Access and Connectivity – the primary routes and access points are identified including routes for vehicles, cycles, pedestrians;
  - 05 Public Realm – identifying open space, walkways, bridges;
  - 06 Street Types – identifying a hierarchy of street types and possible locations for on street sustainable urban drainage, servicing and parking.
- 1.6 The majority of the site lies within the Digbeth, Deritend and Bordesley High Streets Conservation Area or the Warwick Bar Conservation Area, and as such the site accommodates a number of heritage assets. Accompanying the Parameter Plans is a Retention Plan identifying those buildings that are statutorily listed, locally listed and buildings that are considered to be positive contributors. It also identifies which buildings within the outline application are proposed to be demolished, altered or retained with works or retained without works. With the exception of former Monastery/Dolphin Showers (174-173 High Street) no works of demolition or alteration are proposed to the existing listed buildings on site (although listed building consent would still be required). Meanwhile the locally listed Rea Studios are proposed to be demolished and a significant part of the locally listed Wild Works 2. Nine locally listed buildings are proposed to be retained and altered.
- 1.7 The 67 plots have been divided into six distinct character areas used to inform the Design Code:
- i) River Rea Character Area;
  - ii) Custard Factory Character Area;
  - iii) High Street Character Area;
  - iv) Floodgate Street North Character Area;
  - v) Canalside Character Area; and
  - vi) Viaduct Character Area.
- 1.8 The applicants have illustratively divided the whole site into the detailed application phase followed by 7 further phases. The scale, significance and complexity of the proposed development scheme is unique. With a 15 year build program the applicants have requested an extended period for the submission of reserved matters relating to the outline development plots increasing the standard three years to a period of twelve years.

- 1.9 The assumptions in relation to phasing are defined in Chapter 4 of the ES and have informed the assessment throughout the ES, where relevant. However, and above all, the assessment of the proposed development has been assessed as a 'whole' which would commence in 2021 and, if fully realised, be fully operational by 2035.
- 1.10 An outline application in a conservation area is not usually accepted. This is because of the level of detailed information required for the Council to undertake its statutory duty under the Planning (Listed Buildings and Conservation Areas) Act 1990 that requires the Council to have special regard to the desirability of preserving listed buildings or their setting and to preserving or enhancing the character or appearance of conservation areas. Particularly as the 1990 Act states that these desires to preserve or enhance should be afforded considerable importance and weight. In addition to this statutory duty the NPPF explains that applicants should describe the significance of the heritage assets affected with the level of detail proportionate to the assets importance. In this particular case the hybrid application is supported by Parameter Plans, a quantum of development specification, a detailed Design Code including mandatory requirements, a Heritage Assessment that includes a Retention Plan and part of the ES. These describe the proposals in sufficient detail and would, subject to any conditions that meet the statutory tests, control the proposed development to the extent that it is considered that the Council's statutory duty would be fulfilled.

#### Full Application

- 1.11 The full part of the proposals encompasses three distinct plots:
- The Wild Works, Plot CF1 – The existing plot contains two buildings; Wild Works 2 and Wild Works 3 with its attached canteen. The workshop extension to Wild 2 together with the rear portion of Wild 3 would be demolished with a redevelopment to provide four blocks ranging from 1 to 8 storeys (Use Classes B1, A1-A3). The total commercial floorspace would total 12,918sqm.
  - Custard Factory Living, Plot CF2 – demolition of existing structures with replacement 7 storey residential development comprising of 40 units (Use Class C3) with ground floor retail/food and drink uses (Use Classes A1 to A3) and associated public realm. The residential units would comprise 15 x 1 bed, 22 x 2 bed and 3 x 3 bed. Associated public realm includes the provision of a replacement pedestrian bridge to cross the River Rea to provide an improved link from Floodgate Street past the Custard Factory to Gibb Street. The additional commercial floorspace would total 550sqm GIA; and
  - Custard Factory Extension, Plot CF3 - A 3 storey roof top extension to the Custard Factory to provide open-plan office space (Use Class B1). The extension consists of two storeys of flexible-use office space and a further top floor smaller area for flexible function space with an outdoor roof garden space. In addition an extension at ground floor to provide additional retail and office floorspace (Use Classes B1a, A1, A3 and A4). The total additional office floorspace would be 3,233sqm GIA and a small ground floor extension of 36m<sup>2</sup> (GIA) is proposed to provide back of house plant and storage for the existing commercial uses.

1.12 An Environmental Statement (ES) has been submitted pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 to assess the likely significant environmental impacts arising from the wider development during the construction and operational phases of the development. It also identifies any mitigation measures that are required to address these environmental effects.

1.13 [Link to Documents](#)

## 2. Site and Surroundings - Hybrid Site

2.1 The 18.9 hectare hybrid site is located to the east of Birmingham City Centre. The site is defined to the south by the High Street Deritend (B4100) and to the north by the Grand Union Canal which runs along the edge of the site in an east-west direction. The eastern and western edges of the site are less strongly defined with Liverpool Street/ Adderley Street to the east and Milk Street/Barn Street to the west. This significant City Centre site is partly owned by Oval Real Estate together with a number of other landowners.

2.2 The decline of local industry in Digbeth from the mid-1970s onwards combined with the severance from both the city central business district and the market area by the post war road system has resulted in ever changing uses and vacancy in the area. In the 21st century, the Digbeth area has become a focus for digital and creative industries and increasingly an area providing alternative leisure uses. The ES estimates that locally there are 1,950 employee jobs classed as being within the Creative Industries sector, equivalent to 17.7% of all employee jobs in the local neighbourhood impact area. Generally building heights within the site are low; the majority reaching up to 3 storeys, with some taller elements of up to 6 plus storeys focused around the southern junction of Floodgate Street and Gibb Street. In terms of landmark buildings and well known businesses the site contains The Custard Factory, the Wild Works Rea Studios, The Bond, The Old Crown pH, Digbeth Arena, The Mill, Fazeley Studios and Rea Studios. The site also has a number of derelict buildings and vacant plots particularly to the east of the Duddeston Viaduct. The applicants have advised that, based on existing residential floorspace figures the site currently accommodates a very small residential population of approximately 15 residents.



Fig 3: Application Site in the Context of Consented and Emerging Schemes

- 01 - Beorma (permission granted)
- 02 - Connaught Square (resolution to grant)
- 03 - Bull Ring Trading Estate/The Stone Yard (permission granted)
- 04 - Lunar Rise (permission granted)
- 05 – Typhoo Wharf and surroundings
- 06 – Warwick Barr
- 07 – BCC Fleet and Waste Vehicle Service Facility site
- 08 - Bordesley Wharf (permission granted)
- 09 - Upper Trinity Street (current application)
- 10 - 193 Camp Hill (permission granted on appeal)

- 2.3 As illustrated in the figure above within the surrounding area there are a number of applications that have recently been granted permission or are awaiting determination. Some of these scheme have included development of significant height: Connaught Square 28 storeys, former Irish Centre 48 storeys, Stone Yard 30 storeys, Lunar Rise 25 storeys, Bordesley Wharf 25 storeys and Upper Trinity Street 32 storeys.
- 2.4 The site is characterised by its physical infrastructure, which effectively divide it into sub parts. First there are two viaducts; Bordesley Viaduct that runs in an east-west direction, terminating at Moor Street station, and Duddeston Viaduct, which is a derelict structure and branches from the Bordesley Viaduct in a north-westerly direction. The Duddeston Viaduct was constructed to accommodate a train line however tracks were never laid. Built around 170 years ago it has lain untouched for the best part of two centuries. Both viaducts are recognised as wildlife corridors.
- 2.5 The River Rea also runs within the western part of the site at a lower level to street level. It is largely culverted below ground and the remainder of its course within the site is largely canalised. The Site lies partially in Flood Zones 1, 2 and 3. Both the River Rea and the Digbeth Branch Canal are Sites of Local Importance to Nature (SLINC's).

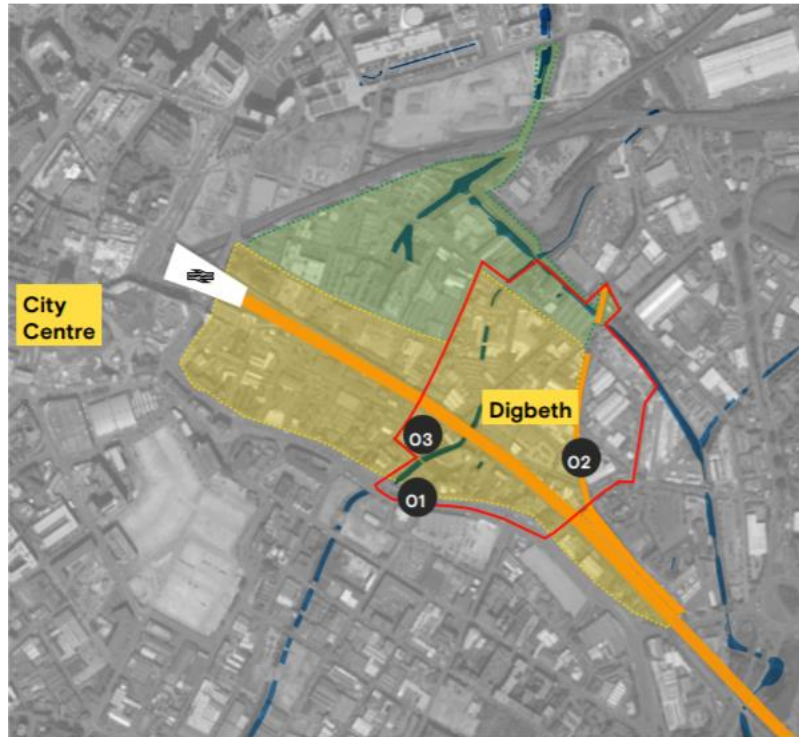


2.6 The majority of the site is situated in the Digbeth, Deritend and Bordesley (Digbeth/Deritend) Conservation Area with the exception of The Bond Warehouse and associated land to the north of Fazeley Street that are located within the Warwick Bar Conservation Area. There are the following six listed buildings/structures within the site:

- 1) Public conveniences at the corner of Liverpool Street Great Barr Street (Grade II);
- 2) Devonshire House, High Street (Grade II);
- 3) St Basil's Centre for Detached Youth Work, Heath Mill Lane (Grade II);
- 4) The Old Crown Public House 186,187 & 188 High Street (Grade II\*);
- 5) Former Church, 174-173 High Street (Grade II); and
- 6) Road Bridge over Grand Union Canal on Great Barr Street (Grade II).

2.7 There are also 22 locally listed buildings within the site, including the Bordesley Viaduct whilst the River Rea is also considered to be locally listed. The first two listed below are located within the full application site:

- 1) 119 Floodgate Street, Former WJ Wild No.3 Works
- 2) 104-108 Floodgate Street, Former WJ Wild No.2 Works
- 3) No.2 (former Lloyds Bank) Heath Mill Lane
- 4) Nos. 4 & 6 High Street (Former Deritend Branch Library)
- 5) Highway Commemorative Plaque, High Street
- 6) 179-182 (Inc.) High Street
- 7) 164 High Street (Cosyfit Chairs Ltd & Bordesley Chambers)
- 8) 160 High Street The Rainbow pH
- 9) Bordesley Railway Viaduct
- 10) 93-96 Floodgate Street, Former Wild No.1 Works
- 11) The Ruin, Floodgate Street, (Former Floodgate Tavern)
- 12) Former WJ Wild No.4 Works. Rea Studios, Floodgate Street,
- 13) Former WJ Wild No.6 Works, Floodgate Street,
- 14) Former WJ Wild Ltd Personnel Department, Floodgate Street,
- 15) Nos.48-52 Jukes (B'ham) Ltd. The Arch, Floodgate Street,
- 16) Former Chapel, Fazeley Street
- 17) Former Sunday School, Fazeley Street
- 18) Nos. 180 & 182 Fazeley Street
- 19) The Bond Warehouse r/o No. 182 Fazeley Street
- 20) r/o 176 Fazeley Street, Former Gas Retort House
- 21) Grand Union Canal Aqueduct over River Rea
- 22) Devonshire Works Chimney



Emerging schemes diagram

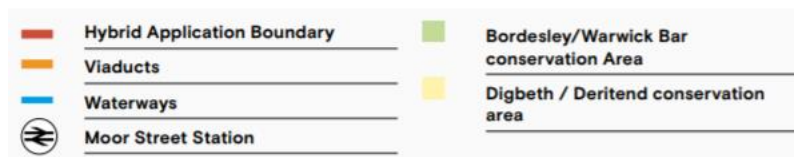


Fig 4: Application Site in relation to Existing Conservation Areas, Viaducts and Waterways

### Full Application

- 2.8 The full application site comprises three plots of land sited within the south west corner of the hybrid boundary with a total area of 1.01 hectares.
- 2.9 The Wild Works Site (Plots CF1a to CF1d) – W.J. Wild Metal Works began in Birmingham in 1919 moving in 1935 to a series of purpose built new premises (titled Wild Works nos.1-6 and personnel building) along the length of Floodgate Street. The first full plot within the full application is accessed from Floodgate Street and Milk Street and it has a border to Bordesley Viaduct. It accommodates Wild nos. 2 and 3 and the canteen. With the possible exception of some individual walls, the buildings on site all date from 1938 or later. Since 2013, the existing buildings on the site have had various short term uses such as pop up bars, clubs, markets, co-working and event spaces. The Wild 2 and Wild 3 buildings are locally listed, however the existing canteen that adjoins Wild 3 is not. Adjacent to but outside of the site, on Moore’s Row, is the Grade II\* listed Former Floodgate School. Due to its close proximity to the River Rea, Wild Works is located almost entirely within Flood Zone 2, and partially within Flood Zone 3.
- 2.10 The ‘triangle’ site (Plot CF2) between Floodgate Street and the River Rea – this second plot is a triangular piece of land called Custard Factory Living. The buildings on site today were established after the second world war however most are derelict.

2.11 The Custard Factory (Plot CF3) - located in the heart of Digbeth, this third plot is a repurposed Victorian building with great character and individual quality. Once a working factory for Bird's famous custard, today the redeveloped building accommodates an array of creative and independent businesses including bars, shops and a cinema.

### 3.0 Planning History (from 2016 onwards)

#### Whole Site

3.1 2019/08493/PA: Environmental Impact Assessment Scoping Report for proposed development of up to 350,000sqm GEA of mixed uses comprising retail, office, hotel, residential (including student accommodation), leisure and entertainment uses and up to 14 storeys in height. Issued 20th December 2019

#### Heath Mill Lane

3.2 2020/03662/PA: St Basil's Church, Heath Mill Lane, Demolition of outbuildings to the rear of the former St Basil's Church. Withdrawn

3.3 2019/07920/PA: Lorry route from the Curzon Street works area to the strategic highway network to facilitate enabling works associated with the Curzon Street works area. Approved 15/11/2019

3.4 2018/06074/PA: 60-64 Heath Mill Lane, Installation of shopfront and change of use of unit from light industrial (Use class B2) to ping pong hall (Use class D2), public bar (Use class A4) and restaurant (Use class A3), Approved 7/11/2018

3.5 2016/07372/PA: Retention of 1 no. freestanding ATM pod and protection bollards. Approved 14/12/2016

#### Adderley Street

3.6 2020/02706/PA: The Rainbow, Removal of section of flat roof over yard area, installation of extraction and input fan system, external lighting and shop awnings to two elevations. Approved 11/12/2020

3.7 2016/04017/PA: 104 Liverpool Street, Change of use of first and second floors from physical therapy (Use Class D1) to 3 self-contained flats (Use Class C3). Refused 01/7/2016

#### Liverpool Street

3.8 2018/08546/PA: Land at Liverpool Street, Installation of a gas standby power facility, Approved on 22/10/2018

#### Fazeley Street

3.9 2020/07795/PA: Fazeley Studios, Studios 22, 23, 24, 26, 28 and 30, 191 Fazeley Street, Change of use from offices (Use Class E) to Accountancy Training Centre (Use Class F.1), Approved 08/12/2020

3.10 2020/09413/PA: The Bond Demolition of existing structures & external and internal re-configuration of The Bond Complex comprising change of use of Retort House, Ice House and Toll House to Office/Research/Industry (Use Class E(g)); extension and change of use of Gate House to Event Space (Sui Generis); single storey glazed infill extension to Ice House (within existing Bond Cafe covered area) for Office /Research/Industry (Use Class E(g)); extension to the Toll House to provide

substation; external alterations to each building; widening of existing towpath to adjoin new floating pontoon; new piers and entrance gates to complex. Approved 17/03/2021

- 3.11 2019/04722/PA: Fazeley Studios, 191, Change of use of Studios 33, 35, 36, 37, 38 & 40 from office use (Use Class B1a) to accountancy training use (Use Class D1), Approved 03/08/2019
- 3.12 2015/03620/PA: Fazeley Studios - Studio 35, 191, Installation of footway crossing to improve visitor parking and alterations to existing fence to create access way, Approved 23/07/2015

#### River Street

- 3.13 2017/03911/PA: 43 River Street, Change of use from general industrial and storage or distribution (Use class B2/B8 to general industrial (Use class B2) and drinking establishment (Use Class A4). Awaiting Determination

#### Floodgate Street

- 3.14 2020/10266/PA: 110-119 Floodgate Street, Change of use of warehouse to indoor market with associated works, Approved 26/01/2021.
- 3.15 2020/08963/PA: Part Block C, Rea Studios, 86-93, Use of building for a virtual reality venue for entertainment (Use Class F2) together with the sale of related retail products, food and drink (Use Class Ea) and offices (Use Class E) with ancillary storage, Approved 15/02/2021.
- 3.16 2019/09927/PA: 40 Floodgate Street, Change of use to Use Class B1 and erection of single storey rear extension and various alterations. Approved 23/01/2020
- 3.17 2019/10109/PA: 46 Floodgate Street, Change of use to event space (Use Class D2) with associated external alterations, Approved 14/02/2020
- 3.18 2019/10104/PA: 38 Floodgate Street, Change of use to event space (Use Class D2) with associated external alterations, Approved 14/02/2020
- 3.19 2019/09891/PA: 35 Floodgate Street, Change of use to Use Class B1(a),(b) or (c) together with the erection of a three storey side extension and various, Approved 18/02/2020
- 3.20 2016/10380/PA: 93-96 Floodgate Street, Change of use from Office (Use Class B1) and Storage and Distribution (Use Class B8) to form a Music Academy (Use Class D1) with associated refurbishment, demolition, creation of entrance on Little Ann Street, provision of car parking. Approved 14/03/2017

#### Lower Trinity Street

- 3.21 2021/00750/PA: Digbeth Arena, Retention of use of Arena as Exhibition and Event Space with proposed main stage, second moveable covered stage, two bars, infilling of existing arches for food and drink and toilets (sui generis). Awaiting determination

#### Milk Street

- 3.22 2019/05176/PA: 21-27 Milk Street, Birmingham, Change of use of first floor to business and conference use (B1/D1); part change of use of ground floor to cafe (A3); associated parking to rear and external alterations. Approved 27/6/2019

### Allcock Street

- 3.23 2019/07267/PA, 25 Allcock Street, Erection of a single storey storage building, Approved 25/10/2019.
- 3.24 2018/09428/PA, 25 Allcock Street, Erection of two storey front extension to provide additional storage and office space. Approved 22/11/2018
- 3.25 2016/04043/PA, 20-25 Allcock Street, Demolition of existing buildings to allow erection of two storey factory extension, creation of additional parking and erection of replacement boundary treatment (3m high railings). Approved 22/07/2016
- 3.26 2015/06726/PA, Western House, 9 Allcock Street, Erection of first floor extension, new entrance to Allcock Street, and part change of use from offices (Use Class B1) to cafe (Use Class A3) with additional new entrance to Allcock Street. Approved 05/11/2015

### Bromley Street

- 3.27 2020/01376/PA, 4-5 and 12-16 Western Court, Bromley Street, Prior Approval for change of use from offices (Use Class B1[a]) to 8 residential units(Use Class C3), Prior Approval Required and to Refuse on 09/04/2020.

### High Street Deritend

- 3.28 2019/02034/PA, The Old Crown, 188 High Street, Listed Building Consent for the proposed internal alteration. Approved 07/06/2019.

## 4. Consultation Responses

- 4.1 BCC Transportation – The application is hybrid in nature with three detailed sites around the Custard Factory and the rest of the area covered by an outline application. The access and connectivity proposals include provision of new links to improve connectivity, such as extending Coventry Street, Bordesley Street and Allcock Street, along with new river crossings and opening the Duddeston Viaduct to pedestrians and cyclists. Future submissions will need to confirm if these routes are to be offered as public highway or maintained as private routes with public access permitted. A Design Code document provides details on designs for five categories of roads across the area which seek to provide a defined set of design criteria for these routes, such as layout, materials and lighting. The Transport Assessment is a comprehensive supporting document that considers the relevant policy and guidelines, a review of the existing transport network, and analysis of the proposed development and any impacts this may create. A TRICS analysis is used to provide suitable trip rates but notes with the existing parking being removed and a position of limited car parking being adopted, the estimated level of additional vehicle trips is minimal; AM peak (two way) increases from 442 to 462 (+20) whilst PM peak reduces from 561 to 477 (-84). There are no nearby junctions that are affected by this change in traffic flow.
- 4.2 The outline consent seeks changes to on-street parking to provide defined SUDS features and loading bays for development plots. Currently most parking is unrestricted with a survey noting 448 spaces and 25 pay and display spaces, whilst a CPZ [has been] implemented which results in 200 permit spaces and 64 pay and display spaces, so reduces parking by 209 spaces. The development proposals will alter this arrangement and notes current surface car parks will be removed. The

intention is to provide a central multi storey facility with up to 800 spaces, which will be shared for all users across the area and provide EVCP spaces at 20% so greater than current BCC requirements. It is noted the current adopted BCC car parking guidelines would permit up to a maximum 5400 spaces. Cycle parking will be provided in each plot as per the current standards. Servicing of sites will be on-street as is the situation across the area currently. This will be enabled by TRO changes. Additional details are provided on the three sites that have detailed planning applications with tracking plans on servicing provided, and the following conditions are required.

- Requires the submission and completion of works for the S278/TRO Agreement
- Requires the submission of cycle storage details in a phased manner.
- Requires the submission of Construction Traffic Management Plan.

Note future phases will need to submit detailed applications and require additional highway works and other conditions as necessary similar to those above.

- 4.3 Midlands Connect - One of the key questions to be considered in the Outline Business Case is whether the Bordesley Viaduct will need to be widened to accommodate the additional train services and ensure that they can run reliably. The current viaduct accommodates up to four tracks, but within its footprint, could accommodate a fifth track. However, should a sixth track be needed, which is currently the base case assumption which Network Rail are working to, then the viaduct will require widening. This widening would almost certainly be on the north side of the viaduct, bringing an enlarged structure very close to some of the buildings shown on the plans by Oval. Unfortunately, given the timeframe of the Outline Business Case, we had not initially expected to have certainty on whether or the viaduct requires widening until mid-2023, which means that we cannot currently provide a definitive view on the implication of the rail scheme on the footprint identified by Oval. However, both Network Rail and principal scheme sponsor, the Department for Transport, are actively working to see if this timescale can be accelerated.
- 4.4 Midlands Connect has reviewed the document showing illustrative heights plan and this suggests there will be several new blocks situated in close proximity to Bordesley Viaduct, including those which are bounded by Lower Trinity Street, Adderley Street and Bordesley Viaduct. We also note in the Environmental Statement the plan for a 'landmark' at the intersection of Bordesley and Duddeston Viaducts.
- 4.5 Should Bordesley Viaduct require widening on the north side, it is clear that there may be some conflict with the plots identified for development by Oval. Midlands Connect does not have visibility of how the arches under the Viaduct may also be developed in the future, but clearly in a scenario where the viaduct needs to be widened in the near future, any such development within the arches may pose construction and delivery challenges for Midlands Rail Hub.
- 4.6 Midlands Connect wishes to work constructively with the developer to understand whether it is possible for the plans to be amended to leave a 10m 'buffer' to the north of the existing viaduct, such that there is space for possible widening in the future.

This means relocating / removing the proposed buildings so there is at least a 10m clearance from the existing viaduct.

- 4.7 The Midlands Rail Hub is not currently a committed scheme, and hence has no formal standing in the planning process, but on the basis that £20m has recently been allocated by Government to its development, it is clear there is significant interest in this scheme from funders and we have no reason to believe it will not ultimately come to fruition. Our partnership is very clear that Midlands Rail Hub is a major investment priority for rail in the West Midlands and are very keen to see this project delivered as quickly as possible.
- 4.8 Midlands Connect would not wish to see the Oval land be developed, only for elements of the land to be subject to compulsory purchase in the future, which would clearly not be in the interest of any party. Such a scenario could clearly add considerable cost to delivery of Midlands Rail Hub which would serve to weaken the case. As such, Midlands Connect would invite the developer to consider amending the plans.
- 4.9 West Midlands Rail Executive (WMRE) and Transport for West Midlands (TfWM) acting on behalf of the West Midlands Combined Authority (WMCA) - For the avoidance of doubt, WMRE and TfWM/WMCA have no concerns in respect of the Full Planning Application element of 2020/03634/PA, which relates to the Custard Factory and adjacent sites located on the south side of the Bordesley railway viaduct. The MRH Hub is a strategic transport project of critical local, regional and national significance, which, in May 2020 was awarded a further £20m by central government in order to progress the next phase of project development.
- 4.10 The key objective of West Midlands Rail Executive (WMRE) and TfWM in relation this planning application is that both the Digbeth development and the proposed Midlands Rail Hub (MRH) scheme are able to proceed without one scheme compromising or prejudicing the other. A meeting between representatives of the developer and Network Rail took place on 9th December 2020.
- 4.11 At this meeting, Network Rail were able to clarify that in respect of the Midlands Rail Hub project:
- the core proposals are to provide four additional railway tracks (six tracks in total) on the existing Bordesley Railway Viaduct between Bordesley Station area and Birmingham Moor St Station
  - it is believed that the existing Bordesley Viaduct should be able accommodate five of the proposed six tracks
  - any widening of the viaduct to accommodate the sixth track is assumed to be on the north side of the existing viaduct
  - at this stage of development maturity, it is assumed that this viaduct widening would require a circa 10m strip of land immediately adjacent to the existing viaduct structure and would likely form part of a future Transport and Works Act Order, alongside other infrastructure elements of the Midlands Rail Hub scheme

- 4.12 Therefore, the main areas of the hybrid application proposals which require further discussion between the developers and Network Rail to ensure both schemes can be accommodated are plots V1, CF4, F14 and V2c.
- 4.13 Whilst this OBC work, which will provide greater clarity on the scope and extent of the Midlands Rail Hub project, was not expected to be completed before mid-late 2023, WMRE and TfWM understand that both NR and the scheme sponsor, the Department for Transport, are keen to see this timescale accelerated and that plans to do so are currently in development.
- 4.14 It should also be noted that in response to a request from Government, the National Infrastructure Commission published a “*Rail Needs Assessment for the Midlands and the North*” in December 2020. This Rail Needs Assessment report strongly supported the prioritisation of the MRH project over other longer distance rail transport projects. The Government’s own “*Integrated Rail Plan*” for the Midlands and the North is also now due to be published imminently and is expected to similarly prioritise the early delivery of the MRH scheme. With both NR and Oval/Turley actively continuing to develop and refine their proposals over the coming months, WMRE and TfWM are keen to ensure that active dialogue between both sets of parties continues in order to ensure that both projects can proceed and that neither prejudices the other.
- 4.15 Natural England – The proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.
- 4.16 Civic Society - Applaud the method of the applicants in engaging constructively with a wide range of stakeholders. Positive that the project is led a number of architectural practice. Impressed by what was presented by the design team, felt they had understood Digbeth and valued what makes it special. The vision was compelling, and could if delivered in full result in a successful renaissance for the area with positive impact on the city as a whole. While not seeking to oppose the project, we wish to repeat a number of observations. There is no formal measure to ensure the mitigation outlined is carried out, or where these are not in the applicant’s gift, it cannot be relied upon that these will be delivered. All future applications must be considered entirely on their own merits, and in isolation from the Masterplan.
- 4.17 It is important that future schemes be developed with consideration for the forthcoming BCC Character Area Appraisals as and when these are developed. Gentrification gives the area the ‘edginess’ and cachet to attract skilled workers for future and these small tenants will undoubtedly be ‘pushed out’.
- 4.18 Not convinced that a 14 storey building is needed for navigation, nor to signal arrival into the City and it will in fact be a relatively low building compared to those which train passengers will have passed. Concern that this will become a precedent for future developments to build to a similar height elsewhere within the outline application area. The 14 storey landmark threatens the quality of the Viaduct which, in many places in the Conservation Areas, remains the focus of the streetscape due to its height. If this 14 storey building is proposed to be immediately adjacent to the viaduct, the arches of the viaduct in this location need to be left open (to allow the eye to be drawn to the open arches and understand the structure as a viaduct). Elsewhere, proposals to infill the arches of the Viaduct need to be carefully



considered and at the very least stepped back, so it is still legible as a Viaduct and not just a brick wall. It is proposed that elsewhere within the area, height be limited to three to seven storeys, this will in most areas be a substantial increase on existing building heights, and there is a risk here of loss of character. The D&A expresses where heights will be greatest and in general, we agree with the strategy, although height will remain a sensitive issue.

- 4.19 Parking requires careful consideration. Current arrangements are very much ad-hoc, and this cannot be helped by the presence of the HS2 terminal which has been designed to resist car use. Much greater pressure for parking in the area is anticipated as a result.
- 4.20 The Civic Society is currently working with the Twentieth Century Society, Birmingham Modernists and Brutiful Birmingham to assess twentieth century buildings within the city which are not on the local list. Working with them, we are concerned that there are a number of valuable buildings in Digbeth which are not yet recognised, but due to the limited resource of our organisations, the timing of this application has over-taken our capacity to research these fully. The scale and detail of the application means we have also not been able to assess where demolition is planned, and what impact this might have on unrecognised heritage assets. We hope that, given the interest in the character of Digbeth expressed in this application, the positive influence that twentieth century architecture has on the area will be recognised, again as detailed applications come forward.
- 4.21 Canals and Rivers Trust –The outline element of this application is more relevant to the Trust and thus our comments are in relation to this unless otherwise stated. Minimal information around the phasing of the delivery of the site. Good to see that the canalside has not been left until last, this does raise concerns around access to the Viaduct Park, but also to wider connectivity concerns. If access to and improvement of the canal towpath environment has not occurred early on, then the occupiers of phase 1 would not benefit from the opportunities presented by the canal and the public realm improvements shown.
- 4.22 Based on the information available our substantive is to advise that suitably worded conditions and a legal agreement are necessary to address these matters.
- 4.23 Demolition - The CEMP that will support the reserved matters should include the demolition phases as well as construction phases. It should consider the Canal as a sensitive receptor and ensure that protection from harm such as pollution, damage etc is included or necessary mitigation and protection provided during all demolition and construction works. Air borne pollution or water seepage/spillage/run-off should all be avoided.
- 4.24 Structural integrity of the canal - Reserved matters applications for the phases of development canalside should include details of foundation design and construction methods to demonstrate that their construction and location would not result in any short or long term harm to the structural integrity of the canal banks. Where land has formerly been canal basins and wharves there is a greater likelihood of ground water or hydraulic continuity that would need to be addressed.

- 4.25 Canal water quality - Where sites lie adjacent to the canal and have formerly operated as canal basins, there is a greater likelihood of contamination pathways leading to the canal, and these should therefore be identified and included within the conceptual site models for each parcel of development at reserved matters stage, along with details of any necessary works to remove or mitigate such risks. We ask that this information be required to be provided to support the relevant reserved matters applications via the imposition of a condition on any consent granted.
- 4.26 Heritage & design - The amended illustrative heights plan and the Design Code generally appear to be as before whereby the heights raise towards the canal. We would prefer this not to be the case. However the Design Code states that massing must step up on the north side of Fazeley Street before stepping down to respond sensitively to the lower scale buildings located on the opposite side of the Canal. The illustrative heights plan does not reflect this with heights clearly continuing to raise from Fazeley Street.
- 4.27 The Design Code is considered to be robust and contains a level of sophistication that has the potential to bring benefits to the Canal. The layout is well worked. . The heritage statement suggests that there would be impacts on the Conservation Area and the canal side heritage assets and their setting but that these would not have a high level of significance or harm. Currently, the canalside environment is characterised by low levels of built form with only a few as tall as the Bond, for example. Therefore, this character could change significantly if the heights step up towards the canal. Taller buildings might be appropriate by the viaduct at the southern end of the site, but not all the way along the canal. The Trust is concerned that such heights would result in oppressive and overly tall development. The listed Bond warehouse has a relationship and the apparent massing proposed loses the character and setting of the warehouse.
- 4.28 Development Plot C5, south of Great Barr Street and adjacent the canal has the potential to become a large overbearing mass of built form if not carefully articulated and designed, and care should be taken especially at the higher 5-7 storey elements to prevent overbearing and overshadowing impacts on the canal corridor. Design at reserved matters stage needs to consider and respond to these points.
- 4.29 The wharf at the Bond forms part of the designated heritage and should be treated with great care. Further details of the development at and near the Bond will require full heritage assessments and we ask that these be included in relevant reserved matters applications.
- 4.30 The opening from the canal towpath to the proposed sky park as public amenity space is welcomed. It is important that the public realm is well designed and integrates attractiveness for use, safety and ease of use so that transition between the Viaduct Park, towpath and onward travel through Digbeth and/or over the proposed canal bridge to Floodgate Street is legible and simple for users.
- 4.31 Care should be taken to design a building on plot C6 that relates well to the water, given its narrow frontage and 'squeezed' location. The design on this plot needs to engage positively with the waterspace and towpath under the road bridge deck to enhance visual surveillance and the feeling of safety for users, while appropriately addressing the listed road bridge.

- 4.32 The D&A Statement demonstrates design principles for re-imagining the River Rea corridor, but does not consider any canal specific design principles.
- 4.33 Welcome the inclusion in the Design Code of public realm surface treatment being appropriate to the historic character of the area and that the canalside areas must also be treated this way, and we ask that this be made a requirement of any reserved matters applications for the canalside development plots. The strategy for using materials across the development appears to be largely appropriate.
- 4.34 Ask that all reserved matters applications for the scale, appearance and layout of the canalside development blocks are supported by a full 3D modelled shading study to demonstrate the impact of the proposals on the daylight and sunlight that reaches the canal and towpath and the difference from the existing situation. All canal facing elevations should avoid including any 'back of house' elements.
- 4.35 Biodiversity - Particular regard should be had to black redstarts, kingfishers and bats. The Design Code should be reviewed and amended. Any external lighting should not provide flood lighting to the canal corridor to show consideration. Ask that a condition be imposed to ensure that any external lighting along the canal frontages of plots C1-6 and the open space at the skypark landing at the rear of the towpath is appropriate and adequately designed to accommodate such protection.
- 4.36 New canal bridge - The proposed pedestrian/cycle bridge across the canal is welcomed. At reserved matters stage further details will need to be provided.
- 4.37 The Trust therefore recommend that the applicants continue their initial discussions to reach agreement in principle on these matters in order that a reserved matters application can be made with a degree of certainty around its design and implementation. This would also allow for consideration of relevant trigger points relating to the installation of a bridge, if appropriate. We ask you to consider whether the bridge meets the CIL tests and if so whether a trigger point at outline stage would be appropriate in terms of the delivery of the bridge relative to other elements of the wider outline proposals. The provision of the bridge would be a significant benefit for the future regeneration of Digbeth, especially in supporting sustainable travel and wider accessibility and connectivity.
- 4.38 Connectivity & access to open green space - Given the mix of uses proposed on this site, the availability of routes that include the towpath for some or all of a journey is important. We also note that the existing city parks at Garrison Lane Park and Kingston Hill Park are likely to be accessed and used by residents of this site and would be easily accessed via the canal network. Circular routes involving the Viaduct Park could also be developed and signed/promoted. It might be possible to consider linking the towpaths and the Viaduct to create 5km off-road leisure routes, for example. This would assist in ensuring that the proposals were in accordance with Policies TP38-TP40 and TP45 of the BDP. Details should be included in the travel plans and these should be conditioned.
- 4.39 It is important that wayfinding and signage is provided to identify a range of networks, routes and destinations. Ask that a condition is imposed requiring a signage and wayfinding strategy for the site and surrounding area to be agreed and implemented.

- 4.40 Planning obligation - Whilst it is recognised that the creation of the public realm adjacent the towpath off Montague Street will increase the ability to access the towpath, along with the proposed bridge across the canal, we consider that the existing access onto the canal at Great Barr Street will remain important and well used. The access is currently not in a condition that would be suitable for increased usage such as from the implementation of early elements of this development. Suggest that as an interim solution, upgrades to this access point be sought in order that the use of sustainable travel routes is encouraged from the start of this development, and that it is included in the wayfinding/signage strategy noted above. An increase in the usage of the towpath is likely to lead to demand for lighting of the towpath to increase its hours of use, attractiveness and safety. This meets the requirements of the CIL tests and would facilitate greater use of the potential benefits on the doorstep. The Trust is willing to work with the applicants and the Council to consider how this might best be identified and delivered, for the benefit of the future development and its occupiers. It is likely that clauses in the planning obligation would be required to achieve and deliver this.
- 4.41 BCC Leisure Services - No objections. In accordance with BDP policy, the residential parts of this substantial development would generate the requirement to provide both new Public Open Space (POS). Looking at the application it is clear that it seeks to deliver new areas of on-site green space and infrastructure although there is no reference to the amount being provided within the documentation. The applicant has looked at providing this green space in an innovative and imaginative way bearing in mind the constraints of the Digbeth area. However what is being provided does not constitute POS capable of sustaining children's play and outdoor recreational activities. If therefore the on-site areas being provided were not classed as suitable POS for recreational purposes then a full off-site contribution would equate to a total of £4,117,575.
- 4.42 Preference would be that the amount of on-site green space being provided is confirmed and the development contributed a lesser sum to the wider POS infrastructure within the Bordesley and Highgate Ward which acknowledges the value of the new green links and infrastructure being provided within the site, but also enhances existing green space likely to sustain increased usage from the significant increase in the local population.
- 4.43 Inland Waterways Association (IWA) - No early consultation with the IWA which is particularly disappointing with the inclusion of the Grand Union Canal and the proximity of the Warwick Bar Conservation Area as important elements of this application. Welcome emphasis on the environmental benefit of the Grand Union Canal to Digbeth, however, there are no detailed proposals for encouraging more boaters to visit Digbeth by, for example, the provision of enhanced mooring facilities. Second, the Warwick Bar Conservation Area is recognised as containing the most complete collection of buildings and infrastructure associated with the canal environment in Birmingham. However, it is recognised that the boundaries of the application do not include this important area. Nevertheless the proximity of the proposals to Warwick Bar means that their impact should be integral to the consideration of this proposal. Unfortunately it is difficult to assess from the associated documents how far this consideration has been taken into account. The IWA would wish for detailed consultation over this element.

- 4.44 Severn Trent Water - no objections to the proposals subject to conditions require the submission and implementation of agreed drainage plans.
- 4.45 Council for British Archaeology (CBA) - The CBA are supportive in principle of the upgrading and redeveloping this large area. However the CBA has concerns about (a) clarity, and (b) the level of detail and conclusions for heritage considerations, in chapter 11 (Built Heritage) and chapter 12 (Archaeology) of the ES.
- 4.46 Clarity - Could the 'broadbrush' outline application, if approved, have implications for any objections to future detail applications within the site? We note the phased approach. EIA guidance has consistently stressed the need for both certainty and clarity, to establish the likelihood of significant adverse environmental effects and offer mitigation where necessary. Generally, outline applications may not be compatible with the concept and process of EIA, lacking necessary certainty which detailed applications provide. Regarding the many buildings scheduled for demolition, we note that the majority of the outline site lies within one of two Conservation Areas. The strategy of submitting a hybrid application at this stage rather exacerbates the lack of clarity. The CBA are concerned that this lack of clarity may create loop holes that fail to give the conservation of heritage assets the presence that section 16 of the NPPF requires and could result in unjustified harm to designated and locally listed buildings, as well as the character and appearance of both Conservation Areas.
- 4.47 Built Heritage and Archaeology - The CBA are concerned that whilst the ES findings suggest potential heritage interest would be significantly affected by the project, it anomalously concludes that in most cases adverse impacts would be 'low', 'negligible' or 'nil'. The CBA note that where proposals will have a considerable impact on built and buried archaeology the impact on the significance of the built and buried archaeology will be proportional. To meet the requirements of NPPF paragraph 192 any permitted redevelopment of the application site should be informed by an over-arching aim of enhancing, conserving and better revealing its significance. Over many years, EIA guidance has stressed that, where certainty (for likely impacts, outcomes etc) cannot be established from an application, local authorities should err on the side of caution. To avoid unjustified and/or unwitting harm to the character and appearance of the combination of the Conservation Areas and nationally/locally listed buildings in and near to the outline site (and their settings), the CBA recommends that an iterative heritage strategy be developed, combining built heritage and archaeology, utilising the tangible and intangible heritage of this mainly industrial area close to the city centre and transport hubs. This should be in order to identify, enhance and conserve the heritage value of the site and to maximise the social value that re-development here has the potential to deliver.
- 4.48 Significance - The significance of the proposal site as it stands now, stems mainly from its multi-phased development as a mixed domestic and industrial area during the 18th/19th and 20th centuries. In terms of key built heritage at the southern end of the wider site, we note the dominant presence of the Devonshire House complex (Grade II listed former Bird's Custard factory), and (outside but immediately adjoining the site boundary), the grade II\* listed former Floodgate School ('The Listed Building') along with 224/225 High Street, Deritend (Grade II) and also the Old Crown Inn

(Grade II\*). We would also draw attention to the survival of a late C19 Grade II listed cast-iron 'urinal' public toilet at 54 Liverpool Street, well within the proposal site. The site's historic value and character mainly relate to transition, change and movement, with initial poor housing and small domestic-scale industries developing into more significant enterprises, as canals, railways, and the main eastern road approach into Birmingham all contributed to the movement of goods, people and ideas. The communal and social values of the historic character likewise relate to transport links, factories and workshops, and the people who have lived and worked here or passed through. The application site holds social value in terms of the sense of place for local residents and also its own role as an inner-city area connected to its neighbours. Redevelopment of this area presents the opportunity to enhance these historic and communal values by incorporating a clear and robust heritage-based strand to re-development proposals. There is architectural value to the utilitarian yet often pleasing former industrial buildings, such as those with attractive arched windows and the buildings of the Wild factory complex, built to capture downward natural light from the characteristic zigzag roof patterns. These are interspersed with smaller establishments, former churches, and a few remnants of housing. They all contribute to a pleasantly chaotic, piecemeal organic pattern of incremental development over 250 years. Buildings are typically wide and low, with 3, 4, or at most 5 storeys – punctuated by the 'Custard Factory' and the railway viaducts. The human-scale profile is pleasing and itself of value in its contribution to the character and appearance of the Conservation Areas.

- 4.49 Evidential value should and would come from archaeological investigations ahead of development, including study of upstanding buildings of any date, style and use(s), particularly any to be lost to demolition. This factor remains a relative 'unknown' unless or until further work is undertaken, but there is good potential for interest, subject to sympathetic criteria being set which take account of the nature of the site and its known history. The potential includes later development and recording the current area for future generations. Overall, the site's significance could be described as being indicative of continual movement and change, utilitarian development and uses, with the busy 'workaday charm' of industrial heritage which should be conserved through adaptive reuse where possible, as opposed to being swept away. Proposals for substantial demolition works, especially within the Conservation Areas, could impact on the significance of the Conservation Areas to a high degree.
- 4.50 Enhancing and revealing significance is not limited to visual enhancement, but may include opportunities for present and future local communities to interact with local industrial heritage. Heritage-led regeneration adds a valuable and sympathetic place-shaping strand to re-developing ex-industrial sites, which can have considerable benefits to social deprivation in terms of increasing a sense of resilience and pride of place.
- 4.51 Notwithstanding our concerns, the CBA can, with reservations, support the design parameters for this large project in principle, since it would at least retain street patterns, railways and waterways, enhancing the best of the survivals and the place-shaping sense of movement. However, the CBA has read and supports the pre-application advice letter of December 2019 from Historic England (HE), however neither of the final ES heritage chapters (11 and 12) appear to mention the Research

Report 031/2018 '*Digbeth and Deritend, Birmingham, West Midlands: Outline Historic Area Assessment*' (Bayer O, Herring P, Lane R and Roethe J). Strongly recommend further study and documented use of it, since the outline application site sits at the heart of the HE study area.

- 4.52 The CBA accepts that the challenges of revitalising a rather rambling historic industrial area are considerable, in terms of conserving the 'best' of its inherent character and street-plan whilst updating or replacing its buildings to meet modern requirements. One of the challenges must be that these concepts are by nature subjective even for professional judgement, and may be influenced by the overall vision of interested parties. Ideas about what is positive, neutral or negative are likely to be fluid over time. However we are concerned about our impression that greater attention has been paid to a formulaic assessment process than actual consideration of a sympathetic social approach to the distinctive industrial character of the Conservation Area.
- 4.53 CBA accepts the content of the ES on Built Heritage although it does not necessarily agree with the outcomes of its appendix, nor the loss of quite so many buildings which in combination considerably contribute to the area's character. The proposed opening up of the canal, River Rea and Duddeston Viaduct as public spaces is however a welcome aspect.
- 4.54 The conclusions on Archaeology appear rather dismissive, for the most part, the ES' main aim seems to be to diminish archaeological interest, often concluding likelihoods of 'low' or 'no' significant impacts. Conversely, HE's 31/2018 report referred to above is comprehensive, detailed and sensitive to its study area, within which the proposal site lies. CBA supports HE's holistic approach. It focuses on people as much as place and space. We find this social aspect missing from the planning application. Consequently, we would like to see the inclusion of a 'social value strategy', an approach to re-development of urban areas which we also support. This should consider potential social value earlier than the construction phase of a development. There is a wealth of research and findings concerning the positive social value to local communities from heritage-led regeneration, in terms of both place-shaping and wellbeing, generated by participation. Such place-shaping could be seen as both empowering and inclusive. The CBA fundamentally believes that archaeology, at its best, is not stored away in a catalogued box but used to create connections between people and place. In this way archaeological strategies can move beyond mitigation and into creating genuine value.
- 4.55 Recommendations
- Further study of, and reference to, the Historic England report 031/2018 '*Digbeth and Deritend, Birmingham, West Midlands: Outline Historic Area Assessment*' with its recommendations being used to contribute to revised heritage elements in the ES.
  - Heritage study area should be extended beyond 200 metres and new 'cameo' studies published for individual buildings and their settings within the site area, including for example the Grade II listed ornate cast-iron public lavatory.
  - Production of an iterative Social & Heritage Value Strategy at a much earlier stage than at the construction phase.

- Combined heritage and archaeology aspects to be incorporated into a new Place-Shaping Strategy, enabling the re-development of this site to achieve genuine social value and public benefits taking account of its history, as required by the NPPF.
  - Further archaeological schemes for investigation, including recording for future study of buildings to be demolished. To enable flexibility schemes might be produced for each building phase, between any outline approval and submission of a detailed application for reserved matters.
  - Schemes should be submitted to and approved in writing by the LPA in advance, and implemented before determination. The results should form part of the detailed application and not be left to planning conditions after determination.
  - There is a particular requirement for written commitment to publication of publicly available reports of archaeological investigations and outcomes - even if negative or minimal.
- 4.56 Victorian Society – Object. The total site comprises a large part of the Digbeth, Deritend and Bordesley High Street Conservation Area, part of the Warwick Bar Conservation Area, and land outside these conservation areas. It impacts on many buildings from our period of interest, 1837-1915, including several listed buildings, particularly the grade II\* listed Floodgate School. A large number of unlisted buildings, including locally listed buildings, curtilage listed buildings and buildings within the conservation areas are proposed for total or partial demolition.
- 4.57 The Digbeth, Deritend and Bordesley High Streets Conservation Area is noted for its industrial heritage and cultural diversity, and the area’s long history is well documented in Historic England’s Digbeth and Deritend, Birmingham, West Midlands; Outline Historic Area Assessment (2018), as well as the City Council’s Character Appraisal and Supplementary Planning Policies adopted in 2008 and 2009. The development of the Digbeth area through time is also reflected in the variety of historic buildings whether they are separately designated or not. A uniform approach to redevelopment across such a large swathe of the conservation area is simply inappropriate. We are also opposed to the widespread loss of existing buildings, including those that are locally listed or curtilage listed, which currently set the scale and form an integral part of the story of the area’s historical development as an industrial quarter. Little reference in the D&A Statement for this application to either the Warwick Bar or the Digbeth Conservation Area Character Appraisals. In the latter it is stated that ‘There will be a presumption in favour of retaining buildings which make a positive contribution to the character or appearance of the conservation area. This will include buildings of contextual or group value.’ However the significant level of demolition proposed does not correspond with this stated policy.
- 4.58 The Conservation Area Character Appraisal also states that, ‘New buildings should not appear to be significantly higher or lower than their neighbours and should reflect the building heights characteristic of the locality or character area. This will normally limit new buildings to a maximum of six industrial / commercial storeys.’ However, buildings of up to 14 storeys are proposed in this application, and these should also be considered in the context of the tall buildings of 30 storeys or more which are proposed or already consented in developments on surrounding sites. We are



deeply concerned that these proposals, which would transform the character of the two conservation areas through demolition and new building, are being put forward for assessment at a time when there are no detailed management plans in place as supplementary planning policy alongside the character appraisals for the two conservation areas.

- 4.59 The detailed proposals relate to three sites. The first detailed proposal is to add a further three storeys to the rear section of the Custard Factory, Scott House. This would create an eight storey building which does not comply with the Conservation Area building height policy, and is unacceptable. We therefore object to this aspect of the application.
- 4.60 The second detailed proposal is to construct a seven storey residential building across the River Rea from Scott House. This also does not comply with the Conservation Area building height policy, and so also is unacceptable. We object to this aspect of the application.
- 4.61 The third of these detailed proposals is for the site of W.J. Wild; to demolish most of the buildings that are currently on the site and incorporate parts of the locally listed buildings into new development which includes two buildings, mainly for offices, of eight and up to five storeys respectively. As the current locally listed buildings on the site are largely of one and two storeys, and whilst we are pleased to note the proposed retention of at least part of the locally listed buildings, we object to the loss of the parts of the locally listed buildings which would be demolished. This is over development of this site in the conservation area. This is also true regarding the impact of this detailed proposal on the grade II\* listed Floodgate Street School, a fine building of 1890-1 by noted Birmingham architects Martin and Chamberlain, which would be adjacent to the proposed 'Wild 8' Building. At eight storeys, largely replacing the current single storey locally listed building, this proposed structure will dominate and have a negative impact on the character and appearance of the grade II\* listed building in the conservation area. Furthermore, we do not consider blue brick, which is traditionally the material used in engineering buildings such as railway bridges and sheds, to be an appropriate material for a substantial multiple use building located next to the red brick grade II\* listed building. Also object to these aspects of the application.
- 4.62 Brutiful Birmingham - Welcome aspects of the plans to revitalise the area of Digbeth. i.e bringing people back to live and the use of the viaduct as a green area. There are however a number of serious concerns. The Conservation Area designation reads, "The Conservation area was designated in May 2000 to preserve the medieval townscape and its setting within a distinctive inner city industrial quarter.....sensitive redevelopment will be actively encouraged in order to create a harmonious street scene."
- 4.63 The scale of demolition - At the consultation event we were shown a map, which detailed the buildings for demolition in the outline plan. At a conservative estimate that was at least 50% of the whole area. This seems to be highly irregular in an area deemed a conservation area. The most interesting and architecturally varied streets are Floodgate Street and Heath Mill Lane. A large proportion of each of these streets are at risk.

- 4.64 Locally listed buildings - There are plans to demolish and/or just retain the facades of some of locally listed C20th buildings notably the collection of "Wild". We would argue for their protection. We welcome the retention at least of the facade of the Wild works but deplore the size and height of the rebuilding behind, which will dwarf the facade and take away any sense of the "Wild" buildings as an interesting set of industrial architecture in their own right.
- 4.65 Post war buildings - Welcome retention of Progress Works on Heath Mill Lane however concerned about the Rea Studios on Floodgate Street (Wild 4) which is one of the only Modernist buildings on the Estate and a good example of the period. To lose this building and with it an element of the story of industrial architecture over the centuries must be seriously considered. The argument to drive a straight road through the middle of the Estate, Rea Studios standing partially in the way, runs contrary to preserving a medieval townscape. The current meandering way that could save Rea Studios rather than a straight road through the middle would seem more appropriate.
- 4.66 Size and mass - Concerned about the height of the buildings in the detailed plans. The argument that the Custard Factory needs to be prominent and this will be achieved by a three storey extension on top is flawed as the Custard Factory is prominent already in its own right. The argument to increase the height of the Custard Factory is only valid because of the proposed residential seven storey block, Custard Factory Living, and the buildings on Milk Street. The height of all of these buildings will dominate and irrevocably damage the character of the area. This will not create the "harmonious street scene" seen as desirable in the current conservation area designation.
- 4.67 Summary - Pleased that the regeneration of Digbeth is being seriously considered but feel that the current plans risk destroying the nature of this Conservation Area. These plans were drawn up pre Covid 19. Who can be certain that the large amount of mixed use accommodation is suitable for a post Covid world where a greater sense of community at ground level needs to be developed? Digbeth is one of the few inner city areas that has remained fairly intact and like the Jewellery Quarter is a terrific embodiment of Birmingham's industrial past.
- 4.68 Historic England – Summary: These extensive proposals offer a positive opportunity to steer the future development of Digbeth in a considered and strategic way. Pleased to note a number of positive elements of the wider scheme, but does result in the demolition of much of the conservation area's average building stock, and of some locally listed buildings. There are a number of considerable benefits to consider, secure, and weigh in the balance. Further improvements could be attained through amendments to the full/detailed applications to improve and develop design concepts, and to reduce the impact on the conservation area and encroachment towards to Grade II\* listed former Floodgate School.
- 4.69 The application occupies a large proportion of the Digbeth, Deritend and Bordesley High Streets Conservation Area and part of the Warwick Barr Conservation Area. Digbeth and its conservation areas are synonymous with the early development of Birmingham and the growth of its industry from the medieval period, developing down the main high street and alongside the River Rea, and later accelerated with

construction of the canals. The area was developed substantially from the late 18th century and was characterised by number of successive industries relating to the metalwork trade. The 19th century saw substantial developments across the city to improve the conditions and welfare of the industrial workforce. This is evident adjacent to the application site at the Grade II\* listed former Board School by Birmingham's celebrated Architect reformers, Martin & Chamberlain. The school is one of a number of educational and institutional buildings across the city commissioned by Birmingham Board School, brought about by the Elementary Education Act of 1870, and which help to tell the story of Victorian attitudes to health, education, and morality. Development in the 20th century was shaped by severe bomb damage and the subsequent post-war 'zoning' of the area for industrial uses, which saw the demolition of housing in the area and the displacement of the local population. Today, the area is celebrated for its various creative and cultural industries and activities that provide a distinctly different character and appearance to any other part of the city, and centred around the former Bird's Custard Factory. It is this history and varied townscape and distinct character that contributes to the wider understanding of Digbeth, its development along one of Birmingham's oldest principal routes into the settlement, and its growth from the medieval period to the present day. The significance and development of this area is captured in detail in Historic England's 'Digbeth and Deritend, Birmingham, West Midlands: Outline Historic Area Assessment' (2018).

- 4.70 General Observations - This scheme provides an opportunity to fulfil some of the recommendations of Historic England's Urban Panel (now Historic Places Panel) made during their visit to Digbeth in 2016. Their report highlighted the importance of safeguarding Digbeth's unique character and appearance in the wake of HS2, calling for a strategic approach to development. Many of the recommendations raised remain salient in the local authority's assessment of this scheme. The general approach to tackling such a large and complex site has been positive, with the laudable commissioning of three separate architectural practices to bring their own expertise, and to peer review each other's work as it is developed. The applicant's commitment to realising effective development parameters to outline sites is shown in their creation of illustrative 'test sites' (e.g. at Fazeley Studios) which indicate a positive use of the proposed development controls.
- 4.71 As the owner and custodian of much of Digbeth, Oval and the wider project team have presented their commitment to what is a long term masterplan for the estate, bringing sustainable change to their working portfolio, rather than as an immediate short term expansion. This provides a welcome opportunity to bring a thoughtful, planned change over time, with the promise of a long term commitment to the area's character and identity. We note that the applicants are already considering the longer term phasing of change in the area and have secured meanwhile uses for some buildings in the short term. This is in addition to starting discussions with key stakeholders such as the Canal & River Trust, and Network Rail to enable the wider benefits relating to the River Rea, the canal, and the railway viaducts, to be realised. This positively presents the scheme as being a markedly different approach to development than others seen in the wider area.
- 4.72 Pleased to note the many positive benefits proposed within the scheme as a whole, bringing uses for a number of vacant sites in the conservation area, and with the

promise of sustaining the area's creative industries that help to form a part of its distinct character and appearance. The scheme also seeks the creative re-use of the Duddeston Viaduct as a pedestrian walkway, a more rationalised use of the two viaducts' arches, improved public realm, parking provision, and the opportunity to celebrate the River Rea and its role in shaping the early development of Birmingham.

- 4.73 In addition to the benefits mentioned above, in its simplest form the scheme could also see the almost wholesale loss of buildings that make up a vast proportion of the Digbeth Conservation Area, the loss of locally listed buildings, and some localised examples of increased height in a low scale area.
- 4.74 The significance of the many heritage assets affected, and the impact of the development on their significance is explored in great detail outlining the specific instances of harm caused, whilst emphasising the delivery of 'high quality public buildings and public realm', instances of enhancement and considerable public benefits in the conservation area, and the role of the parameter plans and design code in ensuring appropriate additions through controlling uses, heights and approach to design. Whilst we defer to the local authority's expert conservation staff to consider each specific merits of and impact on multiple non-designated heritage assets, in considering the application we would highlight that the subsequent impacts (both the potential benefits and potential harm) are intensified over such a large site area.
- 4.75 It is vital then that the local authority are assured that the scheme will preserve, enhance and better reveal significance rather than causing harm by bringing such dramatic change in the two conservation areas. With this in mind it is vital that robust assurances are given to the local authority when considering phasing and implementation. The City Council may wish to consider appropriate safeguards, conditions and legal agreements, ensuring the delivery of various aspects of the scheme so that the positive public benefits are realised, and to an appropriate timescale.
- 4.76 Outline Application: Design Codes and Parameter Plans - The proposed outline scheme is to be supported and controlled through a series of Design Codes and Parameter Plans. This includes maximum parameters for building heights across the site, set out in zones ranging from mostly 2-4 storeys, rising to a maximum of 7 and 8 storeys adjacent to the viaducts, and culminating in a taller 14 storey 'landmark building' where the two viaducts meet. For the most part we are pleased that this approach intends to maintain a low scale in the conservation area, and in a manner which is distinctly different to other neighbouring permitted and emerging developments which introduce very tall buildings to this low scale industrial part of the city.
- 4.77 Whilst building heights are of a low scale overall, the scheme does however lead to isolated examples where the height is increased by a number of storeys, and with a more acute impact on an area's character and appearance. This is evident at the locally listed Rea Studios on Floodgate Street/Little Ann Street currently proposed for demolition and replacement with buildings of up to 6 storeys.
- 4.78 Pleased to note that Design Code aims to ensure a subtle variety of heights and rooflines among new developments so that they are based on the individual

circumstances of their plot and street scene rather than applying a single datum over a large area. This, along with studies of building typologies, allows the opportunity for a contextual response in the conservation area, paying attention to historic plot boundaries and development patterns in any future reserved matters applications.

- 4.79 Detailed Sites: Custard Factory Roof Extension - The designs for a two storey roof extension to the Custard Factory are based on the concept of a 'light box' addition, similar to that famously seen at the Tate Modern art gallery. A thoughtfully-considered extension could bring an exciting addition to the conservation area, its architectural interest and wider cultural appeal. No objection to the general concept proposed, but believe the proposed design needs to better reflect the proportions and characteristics of its host building and the conservation area, especially if a bold approach is pursued. This could be achieved through amendments to the current design, better reflecting the proportions and horizontal emphasis of the existing fenestration, reducing the overall height and massing of the extension, and introducing some further set-backs from the building line. We would advise that further attention is given to the design of this in conjunction with the Council's expert conservation and design staff.
- 4.80 Custard Factory Living' Residential Apartment Block - The proposed development of this site for predominantly residential use is challenging, having to overcome issues relating to flooding and levels of daylight on what is an extremely confined site. As noted in our recent meetings there may be potential for well-preserved, water-logged archaeology along the banks of the Rea. The river was critical to the growth of industry in this area and therefore potential well preserved evidence could contribute to our wider understanding of the early development of Birmingham. We advise you discuss any archaeological provision with the local authority's expert archaeological adviser.
- 4.81 The imagery presented for 'Custard Factory Living' shows a building of a very simple framed construction which takes some general influence from the other manufactories and warehouses of a framed construction. With such a simple design however, the proposals are at risk of appearing a more generic addition with little reference to the conservation area. It is vital therefore that further work is undertaken to help ground the building in its wider context, referencing Digbeth's character and appearance in, for example, the choice of materials, the proportions of openings, and the method of construction. This is to ensure that the building preserves or enhances the special character and appearance of the conservation area as an obvious part of it, rather than as an unfamiliar or uncharacteristic addition. The slender, triangular plot does also offer an opportunity to bring some additional interest to the designs. We would advise that these finer details are considered by the Council's expert conservation and design staff. Careful attention will be required to ensure that this new addition does not compete with the Custard Factory which has become an iconic reminder of the area's industrial heritage.
- 4.82 W. J. Wild - The albeit partial retention of the two locally listed is welcomed and provides an opportunity to celebrate their architectural presence in the street and contribution to the conservation area. Whilst the overall proposed site layout appears well considered and has the potential to frame views and routes through to the viaduct arches, there are elements of the proposals which currently are of concern

and require further attention. The proposed blue brick 'Wild 8' would be a significant increase in height in the conservation area, from its current single storey to 5 storeys. We have concerns regarding the impact on the setting of the Grade II\* listed former Floodgate School by Birmingham's celebrated Architect reformers, Martin & Chamberlain. It is clear that some effort has been made to set the building height back facing Moore's Row, however further work is needed to reduce its encroachment and to ensure that views of the school's decorative ventilation tower are not obscured by the development, as is currently shown in the visuals. Further work is needed to reduce this overall impact, and refine a design which at present does not appear characteristic of the conservation area.

- 4.83 The largest proposed building of 8 storeys along the viaduct is 'Wild 7' which has a large footprint with a framed design which is clearly influenced by the Custard Factory close by. We do not feel this transitions comfortably to the present roof design which is far more complex and appears too contrived to emulate an 'industrial' roof form. Larger buildings of this framed design like the Custard Factory typically have flat roofs. The more complex, saw-tooth roofs are generally found on low-rise buildings, providing north light to large manufactories. Although we appreciate there may be scope for a bold roof design, we are not convinced by the current approach in the context of the conservation area.
- 4.84 Overall, we recognise that there are a number of considerations to consider, take into account, and weigh in the balance when considering this application. Although many wider aspects of the scheme present a positive opportunity, we do feel that further work is needed through amendments to improve and develop design concepts, and to reduce the potential impact in specific areas. This relates most of all to the two proposed buildings on the W. J. Wild site and their impact on the character and appearance of the conservation area, and the significance of the Grade II\* listed Floodgate School through development within its setting, as was highlighted at pre-application stage.
- 4.85 Recommendation - Concerns regarding the application on heritage grounds. The issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of sections 12 and 16 of the NPPF. In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess, and to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 4.86 Sport England (SE) - SE's comments relate solely to the outline application. The population is estimated to be 3400 residents with the proposed residential development of up to 1850 dwellings. The Sports Facilities Calculator (SFC) indicates this will generate a demand for additional sports hall provision (cost £590,520) and swimming pool provision (cost £607,323).
- 4.87 Sport England have developed a Playing Pitch Calculator. For the proposed development, this would potentially generate demand for 1.19 pitches. If this was to be met by new provision, the calculator identifies this would generate a capital cost of

£168,145 for the pitches, together with an appropriate maintenance contribution (suggested to be £23,451 per annum for 15 years), and 1.64 changing rooms at a capital cost of £262,545 to provide a total playing pitch contribution of £782,445. Given that the Playing Pitch Strategy (PPS) generally identifies shortfalls of provision across most sports, there is unlikely to be capacity in existing provision to absorb the demand generated by the development. SE would therefore support the Council in investing a S106 contribution in a locally identified priority(s) in accordance with the PPS.

- 4.88 SE recognises that the development will provide new public open space including Viaduct Park, opening up and improving access to the existing network of water space along the canal and sections of the River Rea, and a series of urban public spaces within the development. These spaces could be utilised for certain types of physical. The provision of these proposed areas of public open space are therefore supported by SE. However, this does not meet the need for formal sports facilities to play pitch sports, nor will they meet the needs for built indoor sports facilities that have been set out above. The types of spaces to be provided will also not be capable of providing for more informal/recreational sporting activities. Residents will therefore need to access other local facilities, such as Garrison Lane Park, Kingston Hill Park and Highgate Park.
- 4.89 Active Environments - SE, in conjunction with Public Health England, has produced 'Active Design' (2015), a guide to planning new developments that create the right environment to help people get more active, more often in the interests of health and wellbeing. The proposals to develop Duddeston Viaduct as a new linear public open are supported. Given the length of the viaduct is in the region of 450 metres long, its disappointing that the design code identifies that only 2 points of vertical access need to be provided, and that some of the more centrally located points of vertical access could be omitted. Can this be re-considered to require these to also be provided as this will ensure a better level of connectivity throughout the heart of the development to this important open space? The indicative designs also provide an ecological space for planting, as well as provide space for walkways. The Viaduct is approximately 10 metres wide and so there should be sufficient space, providing a sensible balance is struck to ensure there is sufficient width to accommodate both walking, running and cycling. Recommended that the Design Code stipulate that the walkway should be a minimum of 3 metres wide.
- 4.90 The applicant could do more to demonstrate how the development could connect to important community facilities such as the local parks in the surrounding neighbourhoods.
- 4.91 Note the contents of the Design Code in respect of cycling storage provision and is generally supportive of the approach taken.
- 4.92 The proposed phasing plan indicates that the provision of the open space infrastructure would be undertaken at an early stage, and this is supported as this will help develop a sense of place and provide these essential spaces for use upon first occupation of the respective phases of housing development. It is recommended that the proposed phasing details are secured either by planning condition or within a suitably worded s106 agreement.

- 4.93 Western Power - Western Power Distribution (WPD) are the statutory undertaker for the electricity network for the area in question and the wider Birmingham and West Midlands. Within the development area WPD holds an interest in 16 electrical substations, a bulk supply point immediately adjacent to the development area with several KM of underground cables at all voltages upto and including 132kv and would seek full costs for diversions of any of our assets and commercial rates for the relinquishments / sale of any leased or freehold sites. Please ensure that WPD are fully consulted with regard to this development from both a diversionary aspect but also from a demand perspective to ensure we have early involvement with the development of the site.
- 4.94 Twentieth Century Society - We object to the application due to the loss of valuable locally listed non-designated heritage assets and harm caused to the Digbeth Deritend and Bordesley Conservation Area. The Wild Works site is home to a group of buildings built by the manufacturer W. J. Wild Ltd. The company moved into the first of their new premises on Floodgate Street in 1935. Wild Works 2 was built in 1938 and is composed of a two-storey elevation with sheds behind. No. 3 Wild Works was constructed in 1940 and features brick-fronted linked sheds, and the Wild Works Canteen of c.1940 is located to its rear. Wild Works 4 (Rea Studios) was built in 1955-1967 is composed of three storeys of office accommodation with brick-fronted single storey workshops to either side. This is contrary to BDP Policy TP12 and paragraph 197 of the NPPF.
- 4.95 The Society believes the demolition of much of Wild Works 2 and 3 will harm their significance as locally listed buildings. Also believe the applicant has underestimated the architectural and historical importance of the locally listed Wild Works 4 (Rea Studios) in applying for its demolition and that it could be successfully retained and re-used. The former Wild Works are identified in the Digbeth/Deritend Conservation Area Appraisal (2009) and described as “a series of numbered buildings [...] [which] form an interesting complex.” Believe the proposal to partially and fully demolish three of the Wild Works buildings will reduce their overall group value. The significance of the other locally listed Wild Works buildings such as No 1 Works (93-96 Floodgate Street), W.J. Wild Ltd Personnel Dept., and No. 6 Works (28 Floodgate Street) will therefore be reduced.
- 4.96 Object to the proposals due to the harm caused to locally listed non-designated heritage assets and the impact the proposals will have on the Digbeth Deritend and Bordesley Conservation Area. For these reasons, we advise that the Local Planning Authority refuses the application.
- 4.97 Birmingham Airport- Responded no comment.
- 4.98 Midland Metro - Would like to liaise with the applicants to ensure that development work undertaken on the future East Birmingham to Solihull Metro extension is taken into consideration and that dialogue can be ongoing so as not to preclude further development of the Metro route.
- 4.99 Network Rail (NR) - Need to know how this proposal affects any access points we have, including access to the viaducts.



- 4.100 What effect would the high rise buildings have on wind speeds being funnelled through the buildings over the Viaducts for trains and staff working on them? The applicant will need to work with Network Rail to ensure that our infrastructure and employees are not impacted. What effect would any glare or reflections from buildings have on signal sighting for train drivers? A glint and glare study should be undertaken with Network Rail.
- 4.101 High rise buildings could amplify rail traffic noise. The BCC and the developer (along with their chosen acoustic contractor) are recommended to engage in discussions to determine the most appropriate measures to mitigate noise and vibration from the existing operational railway to ensure that there will be no future issues for residents once they take up occupation of the dwellings. Network Rail is aware that residents of developments adjacent to or in close proximity to, or near to the existing operational railway have in the past discovered issues upon occupation of dwellings with noise and vibration. It is therefore a matter for the developer and the council via mitigation measures and conditions to ensure that any existing noise and vibration, and the potential for any future noise and vibration are mitigated appropriately prior to construction.
- 4.102 There is a planning basis for consideration of both types of impact on GSMR: other masts (114a) and tall buildings (114b). Network Rail would need to review documentation assessing the impacts of the proposal telecoms and height on GSMR. Network Rail would need to agree:
- Excavation, earthworks
  - Drainage proposals
  - Construction traffic
  - Boundary treatments
  - Vegetation proposals
  - Piling/vibroimpact works
  - Tower crane working
  - Vehicle incursion mitigation
  - RAMS
- 4.103 Environment Agency – (latest comments) No objection.
- 4.104 Flood Risk - the following conditions are recommended.

Outline application:

- a. hydraulic modelling showing the effects of the development compared to the existing baseline.
- b. New Public Realm
- c. Vehicle access
- d. Any bridges must have levels set in excess of 600mm above the 1 in 100 plus climate change flood level
- e. any development within 8m of the River Rea shall include a scheme of maintenance access to the river
- f. Maintenance access shall be implemented prior to the first occupation or use of the development.

- g. Structural Surveys of development adjacent to the River Rea must demonstrate that there will be no determinate impact of the structure of the River Rea channel and include mitigation measures
- h. a scheme to de-culvert the Rea and implement additional crossings. This scheme must provide a betterment for the River Rea and crossings must only be in place where access is required.

4.105 Detailed application:

- a. Ladder access to the River Rea
- b. The Phase 1 Bridge between the Custard Factory and Custard factory living sites soffit Level shall be set no lower than 102.92mAOD
- c. Finished floor levels for the Wild Works and Custard Factory Living shall be set at the levels stated in Table 5 and Table 7 of the FRA
- d. Flood Resilience measures for the Wild Works and Custard Factory Living

4.106 The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained.

4.107 Biodiversity - Support ambition presented in the Rea Valley Urban Quarter SPD in particular the visualisations of the channel which show the removal from its brick lining, terracing, and mixed planting around the banks within a large easement. Aware that this SPD does not cover the area of the hybrid application in question, however in order to provide a continuous riparian corridor, as well as a joined up approach to planning and development, the same ambition for channel improvement should be presented wherever possible. There is a missed opportunity to enhance the Rea as a focal point of the development. It is unclear from the documents which sections of the River Rea will be de-culverted. In addition there are no details of the terracing. Historic development that has encroached on watercourses has severely impacted on their ecological value. New developments that provide an opportunity to re-naturalise river corridors wherever possible will help wildlife adapt to climate change and will help restore watercourses to a more natural state as required by the river basin management plan. The proposed development will therefore be acceptable if a planning condition is included requiring a scheme to be agreed to be re-naturalised around the River Rea wherever possible. This approach is supported by paragraphs 170 and 175 of the NPPF which recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity. If significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, planning permission should be refused.

4.108 Groundwater & Contaminated Land - the site is located on alluvium with the exception of the eastern section where superficial deposits are absent. The bedrock beneath these superficial deposits and outcropping in the east is indicated to be Mercia Mudstone. The alluvium is designated as a Secondary A aquifer, Mercia Mudstone is designated as a Secondary B aquifer. The River Rea and Warwick and Birmingham Canal (Grand Union Canal) are present as water features within the site. The previous use of the proposed development site presents a risk of contamination

that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located on Secondary aquifers. The applicant's SI Phase One reports demonstrate that it will be possible to manage the risks posed to controlled waters by this development. Further detailed information will however be required before built development is undertaken. It would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for the LPA. The proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy.

- 4.109 Local Lead Flood Authority – no objection subject to conditions. Outline Application. Support the surface water discharge rate which will be restricted to the 1 in 1 year greenfield discharge rate (unless there is a requirement from the Environment Agency to discharge at a minimum of 5l/s from and outfall attached to the drainage strategy). A minimum 30% climate change allowance is required by the LLFA although the national guidance states that a 40% allowance should be applied to residential development. Detailed calculations, with supporting network layout plan, to demonstrate the proposed network performance (for all events up to and including the 100yr plus 30% climate change event) are required.
- 4.110 The LLFA actively promote and encourage the implementation of SuDS on all developments. As such, evidence is required demonstrating that all SuDS features have been considered along with justification of why features have been discounted; the use of below ground attenuation should only be considered if above ground attenuation is proven to be unviable. Additional consideration must be made in relation to how SuDS will operate in the event of fluvial flooding in some areas of the site. Because there will be a mixture of new development and change of use application, the creation of community level SuDS within the new public realm areas of Allcock Street, Floodgate Street and the new green pedestrian corridor could be utilised as SuDS streets. The LLFA would welcome further discussions with the applicant and their consultant in relation to the green and blue infrastructure proposals within the development site.
- 4.111 Although we are satisfied at this stage that the proposed development could be allowed in principle, the applicant will need to provide further information to ensure that the proposed development can go ahead without posing an unacceptable flood risk to future occupants in locations that are vulnerable to surface water flooding. We note that some locations within the outline planning application footprint lies in areas that are susceptible to surface water flooding, and where possible property resilience and resistance measures should be proposed particularly for building that will be subject to a change of use applications. Recommend following conditions:
- Outline - Requires the prior submission of a sustainable drainage scheme in a phased manner
  - Outline - Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan
  - Outline - Surface Water Flood Resilience
- 4.112 Detailed Application: Wildworks Development. Welcome the inclusion of a blue roof within this development, and accept that due to site constraints 145m<sup>3</sup> of

underground attenuation will need to be provided to restrict the surface water discharge to 5l/s. Within the surrounding area there may be opportunities to consider additional SuDS such as rainwater gardens and tree pits or permeable paving. When the detailed drainage strategy is undertaken, where possible these features should be included.

- 4.113 Custard Factory Living: Welcome the inclusion of blue and green roofs, rainwater gardens / SuDS planters and permeable paving. Satisfied at this stage that the proposed development could be allowed in principle, however the applicant will need to provide further information to ensure that the proposed development can go ahead without posing an unacceptable flood risk to future occupants in locations that are vulnerable to surface water flooding. We note that the Custard Factory development application footprint lies in areas that are susceptible to surface water flooding with predicted depths of over 300mm, and where possible property resilience and resistance measures should be proposed particularly for building that will be subject to a change of use applications. Recommend following conditions:
- Full – sustainable drainage scheme in a phased manner
  - Full - submission of a Sustainable Drainage Operation and Maintenance Plan
  - Full - Surface Water Flood Resilience
- 4.114 BCC Employment Team - request to include construction employment plan within the S106 Agreement or within a planning condition in order to secure the satisfactory development of the application site in accordance with Policy TP26 Local Employment of the BDP and NPPF.
- 4.115 BCC Education - The School Organisation Team request a contribution under Section 106 for any potential development that is for at least 20 dwellings and would impact on the provision of places at local schools. The contribution is estimated below (subject to surplus pupil place analysis).
- 4.116 Detailed Application: Nursery £2,542.67; Primary £65,414.87; Secondary £48,549.46; Total £116,507.00. Outline Application: Nursery £251,355.62; Primary £6,466,584.83; Secondary £5,634,245.49; Total £12,352,185.93
- 4.117 Regulatory Services – Digbeth is currently a mixed area including industrial and night time entertainment uses. Such activities are not compatible with residential uses. Introducing residential accommodation will change the nature of the area and this may necessitate working with business operators to allow them to continue to operate in a manner that does not result in statutory nuisances. Whilst the applicant has concluded entertainment noise will not be significant compared to background noise, general noise has been found to be in excess of 50dB during the daytime and in excess of 45dB at night. The noise assessment makes reference to Appendix 3 of BCC's PCGN(v6) 2020. However this is for low rise conventional developments only. Given the Custard Factory Living (Plot CF2) is 7 storeys and has large full length windows, Appendix 3 is not relevant. Full façade calculations are required. With regards to air quality, the detailed application does not have any sensitive dwellings. Detailed Application: Concerns can be addressed through the following:
- a scheme of noise insulation to be submitted based upon a comparison between external and internal noise levels taking account of facade calculations including reference to window types, dimensions, glazing and full

details of the external wall construction. The scheme shall be implemented in accordance with the agreed details prior to the first use of any residential unit and thereafter retained;

- Extraction and Odour Control Details;
- Noise Levels for Plant and Machinery;
- Entertainment Noise Restriction - Noise emanating from the premises identified for potential entertainment use (Leq, 5min) shall not exceed a level 10dB less than the background noise level (L90, 5min measured in the absence of the entertainment noise) in octave bands from 63Hz to 4Hz at the façade of any noise sensitive premises;
- Noise Insulation between the commercial and residential premises;
- Construction Method Statement/Management Plan;
- Contamination Remediation Scheme; and
- Contaminated Land Verification Report.

4.118 Outline application - The ES has considered existing noise sources. However the impact of noise from the proposed development and from existing sources in the noise development cannot be properly considered until more detailed plans have been provided. At each phase when full planning applications are made these should be accompanied by a noise assessment. Implementing all phases is likely to take a number of years, and as noise assessments are prepared they must reflect the most up to date guidance at that time.

4.119 The site will involve 800 parking spaces. The application refers to up to 10% electric vehicle charging. This is insufficient as provision should be at least 10%. The Geotechnical and Geochemical Assessment has found the site to be potentially contaminated. For each phase of development further investigation and remediation as necessary will be required. The Air Quality Assessment is based on diffusion tube monitoring. It was to be supplemented with on site diffusion tube monitoring, however that was postponed in 2020 due to Covid. Prior to further applications a diffusion tube study should be carried out. In accordance with technical guidance this should be of at least 6 months duration including at least 3 months between October and March. On balance no objection subject to conditions:

- Submission of noise assessment
- Construction Method Statement/Management Plan
- Contamination Remediation Scheme
- Contaminated Land Verification Report
- Requires the provision of a vehicle charging point(s) No fewer than one charging point for electric vehicles shall be provided at each residential unit with dedicated parking. No fewer than 10% of non-dedicated parking spaces shall be provided with electric vehicle charging points.

4.120 Highways England - The overall number of vehicular movements to and from the development site is not expected to present material impacts on the SRN in capacity terms. It is, however, recommended that the applicant develops a Construction Environmental Management Plan (CEMP) in order to ensure that vehicles leaving the site are clean and sheeted, and to confirm reciprocal requirements for receiving inert fill. Key personnel and a communications/contingency strategy in the event of accidental spillage on the highway will also need to be established. In order to better understand and manage the implications of construction traffic on the SRN, the

CEMP should also provide details of construction traffic volumes and routing plans. The CEMP will need to be agreed prior to commencement, and be implemented and adhered to throughout the extraction and restoration phases of the development. As CEMPs are live documents, it should be noted that any changes to key personnel, activities and/or practices will need to be agreed with the Local Planning Authority.

4.121 Police - The proposal site is policed by the City Centre Neighbourhood Team and calls for service are high, currently the highest recorded crimes are anti-social behaviour 87%, violent crimes and sexual offences 81%, public order offences 36% and criminal damage 29%. Eastside Park was developed in 2016, and a condition of planning was that landscaping was maintained, this was not the case and very soon, trees and shrubbery had overgrown, restricting the capacity of the CCTV system and reducing the effectiveness of the lighting scheme. Criminality in the park increased (including robberies and drug abuse) and we do not want this to be replicated here. The introduction of residential uses and the creation of a mixed use community is welcomed. The new uses should increase the surveillance over the public realm in the area.

- Recommend limiting access to the Viaduct Park to two points located at either end of the park;
- Opening hours of the Viaduct Park should be managed to reduce the risk of anti-social behaviour at night;
- 1.8 metre high guarding to the Viaduct Park should be provided to deter people climbing over the wall;
- All areas covered by CCTV should be well lit;
- CCTV should be located within all entrance lobbies and cycle stores;
- Secondary entrances, other than fire escapes should be avoided on all buildings;
- All waste and cycle stores should have access control;
- Recessed entrances to building should be avoided;
- Residential buildings should be fitted with video intercom to main entrances;
- Shared retail and residential back of house areas should be avoided;
- designs of any buildings, or public open spaces, should adhere to the general principles of Secured by Design;
- All lighting schemes should follow the guidelines and standards as indicated in 'Lighting Against Crime' guide;
- Recommend a condition to require that a suitable site-wide CCTV scheme be installed. Cameras should provide coverage of the communal public space areas on the site, the main pedestrian and vehicle routes into and throughout the site and the main vehicle entrances to the site;
- Recommend a condition to require Hostile Vehicle Mitigation measures to protect some aspects of the development, such as public open spaces, gathering points and, potentially, certain individual buildings (subject to their specific use). These areas will be where large groups of the public can gather which could prove to be a target for offenders in vehicles;
- Recommend application of anti-graffiti coating to all accessible surfaces of the proposed works;
- Recommend a condition to require a management plan to maintain open spaces/landscaped areas;

- Recommend management plan to reduce crime at student accommodation at moving in moving out times;
  - Access to the roof top communal space should be controlled and anti-suicide measures should be in place. This should also be applied to individual residential terraces. With the 'function space' being exclusive, the risk of falling (accidentally or otherwise) is reduced as the clientele is known, but suitable barriers should be considered;
  - What measures have been put in place to ensure there will be sufficient Emergency Service Network 4G coverage for emergency radio contact to be upheld?
- 4.122 Fire Service - the development should adhere to Building Regulation.
- 4.123 Access Birmingham – most concerned that the extensive D&A Statement makes no reference to how the public realm and buildings make provision for the access needs of all the community in this substantial planning application.
- 4.124 The application has been advertised in the press, site notices have been posted and neighbours notified.
- 4.125 15 letters of objection have been received raising the following concerns:
- Concerned about the implications of residential neighbours on our heavy industrial business;
  - concerns about parking and the impact of residential parking;
  - it is not the right time to put this kind of stress onto small businesses. If we are affected then we would need full help and support
  - object on the basis that it will cause nuisance to the residential tenants;
  - we essential services to those who are homeless or at risk in the City and the proposals would cause serious detriment to our work and the trusted location for the most vulnerable;
  - Further additional student housing alongside nightclubs, at a time when much student accommodation is compromised as a result of Covid 19 and different ways of working are being considered, is questionable.
  - There is no consideration in this proposal of the outright need for truly affordable housing near to the City Centre. There are no plans to meet local housing need and provide a local opportunity for Live and Work schemes, for those employed in the area or within walking distance to the City Centre. This application proposes more transient housing for short term lets which would leave the area empty for much of the year.
  - Consultation with local occupants has been negligible.
  - It is very difficult to comment when we have had no information about the impact of these plans upon our business;

- Although the Annex at the rear of the St Basils, currently used as offices by the charity, are no longer stated as being marked for demolition, there appears to be a typo on the plans, where about a third of that building appears to be still marked as being for demolition. If that is indeed the proposal, then St Basils continues to strongly object to this proposal;
- St Basils offices on Allcock Street are marked for demolition, we have a long term lease on these buildings and have made a significant capital investment in them. St Basils cannot agree to any proposal that includes their demolition without identifying or proposing acceptable alternative accommodation which is affordable, and recompense for the costs that have already been incurred, and would be incurred in moving to another location;
- We cannot identify anything in the proposals about the inclusion of affordable housing. This is still a major concern. It is critical, particularly in light of the broader proposals, that there are affordable housing options in this development so close to the City Centre;
- The proposals “set clear parameters” which result in the loss of approximately half of my client’s buildings, with no agreement, and consequently no chance of success. Making this application, which has such a dramatic effect on the value of my client’s land before agreeing a proposal with them, can only be done in order to seek to reduce the value of my client’s land;
- Irrespective, the applicants cannot make their proposals happen without agreement with my clients, and the application therefore has little chance of full implementation. It should therefore be reduced in scope;
- the majority of the application site is located within either the Digbeth or Warwick Bar Conservation Area. S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the legal duty in conservation areas for the decision maker: “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”
- The applicants are unable to calculate costs and value within a financial viability assessment having no control over the majority of the land included in the application. It seems that the only way this application can proceed sensibly is to reduce its extent to the area covered by the detailed application;
- parking provision needs to be flexible and adaptable so that it can easily be turned into productive and useful space when it is no longer required;
- More living developments need more everyday facilities not just green space;
- The River Rea should be treated in the same way as the Rea Valley SPD along this stretch in order to maximise the opportunity for this part of the City. In its present form, the application scheme does not seem to demonstrate significant improvements to the river corridor.
- The planning application suggests that my business premises are due to be demolished. What is the timescale for the proposed demolition? I am a small



business, how and when will I be compensated to undertake relocating my business?;

- Our client's public house, which is Locally Listed, would be directly opposite the south east corner of the site. Plots V9, V8, V2a, V5, D1, D2 and A1 are all in close proximity to Dead Wax Digbeth. The busy public house regularly holds live music events within its garden. The public house and garden have a capacity of 480 people and can hold live music events every day of the week in busy periods. As an existing noise generator, the potential impact of the public house's operation upon future residents must be fully accounted for when determining this application;
- Appreciate the proposal (in relation to plots near to Dead Wax) is outline as this stage, so details are to be confirmed through later submissions. Note however that within the submitted ES Dead Wax is identified as a significant existing noise source. The ES makes clear that the potential impact of noise from entertainment venues upon future residents will be high and enhanced acoustic mitigation will be needed to residential facades;
- At this stage, it is unclear whether future residents of the dwellings, student accommodation and hotel proposed for those plots opposite Dead Wax would be suitably protected from any noise generated by the lawful operation of the public house;
- The scheme, up to now, does not show due regard to Dead Wax as an existing Locally Listed Heritage Asset and valuable community facility;
- draw attention to the 'Agent of Change' principle embedded in the NPPF;
- landowners of 28-29, 30-34, 35-38, 43-44 River Street raise concerns regarding the lack of any meaningful consultation and design review process prior to submission of the planning application;
- acknowledge that the application is made in 'outline however the application does set out design aspirations for the red line area that appears to underestimate the potential of the strategic ownership along River Street;
- the increased massing and heights in the immediate area surrounding St Basil's Church, a heritage asset, will have a substantial negative impact to the listed building;
- Concerns over the loss of the carpark area associated with St Basils that will encourage further street parking and is likely to cause congestion issues in the vicinity of the site, negative impacts on the amenity of the area and will cause issues for the Youth Centre's staff;
- two further ancillary office and reception buildings located to the north with are still earmarked to be removed. These buildings are proposed to be replaced with mainly residential accommodation. If these buildings are removed alternative space will need to be sought elsewhere on site.

1 letter of support commenting that:

- It is exactly the sort of comprehensive plan that Digbeth needs and the application clearly demonstrates a profound understanding of Digbeth's history and an articulate vision for its future.

## 5. Planning Policy

- 5.1 Birmingham Unitary Development Plan (Saved Policies) 2005; Birmingham Development Plan 2017; Places for All SPG; Places for Living SPG; High Places SPG; Car Parking Guidelines SPD; Birmingham Parking SPD (Consultation Draft 2019), Public Open Space in New Residential Development SPD; Lighting Places SPD; Affordable Housing SPG; Loss of Industrial Land to Alternative Uses SPD; Rea Valley Urban Quarter SPD, City Centre Retail Strategy (2015), Shopping and Local Centres Supplementary Planning Document (2012), Digbeth, Deritend and Bordesley High Streets Conservation Area – Character Appraisal and Supplementary Planning Policies (2009), Warwick Barr Conservation Area - Character Appraisal and Supplementary Planning Policies (2008), Birmingham Curzon HS2: Masterplan for Growth (2015); Rea Valley Urban Quarter SPD (2020); Regeneration through Conservation: Birmingham Conservation Strategy (1999) Development Management in Birmingham (Publication Version 2019); Birmingham Design Guide (November 2020); Draft Car Parking SPD (2019), Our Future City Plan Central Birmingham 2040 (2021) and the revised National Planning Policy Framework.

## 6. Planning Considerations

### *Principle of Proposed Uses*

- 6.1 In principle the proposed uses are acceptable in this location. Policy GA1 of the BDP promotes the City Centre as the focus for retail, office and leisure activity and supports residential uses where it provides well designed, flexible and adaptable high quality living environments.
- 6.2 The application site lies within the Digbeth Quarter under Policy GA1.3 where new development must support and strengthen the distinctive character of the Quarter to create a thriving creative and cultural hub within a high quality, exciting and easily accessible environment.
- 6.3 Policy TP24 promotes a diverse range of facilities and uses within centres.
- 6.4 The Curzon HS2: Masterplan for Growth covers a large area to the east of the City Centre including the application site and the wider Digbeth area. It is intended to maximise the potential of HS2 by identifying a range of development opportunities to capture and promote the area's growth potential.
- 6.5 The Policies provide support at a strategic level for the growth of the wider City Centre by promoting the range of uses proposed. However it is considered necessary to appraise the individual uses in more detail acknowledging the scale of development proposed.

### Proposed Retail Uses

- 6.6 The proposed development includes 2,612sqm GIA of retail (Use Class A1 to A5) floorspace within the detailed application and up to 16,288sqm within the outline application to give a total retail floorspace of up to 18,900sqm GIA. Whilst the BDP and Curzon Masterplan support non-residential floorspace within the City Centre growth area the site lies beyond the City Centre Retail Core at an out of centre location, whilst retail uses are defined by the NPPF as main town centre uses. The proposed floorspace exceeds the NPPF threshold of 2,500sqm and therefore it is necessary to assess whether this amount of retail floorspace would have an impact upon the vitality and viability of the retail core or any local centre.
- 6.7 The applicants have advised that it is their intention to bring forward an element of retail use across the hybrid application as part of a mix of uses and it is intended to be occupied predominantly by independent retailers, in a similar way to how the Gibb Street area currently operates. Such an approach would align with Policy TP23 that encourages independent and niche retailers across the City. Furthermore the retail offer is intended to contribute to the creation of a vibrant mixed use neighbourhood that has activity over a 24 hour period. The proposed development has the potential to deliver up to 1,890 new homes and it is important to ensure that the future residents would have access to supporting services like a local convenience shop.
- 6.8 In order to ensure that the proposed retail offer would be implemented as anticipated, and would not affect the vitality and viability of the City Centre retail core or any of the other neighbourhood centres, firstly it is proposed to limit the size of any retail unit to 1,050sqm (GIA). Secondly it is proposed to limit the quantum of A1 retail floorspace within the scheme to a maximum of 2,500sqm. A threshold of 2,500sqm is set out in the NPPF above which a retail impact assessment is required. It is noted that Policy GA1.1 advises that appropriate scale retail development will continue to be supported where it complements the existing Retail Core and as part of mixed-use redevelopments throughout the City Centre.
- 6.9 It is considered that these limitations, which would be enforced by conditions, would ensure that the proposed retail floorspace would be ancillary to the other residential and commercial floorspace. Notably the maximum total retail floorspace of 18,900sqm amounts to only 5.4% of the total floorspace proposed across the hybrid scheme and the limitation of Use Class A1 uses to a maximum of 2,500sqm represents just 0.7%. Given these restrictions to ensure that the proposed retail offer supports but also remains ancillary to the wider redevelopment of the site a conventional search for sequentially preferable alternatives has not been undertaken and this approach is considered acceptable for this particular application. It is considered that the retail offer would accord with Policies GA1 and TP21, TP22, TP23 and TP24, as well as the national policy requirements set by the NPPF.

#### Proposed Office (B1), and Leisure/Community/Cultural Uses (D1/D2)

- 6.10 The hybrid application proposes up to 180,000sqm of B1 office floorspace and up to 11,900sqm of leisure/community/cultural uses. The NPPF allows more flexibility when considering the location of these main town centre uses, with the Annex explaining that edge-of-centre for the purpose of these uses involves all locations within 300 metres of a 'town centre boundary'. It is considered that for the purpose of these uses the town centre is defined as the City Centre Growth Area, and as such the application site is appropriately located within the most sequentially preferable

location. The HS2 Curzon Masterplan identifies the wider area as having the potential to create 36,000 net jobs and the office floorspace proposed would support this objective.

- 6.11 Furthermore it is considered that the introduction of these uses would support the establishment of a thriving community within the site and wider Digbeth area, where residents' day-to-day potential leisure, community and employment needs are met on a localised basis, resulting in social, environmental and economic benefits. Therefore greater weight is given to the flexibility that the NPPF gives to the location of these particular main town centre uses. It is considered that the proposed office and community floorspace would accord with Policies GA1 and TP24, the HS2 Curzon Masterplan as well as the national policy requirements set by the NPPF.

#### Proposed Hotel (C1)

- 6.12 The outline application proposes up to 14,400sqm GIA of hotel floorspace, which equates to approximately 350 rooms. Whilst the NPPF defines a hotel as a main town centre use BDP Policies give greater flexibility with regards to their location with Policy TP25 supporting proposals that reinforce and promote Birmingham's role as a centre for tourism, culture and events and as a key destination for business tourism. The Policy further states that the provision of supporting facilities such as hotels will be important and that well designed and accessible accommodation will be supported. Saved Policy 8.19 of the Birmingham UDP also encourages the provision of additional hotels in order to provide a balanced range of hotel bed spaces, subject to local planning, amenity and highway considerations. Finally the HS2 Curzon Masterplan seeks to maximise the regeneration and development potential of HS2 in the City Centre. The Masterplan identifies the area as having the potential to deliver 60,000sqm of hotel floorspace. It is therefore considered that there is sufficient reason to support a hotel at this out of centre location.

#### Proposed Residential Uses

- 6.13 The current scheme could provide up to 1,890 residential units. Policies TP27 and TP28 lend support to the development of new residential properties advising where they should be located and how they should contribute to the creation of sustainable places. Whilst the site is considered to have a sustainable location there are further criteria relating to design quality, environmental sustainability, flooding, land contamination and the impact upon historic assets that are considered later in the report. The reasoned justification to Policy TP28 advises that it is expected that a minimum of 80% of homes will be built on previously developed land and the proposals would meet this aspiration. Notably the total number of homes is not known at this stage and neither are the house types therefore the density and range of house types sought by Policy TP30 cannot be confirmed, however the indication at this outline stage is that density would far exceed the 100 dwellings per hectare target with a range of 1 to 4 bed dwellings. These details would be considered at the reserved matters stage. It is considered that the residential units at this location would accord with the principles of Policies GA1.1, TP28 and the HS2 Curzon Masterplan.

#### Proposed Sui Generis Uses – Student Accommodation

- 6.14 The hybrid application proposes 26,100sqm of sui generis floorspace. Separate to the residential offer this could result in the provision of 700 to 850 units of student accommodation. Policy TP33 states that proposals for off campus provision of purpose built student accommodation will be supported where a number of criteria are met including a favourable location and an acceptable design and layout. From the outset it is agreed that the location of the site is well located to serve the needs of Aston University and BCU. The proposed scale, massing and the principles of the design are discussed later in the report, although the architectural detail is not known at this outline stage. The first criterion of Policy TP33 requires a demonstrated need for the development.
- 6.15 A Student Needs Assessment was submitted with the original application. Following the release of the Council's Student Accommodation Supply and Demand Paper in January 2021 and queries by Planning Policy colleagues an Addendum was submitted earlier this year.
- 6.16 According to the Council's Supply and Demand Paper there is a current overall deficit of 12,355 student bed spaces across the City. The Paper also looks at future demand and supply, taking into account the approval of all current planning applications and schemes currently at pre application stage. However the Council's Report only covers the predicted increase in student numbers up to 2025/26.
- 6.17 The applicants have explained that the proposed student accommodation would meet the ongoing growth in students at the nearby universities over the next 10 to 15 years and it is more likely to be implemented post 2025/26. However notwithstanding this indication even if 850 units of student accommodation were to be delivered earlier than envisaged it would neither result in an oversupply of purpose built student accommodation within the City Centre at the present time nor in 2025/2026.
- 6.18 Colleagues in Planning Policy agree with the figures and assumptions made in the applicant's submission. However it is proposed to attach a condition to require any future reserved matters applications that propose student accommodation be accompanied by a full student accommodation need analysis relevant at the time of reserved matters submission. This would give officers the opportunity to assess the need based on up to date evidence at the time of submission and determine any application accordingly. It is considered that the principle of student accommodation at this location accords with Policies GA1.1 and TP33 of the BDP.

#### Proposed Sui Generis Uses – Multi Storey Car Park

- 6.19 The application proposes a total of 800 parking spaces within the outline application; zero spaces are proposed within the detailed application site. The total includes the provision of a multi-storey car park (MSCP) within development plot V2a, which is sited adjacent to the proposed Viaduct Park atop the existing disused Duddleston Viaduct. The MSCP would provide a maximum of 500 spaces.
- 6.20 This provision is contrary to the transport policies of the BDP which seek to promote walking, cycling and the use of public transport in preference to the private car. The proposed Clean Air Zone, which will encompass the application site, and the Consultation Draft Parking SPD also promote the movement of people rather than vehicles and this policy approach is supported by the implementation of the

Controlled Parking Zone (CPZ) in Digbeth that came into force in November 2020. Again the CPZ encompasses the application site.

- 6.21 In response the applicants have advised that whilst they are supportive of the Council's sustainable transport policies primarily the MSCP is proposed as a transitional facility to serve the existing and proposed development as changes take place within the site by way of the CPZ, as public transport facilities are enhanced and resulting from the delivery of the proposed public realm associated with the current scheme. Notably the CPZ will result in the loss of 209 parking spaces compared with the uncontrolled provision at the time of submission. The applicants consider that a level of parking provision is required to bridge the gap between the loss of existing spaces and measures such as enhanced public transport and pedestrian connections being delivered. The MSCP would serve the commercial uses across the application site and provide active uses at ground level with parking on the upper floors. It would also be designed so that it could be re-purposed in the future to accommodate alternative uses when the demand for parking in Digbeth changes. The overriding aim, as commented by the applicants is for the proposed development to be the catalyst for the future regeneration and enhancement of Digbeth to enable it to grow and flourish as a creative hub and an exciting and vibrant mixed use quarter of the City.
- 6.22 The Parking Consultation Draft SPD (2019) notes that applications for temporary car parks will only be supported where exceptional circumstances can be demonstrated. It is considered that the regeneration objectives of this 18.9 hectare site, the recent introduction of the CPZ, the timescale for the introduction of public transport enhancements, the adaptable nature of the proposed MSCP and the cap on total parking numbers that would be controlled via a mandatory requirement of the Design Code can collectively be considered to provide the exceptional circumstances the SPD notes. Therefore in this case there is sufficient reason to outweigh Policies TP38 and TP44 and the emerging Parking SPD.

#### Proposed Sui Generis Uses –Night Club

- 6.23 The final sui generis use proposed is a night club use. This could be sited in the single development plot V2a. It is considered that in principle the proposed use would accord with the role and function of the City Centre as explained by Policy GA1.1. The detail of such a use in terms of how it would operate and how noise would be mitigated would be submitted and considered at the reserved matters stage.

#### Principle of Proposed Uses – Conclusions

- 6.24 Paragraph 121 of the NPPF advises local planning authorities to take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. It is considered that there is in principle support for the majority of uses proposed and where there is not, as in the case of the proposed amount of retail floorspace and a MSCP there are sufficient material considerations or restrictions enforced by condition to outweigh strict compliance and avoid the obstruction of the long term policy objectives.

## *Proposed Design*

- 6.25 Digbeth has an irregular street layout that can make navigation through the area difficult, however the juxtaposition of streets, waterways and viaducts also creates a sense of discovery that is different to other parts of the City Centre. Unfortunately it is considered that there is a dominance of parking in the area believed to be as a result of people parking in Digbeth and walking to work in the City Centre. It is however anticipated that the dominance of commuter parking will be reduced as a result of the Digbeth Controlled Parking Zone that commenced in November last year. Digbeth lacks significant public spaces, has very little high quality public realm and is sometimes considered to offer a poor sense of safety. Poorer quality additions to the built environment in recent decades have also had a negative impact on the historic streetscape with vacant plots undermining the historic tight urban grain of development.
- 6.26 The key objectives proposed within the hybrid application are to:
- i. Forge key connections through the heart of Digbeth;
  - ii. Create public open spaces along key routes;
  - iii. Open up the lanes and yards;
  - iv. Enhance the waterways;
  - v. Open up the arches under Bordesley Viaduct;
  - vi. Transform Duddeston Viaduct into Viaduct Park;
  - vii. Provide development to frame the Duddeston and Bordesley Viaducts;
  - viii. Create a critical mass of workspace concentrated around the Custard Factory;
  - ix. Create a landmark building at the intersection of the viaducts; and
  - x. Respect the existing heritage assets.
- 6.27 In addition to the Design Specification and Parameter Plans a Design Code has been submitted to secure the vision, character and quality of the detailed design of the development plots within the outline application. Whilst it is not intended to be prescriptive, the Code provides the overarching design principles that should be adhered to within the subsequent reserved matters applications.

### Design Code

- 6.28 The Code is set out as a series of layers:  
First there are the 10 Framework Principles or key objectives (listed as i to x above).  
The next layer is the site wide codes that refer to:
- The existing built fabric – retention of buildings with and without works, alteration, demolition;
  - Built form – routes, height, roofline facades, special corners, block typologies;
  - Design standards – daylight and sunlight, inclusive design, noise, materials;
  - Land use;
  - Landscape strategy – public realm, communal open spaces, tree strategy;
  - Lighting;
  - Transport and access; and
  - Art strategy - street art, public art
- 6.29 Some examples of these site wide codes:

- Built form/Vertical Access - a minimum of two publicly accessible vertical access points to the Viaduct Park, must be provided, within the zones indicated on Parameter Plan 04 Access & Connectivity;
- Built form/Height and Massing - Maximum height of zone must not be applied to the entire plot extent. Buildings must have different heights and be articulated to form an aggregated skyline;
- Design standards/daylight and sunlight - Residential units with single aspect facing north must be avoided;
- Land use/Active Frontages - Where car parks are provided on the ground floor they should not front the street;
- Landscape strategy/Courts and Yards - A minimum of 15% surface area must be planted;
- Lighting - Feature lighting should be restricted to the viaduct arches and key architectural thresholds such as building entrances, building perimeters and lanes;
- Transport and access/Car parking - No more than 500 car parking spaces must be provided in the multi-storey car park located on Lower Trinity Street;
- Art strategy - Commissioned Street art must be provided at key locations such as the southern façade of Wild 2, the arch under Bordesley Viaduct crossing Floodgate Street and the northern façade of number 35 Floodgate Street.

6.30 Finally there are specific area codes that relate to 6 character areas and 4 landscape areas. The definition of each character area has been informed by the analysis of the existing spaces, the proposed land use, urban form, access, circulation and public realm strategy:



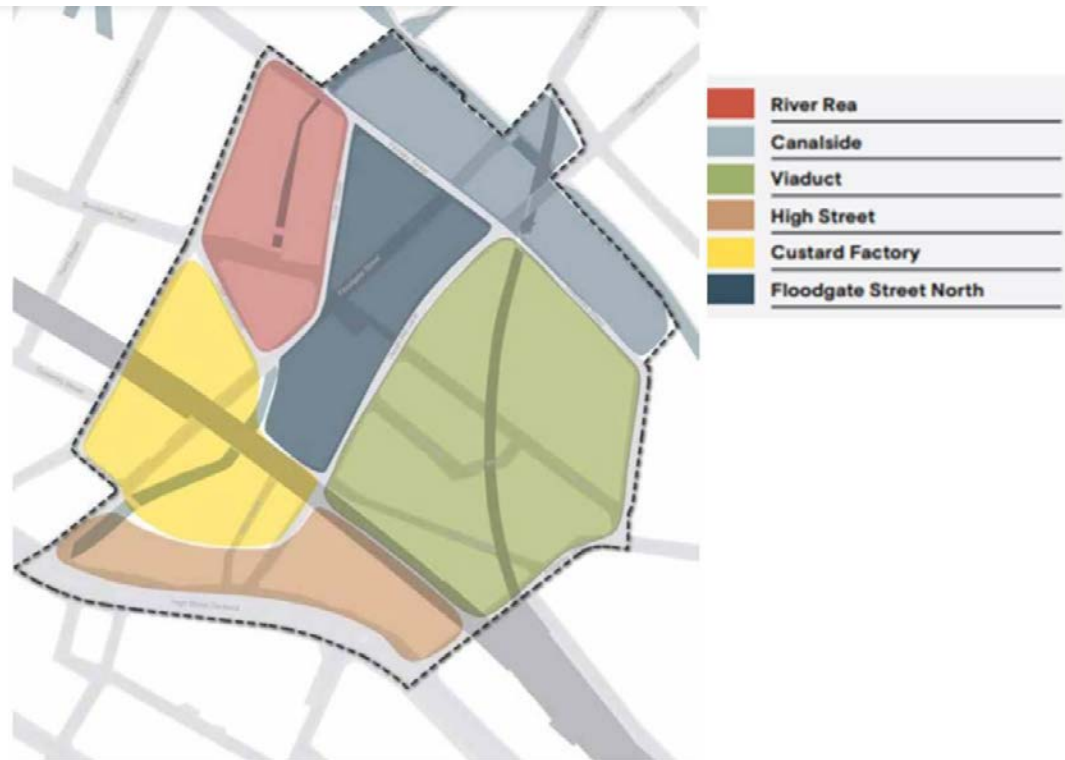


Fig 5: The Six Design Code Character Areas

<u>Character Areas</u>	<u>Landscape Areas</u>
River Rea (Development Plots R1-R6)	Active streets
Custard Factory (Development Plots CF1-CF4, B1-B4)	River Rea & Grand Union Canal
High Street (Development Plots H1-H4)	Lowline
Floodgate Street North (Development Plots F1 – F15)	Viaduct Park
Canalside (Development Plots C1-C8, A4, D5-D6)	
Viaduct (Development Plots V1-V10, A1-A3,B5, D1-D4)	

6.31 The six character areas give guidance in respect of proposed built form, land use, communal open space, access and connectivity. The landscape areas guide low level and tree planting, materials and lighting. Some examples of the character areas codes:

- River Rea/Secondary Route - A Lane within plot R3 must be provided following the route of the River Rea and linking the corner of Little Ann Street and Floodgate Street to the new east west connection;
- Custard Factory/Articulated Roofline - The minimum percentage of articulated roofline must be 25% across development plot CF4;

- High Street/Height and Massing - Taller elements should be located away from the street edge and towards the viaduct, to preserve the street character and not dominate the street view;
- Floodgate Street North/Secondary Routes - The Passages on plots F5 and F7 must connect Heath Mill Lane to Floodgate Street;
- Canalside/Height and Massing - On plot C5 the taller buildings of the plot must be oriented perpendicular to the canal edge to encourage visual permeability;
- Viaduct/Active Frontages - Minimum percentages of active frontages must be provided as indicated (30%/40%/50%)

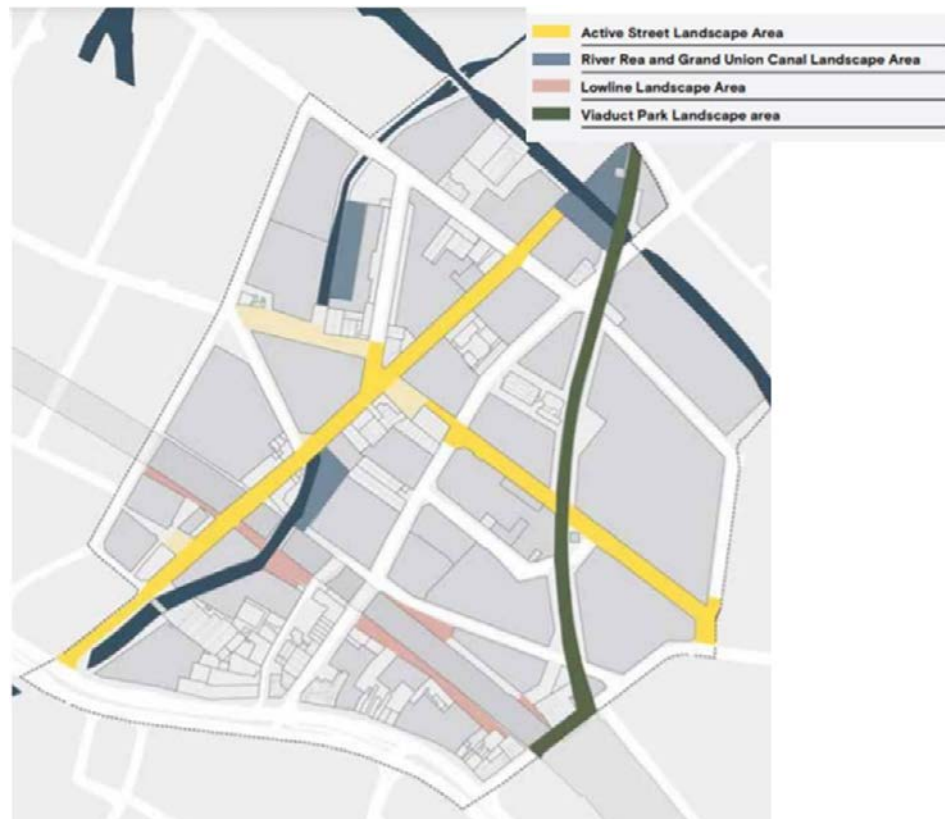


Fig 6: Design Code Landscape Areas

- Landscape Active Streets/Material - Along existing streets, access points into yards, car parks, loading spaces or building entrances should be demarcated with cobbles;
- River Rea & Grand Union Canal/ Lighting - Must have sensitive lighting that respects ecological corridors;
- Lowline/Material - Pedestrian priority areas must be predominantly Dutch Clay or Light Dutch Clay Pavers to contrast the dark brick of the Bordesley Viaduct structure
- Viaduct Park/Lighting - An adequate level of lighting must be provided to allow the park to be used at night

- 6.32 Some guidelines within the Design Code are mandatory, providing certainty with regards to the quality and character of the development. Other guidelines are recommended, providing a degree of flexibility to allow alternative design solutions. The Design Code has been submitted as a control document and the mandatory guidelines have been arranged as a checklist in the Appendix to test the compliance of the subsequent reserved matters applications.
- 6.33 To reiterate, the design and layout of the site is to be controlled by the development specification, the Parameter Plans, the Design Code and the Retention Plan. These are considered in the light of Policy PG3 of the Adopted BDP and saved policies 3.14 to 3.14D of the superseded UDP that will continue to be in force until the adoption of the emerging Development Management DPD. This latter document was published for consultation in January 2020 and contains development management policies relating to environment and sustainability, economy and networks of centres, homes and neighbourhoods, and connectivity. Only limited weight can be attached to its policies due to its status as emerging policy.
- 6.34 The proposed design of the outline and detailed parts of the application are considered separately below.

#### Outline – Layout

- 6.35 Parameter Plans 04, 05 and 06 identify the proposed connections through the site and the areas of public realm. They also set out a hierarchy of street types and thereby types of movements from vehicular streets with public transport to pedestrianised streets.
- 6.36 Two key routes, crossing the site from east to west and north to south are proposed to mark the heart of the development. The north/south route, running along Floodgate Street, would connect Deritend High Street to the Grand Union Canal. The new east/west route would create a more direct link to the City Centre via a new connection linking Bordesley Street to Allcock Street. These key routes would prioritise pedestrian movements and encourage ground floor activities to spill out into the public spaces. A variety of ground floor uses are proposed to provide activity throughout the day while improved street lighting would create a safe environment by night. These connections are also important to link to the wider area, as recognised within The Rea Valley Urban Quarter SPD (2020) and the Birmingham Smithfield Masterplan (2016).



Fig 7: Looking Eastwards Along Floodgate Street (a key route)

6.37 New open spaces are proposed to punctuate these key routes introducing secondary connections, marking key confluences or emphasising historic buildings. As highlighted in the plan below the series of open spaces would be scattered throughout the site to provide amenities for the local working and living communities and visitors.

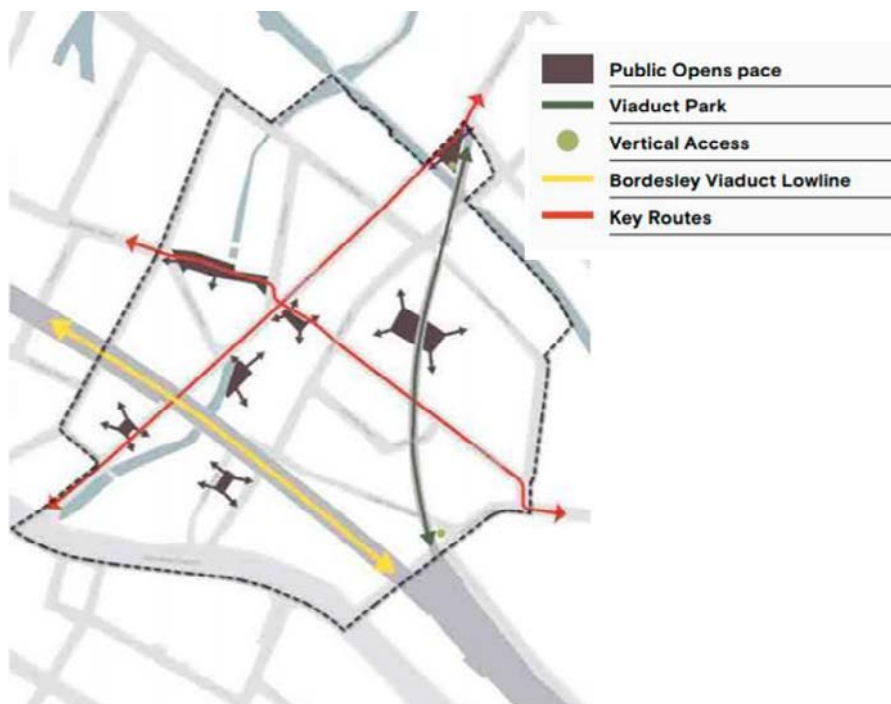


Fig.8: Proposed Areas of Public Open Space

6.38 The existing routes of the River Rea and Grand Union Canal are proposed to be revealed via a series of open spaces along the waters' edges. Notably existing buildings are proposed to be removed between Barn Street and River Street and the culverted river reopened with a new bridge and public space around it. A second new bridge to cross the River is also proposed next to the Custard Factory (this is

within the full part of the application). A third new pedestrian bridge is proposed across the Grand Union Canal, connecting Floodgate Street to two new areas of public open space either side of the canal, adjacent to Development Plots C4 and C6.

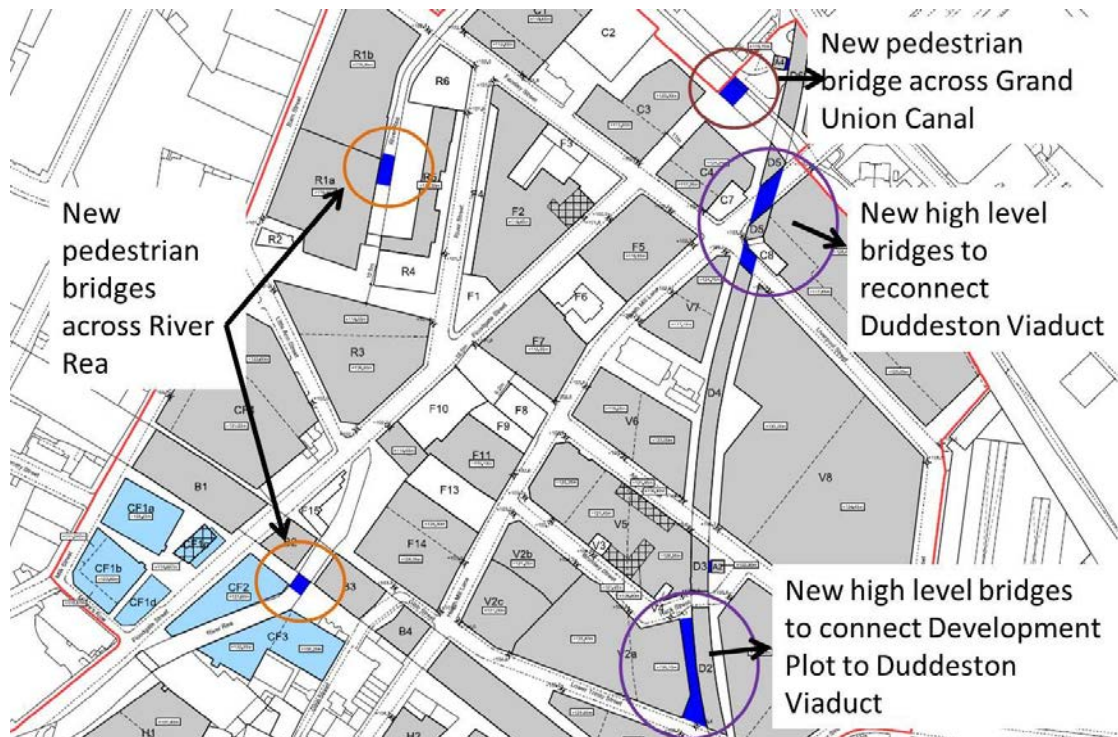


Fig 9: Proposed New Bridges



Fig10: Illustration of Proposed Opening up of River Rea between Barn Street and River Street

6.39 The 400m long Duddeston Viaduct runs through the site and is a prominent but disused landmark within Digbeth. It was built approximately 170 years ago with the intention of it being used as a train line. However, tracks were never laid and it has lain untouched ever since. It has been colonised by weeds and shrubs and currently is not accessible to the public. A linear park to be known as ‘Viaduct Park’ is proposed to transform the existing Duddeston Viaduct into a new piece of green

infrastructure. This would require new bridges across Heath Mill Lane and Liverpool Street to bridge the missing high level links, to enable the new park to stretch the entire length of the viaduct creating an elevated public space from Adderley Street to Montague Street. It would include a publicly accessible raised pedestrian walkway with a mixture of hard and soft landscape, street furniture, play equipment and viewing platforms. As a minimum, stepped access would be provided at the northern end of the viaduct connecting to a green space adjacent to the Grand Union Canal, and at the southern end of Lower Trinity Street. Lift access would also be provided from development plot V2a.

6.40 The reinvention of the Viaduct as a park for public access has been a driving factor from the first inception of the current proposals. There is an opportunity to create a vibrant public space that would be of benefit not only to the existing business and residential community within the application site, but to the rest of the City Centre, wider Birmingham and the West Midlands, and the appetite for the proposed sky park are highlighted within the HS2 Curzon Masterplan. The current hybrid application provides a real opportunity to realise this aspiration and its associated benefits, and it would create a real destination in this part of the City and a unique feature within the City.

6.41 The key elements of Viaduct Park as proposed in the application are the:

- Creation of public access to the Viaduct Park via external stairwells and through buildings. Level access is to be provided at the southern end of the park;
- Creation of a raised walkway on the viaduct to ensure connectivity between access points and provide views over the existing parapet;
- Creation of a bridge to link across Liverpool Street where the viaduct is currently severed. The bridge will be created from appropriate materials to match the industrial character of the area;
- Enabling vegetation to be established and colonise itself, with the planting design aiming to replicate and take inspiration from the existing vegetation character;
- Creation of opportunities for local initiatives such as community growing and events;
- Ensuring overlooking from existing and new buildings adjoining the viaduct to create activity and natural surveillance of the spaces;
- The design of the Viaduct Park will be influenced by the nature of the buildings which face it, with more opportunities for more active spaces created adjacent to buildings in commercial use, and areas of significant planting and low intensity spaces created next to residential buildings; and
- Creation of opportunities for community and events space at the southern end of Viaduct Park where there is an existing area of hardstanding.

6.42 The Design Code in conjunction with the Parameter Plans introduce mandatory minimal separation measurements or 'critical distances' to create a street hierarchy,

ensure good levels of daylight to the new public spaces and routes and to preserve the privacy of users.

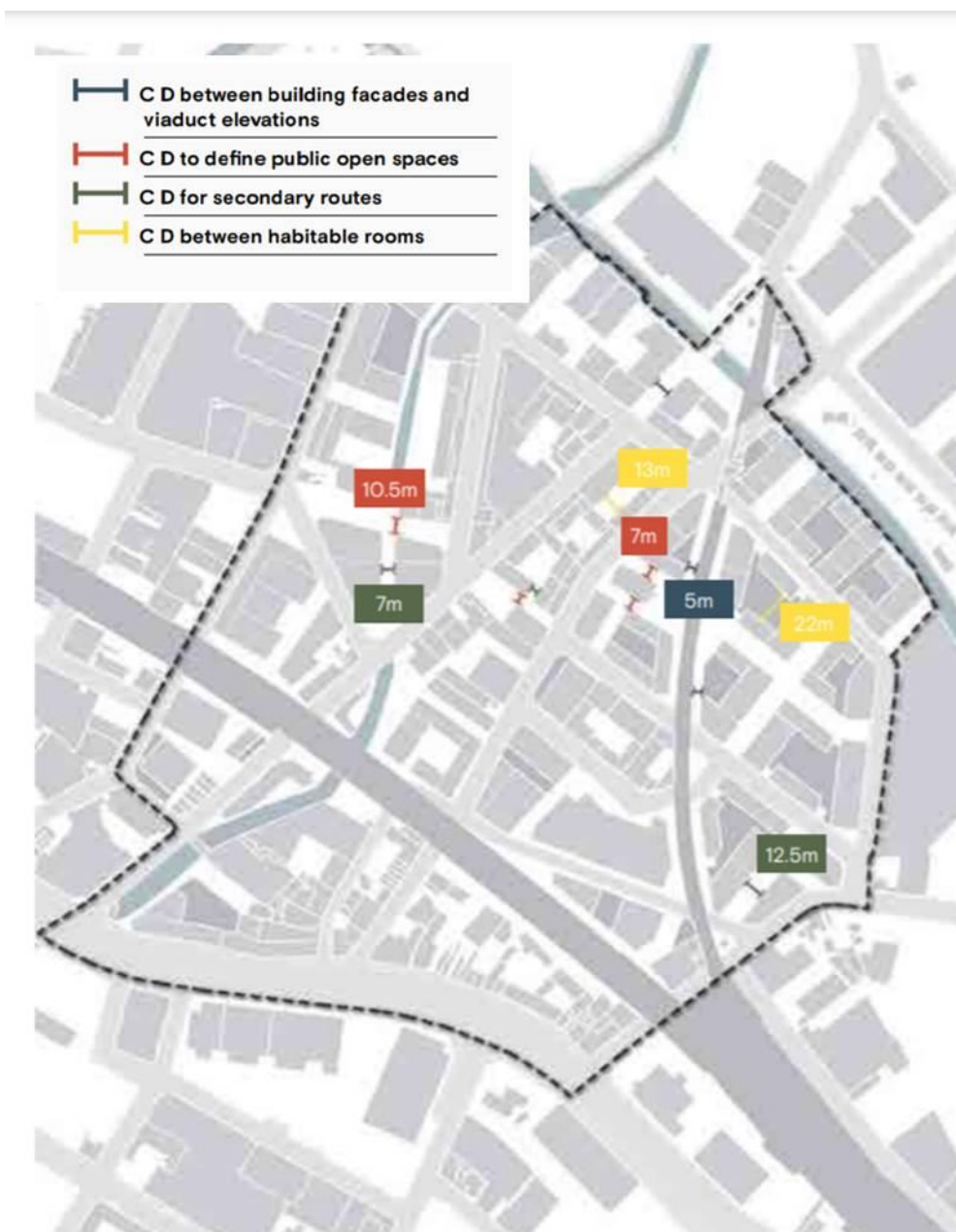


Fig 11: Diagram to Show Examples of some of the Critical Distances

6.43 Parameter Plans 02 (Typical Ground Floor Uses) and 03 (Typical Upper Floor Uses) identify the types of uses for each of the development plots. Retail, leisure, galleries, cafés and restaurants are predominantly concentrated on the ground and lower levels of buildings and in the viaduct arches facing key routes and open spaces. These would provide active uses to animate the public realm, encouraging uses to spill out and offer passive surveillance to encourage pedestrian footfall and an improved a sense of security.

#### Outline – Scale and Massing

6.44 Digbeth does not have one homogenous building type, age, height or style; rather its character is defined by the variety of buildings. However in terms of existing scale

the hybrid site is all relatively low scale with the majority reaching a height of between 1 and 3 storeys. The Custard Factory, Devonshire House and the Green House are the tallest buildings on site with the latter reaching seven storeys.

6.45 The proposed approach to heights and massing responds to the existing topography and the existing scale of development, as well as the need to create a distinctive townscape. Lower buildings are proposed within the natural middle ‘bowl’ created by the River Rea and within those parts of the site that are more sensitive due to heritage. Taller buildings are proposed to frame the viaducts and highlight two landmarks. The proposed heights of the development plots would be controlled by Parameter Plan 01 that sets maximum building heights, the plan does however make a 4m allowance for rooftop plant, lift overruns, aviation and telecommunication requirements and articulated roofs.

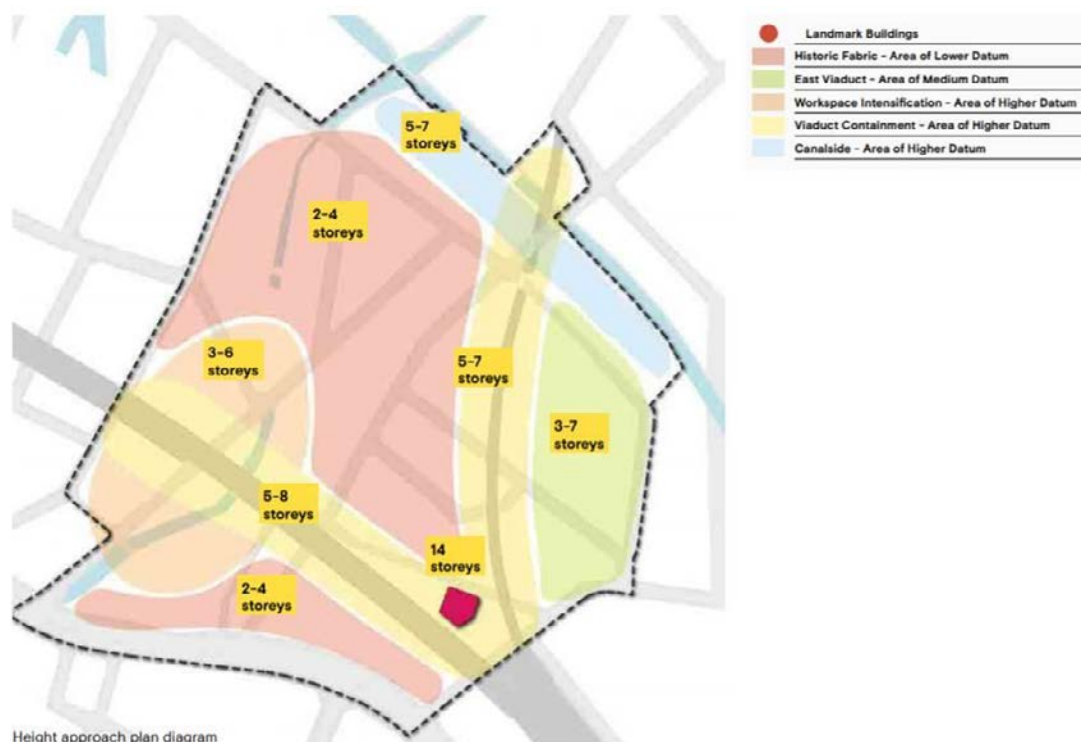


Fig 12: Proposed Illustrative Massing and Heights

6.46 The proposed height and massing design principles would:

- Create a sense of containment and passive surveillance by providing greater height to the development plots overlooking the two viaducts. These development plots are shown on the Parameters Plan at their maximum ranging from approximately 2m to 41m higher than the existing Duddleston Viaduct (or proposed Viaduct Park). Meanwhile the development plots north and south of Bordesley Viaduct heights would range, again at their maximum, from approximately 2m to 37m above the existing structure creating animation and intensity when entering the City Centre by train;
- Define the canal edge by stepping up to 7 storeys to the north of Fazeley Street;



- Step down to respond to the existing lower-rise context of the Conservation Area with 1 to 4 storeys shown in the centre of the site;
- Create a critical mass of height around the Custard Factory to mark the entrance to the application site from the High Street and highlight the cluster of workspaces (8 storeys are shown as part of the detailed application on the Wild Works site); and
- Provide a landmark at the intersection of Bordesley and Duddeston viaducts to pinpoint the beginning of Viaduct Park, with a 14 storey building and the arrival point to Digbeth to train passengers.

6.47 A Townscape and Visual Impact Assessment has been submitted as part of the ES and this demonstrates the impact of potential scale of the proposed development upon the townscape of the site. The visual assessment considers the impact on a number of existing and potential views within the site, within 200m radius of the boundaries of the site and from further long distant views where identified as being relevant. The ES describes the impact of the development on these 25 representative viewpoints together with 5 townscape areas within the site. It concludes that there would be a significant beneficial effect on 4 of the 5 townscape character areas and 8 of the representative views. Some examples of these representative viewpoints are shown below:



Fig 13: Grand Union Canal Towpath Looking in a South East Direction  
(View as tested in the ES based on maximum massing without detailed façade design or application of Design Code)

6.48 This shows the potential view along the canal towpath framed by various warehouse buildings to the south including the locally listed Bond Warehouse in the middle.



Fig 14: Floodgate Street – Looking north from junction with High Street  
(View as tested in the ES based on maximum massing without detailed façade design or application of Design Code)

- 6.49 Whilst this view focuses on two of the full application plots (Custard Factory Living and Custard Factory Extension) it also shows the change in scale and massing of the development plot in the foreground fronting the High Street where, at its maximum, a part 4 part 3 storey development is proposed.



Fig 15: Little Ann Street – Looking South  
(View as tested in the ES based on maximum massing without detailed façade design or application of Design Code)

- 6.50 The Proposed Scheme would introduce dominant new massing to both sides of Little Ann Street that would be significantly taller than the existing development, proposing 4 to 6 storeys. The massing would alter the character of this view, by greatly reducing the extent of visible sky and creating a stronger sense of containment to the street. Negatively the increased scale and massing for example could appear overly dominant and would reduce the amount of sky visible. However it should be

acknowledged that the proposed roof articulation and architectural design principles, as controlled by the Design Code, would bring about greater visual interest.



Fig 16: Lower Trinity Street – Looking west from Adderley Street  
(View as tested in the ES based on maximum massing without detailed façade design or application of Design Code)

- 6.51 The proposed scheme would create greater containment of this street view by introducing substantial new development, of greater height and scale to both sides of the street, within the foreground and background of the view. To the foreground the visibility of the viaduct would be changed by development on both sides of the street reaching 4 to 7 storeys high.



Fig 17: Allcock Street – Looking West  
(View as tested in the ES based on maximum massing without detailed façade design or application of Design Code)

- 6.52 The proposed scheme would create greater containment of this street view by introducing substantial new development of greater height reaching 6 and 7 storeys.



Fig 18: B4100 High Street - Looking West  
 (View as tested in the ES based on maximum massing  
 without detailed façade design or application of Design Code)

- 6.53 This viewpoint shows the potential height of the proposed development fronting the High Street reaching 3 and 4 storeys in height with the Custard Factory Extension and Wild Works site beyond.
- 6.54 In addition, the height parameters along Liverpool Street consider the emerging height at Bordesley Wharf where development of between six and twelve storeys has recently been approved along this street frontage (Ref: 2020/01796/PA).

#### Outline – Appearance and Materiality

- 6.55 Digbeth is primarily characterised by a simple palette of materials, including red, brown and blue bricks. In addition to these primary materials a number of complimentary materials can be found such as corrugated metal, cut stone, fair-faced concrete and painted bricks. As part of the Design Code there are site wide codes that refer to two material palettes, a primary and complementary material palette. The primary material palette is selected to be compatible with existing materials and positively contribute to the existing character of the Conservation Areas and comprises red, brown, grey and blue bricks. One of the site wide codes states that primary materials must be used on all façades of new buildings facing existing streets; facing the two viaducts, and facing the Grand Union Canal.
- 6.56 The proposed complementary material palette consists of glazed bricks, terracotta tiles, stone, concrete, metal, glass and timber. According to the Design Code these must be used as the predominant opaque material on façades of extensions to existing buildings, façades on infills to the viaduct arches, new bridges and vertical access points to the Duddeston Viaduct. In addition they may be used as the predominant opaque material on façades facing new streets and facing enclosed courtyards.

#### Design Conclusions – Outline Application

- 6.57 The application site sits at the heart of Digbeth and encompasses some landmark buildings and spaces. However it has also suffered from poor long term investment, deteriorating built fabric and accommodates some buildings of limited architectural or historic value and undeveloped plots that cause harm to the character of the area create poor public realm, low footfall and poor surveillance. The hybrid application covers a significant area of 18.9 hectares and it has to be recognised that whilst there may be significant redevelopment opportunities they need to be managed. It is considered that the three layers comprising the proposed quantum of development, Parameter Plans and Design Code offer an appropriate way of controlling the design of development.
- 6.58 The provision of new routes through the site, opening up the waterways and making them more accessible, creating Viaduct Park that will become a destination in its own right and delivering new areas of communal open space are most exciting prospects. They would add to the existing vitality that Digbeth currently offers whilst linking to the Rea Valley, Smithfield, Curzon Station and the City Centre core to increase the accessibility of this area.
- 6.59 As the illustrations above show however changes to the accessibility of the site also brings with it changes to the existing built form, particularly in terms of its scale and massing. This is encouraged by the Curzon HS2 Masterplan and is required in order to sustain the economy of Digbeth and to provide the public realm highlighted. It is however considered that taking the matter of scale alone the proposals would provide a more consistent building line to the existing streets whilst the detailed design of the individual plots would secure their quality in terms of appearance and character, providing visual interest via varied articulated rooflines and materials. Furthermore it is proposed to upgrade the lighting and surfacing of the streets within the site. Plus it should also be acknowledged that the scale of development is expressed in terms of the maximum footprints and heights; the development plots may not be built out to these maximums.
- 6.60 Therefore the design principles are considered acceptable for the outline application in accordance with Policy PG3 of the BDP, saved Policy 3.14 of the UDP, the emerging Development Management Policies and the NPPF. However consideration of the impact of the design principles upon the existing heritage assets is considered separately.

#### Detailed Application - Proposed Design

- 6.61 The full part of the application is divided into three distinct plots:
- The Wild Works site (Development Plot CF1);
  - Custard Factory Living Development Plot CF2); and
  - Custard Factory Extension (development Plot CF3)

#### The Wild Works site Plot CF1 - Layout

- 6.62 The existing buildings on site comprise the Wild 2 building, Wild 3 building and former canteen. It is proposed to remove boundary walls, industrial sheds within the yard, a

substation, the workshop extension to Wild 2 and the rear portion of Wild 3. It is then proposed to construct two new buildings (Wild 7 and Wild 8) that would both have a frontage to Milk Street providing a total of four buildings on site (Wild 2, Wild 3, Wild 7 and Wild 8).



Fig 19: Proposed Layout of Development Plot CF1 – The Wild Site (Detailed Application)

- 6.63 The front of the Wild 2 building is proposed to be retained and refurbished as it is considered to be a good example of a mid-20th Century Works building, a key characteristic of the Conservation Area. However the rear workshop extension is of lower architectural quality and interest. The architectural merit of the Wild 3 building is focused on the characterful brick front range facing Floodgate Street, comprising of a distinctive stepped gable wrapping the corner onto Moore's Row with a canted bay. The existing Wild 3 canted corner, at the junction of Moore's Row and Floodgate Street, the façade to Floodgate Street and roof structure are to be retained whilst the other existing canted corner, at the junction of Moore's Row and Milk Street Milk Street side of the building is proposed to be removed. The proposed Milk Street and Moore's Row facades of the proposed new buildings, Wild 7 and Wild 8, would maintain the back of pavement line with a new canted corner of similar geometry on the proposed Wild 8 building.
- 6.64 As presented in the layout diagram above the proposed redevelopment would open up access through the site to forge new connections between Milk Street, Moore's Row, Floodgate Street and the existing Bordesley Viaduct arches. In keeping with the fine grain of Digbeth the new routes (named Wild Walk and Wild Passage) would be narrow linear routes connecting to a new central communal space (named Wild Yard). Measuring approximately 328sqm in area Wild Yard aims to become a flexible open space that could be used for events. Active frontages are also proposed to overlook and animate the key routes through the site and the highways. The section of Floodgate Street directly in front of the Wild site is proposed to accommodate sustainable urban drainage planting beds, parking areas, a loading bay and a pedestrian crossing point

The Wild Works site Plot CF1 - Scale and Massing

- 6.65 The proposed building heights would range from 1 to 8 storeys and their arrangement is proposed to respond to the scale of the existing buildings around Gibb Street, in particular the Custard Factory and Devonshire House, while the massing would be stepped and shaped to minimise the impact of the development on the its immediate surroundings.

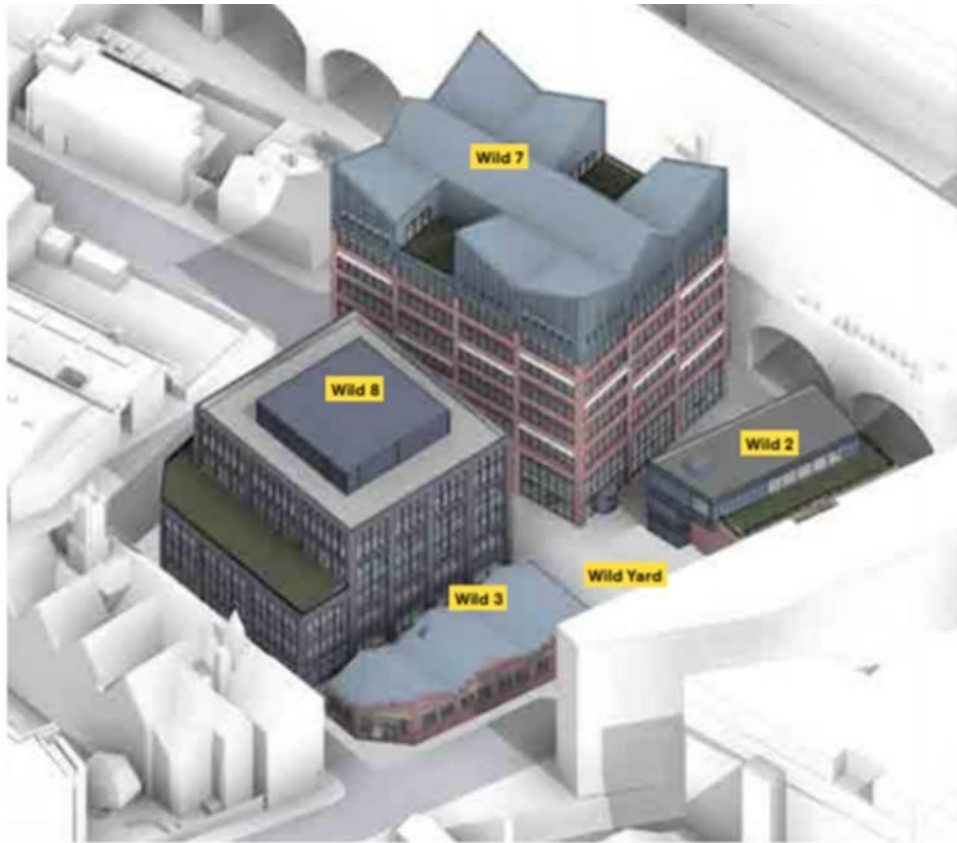


Fig 20: Axonometric Representation of the Wild Site

6.66 Wild 2 and Wild 3 are 1 to 3 storeys in height and the proposed alterations to the form and massing seeks to retain their historic character and their presence on Floodgate Street. A single storey rooftop extension and three storey rear extension are proposed to Wild 2, with the proposed extension overhanging the rear of the block and set back from the frontage to ensure that the original building would retain its prominence. Wild 3 would remain as a single storey structure retaining the existing articulated roof and stepped gable to Floodgate Street.



Fig 21: CGI View Looking North Eastwards towards Bordesley Viaduct with Wild Works 2 & 3 in the foreground

- 6.67 The tallest building, Wild 7 is located to the northwest of the site, running parallel to the railway viaduct. At 8 storeys with an articulated roof the building would be highly visible from Bordesley Viaduct creating a sense of enclosure from the railway. Two terraces are proposed to cut into the top floor, one looking towards the City Centre and the other towards the railway.
- 6.68 The massing of Wild 8 is stepped from 3 to 5 storeys facing the adjacent grade II\* listed Former Floodgate School to provide a terrace at a similar height to the eaves height of the Former School. The lowest two floors of Wild 7 would be inset to provide a partial overhang to maximise the width of Wild Passage, which would run between Wild 7 and Wild 8. The scale of WW7 and WW8 are aligned to the Custard Factory to increase the prominence of this part of the hybrid application site as a destination and a cultural hub.

#### The Wild Works site Plot CF1 - Appearance

- 6.69 The retained stone and brick facade of Wild 2 would be cleaned and the brickwork re-pointed and repaired where necessary plus all windows would be removed and refurbished if possible. The proposed three storey extension would be clad with blue metal infill panels. The consistent blue colour of the new element would provide a simple extension which due to its set back position would help it to appear subservient to the detailed front façade of the existing building. The side elevation facing Wild Yard would also offer an opportunity for street art encouraging animation to this communal area.
- 6.70 The front range, canted bay and part of the north and south elevations of Wild 3 would be retained. All existing facades would be cleaned, brickwork re-pointed and repaired where necessary and windows would be refurbished where possible. The existing metal roof trusses would be retained and refurbished and the roof renewed with corrugated blue metal. A new external wall is proposed to the west that would be clad in perforated corrugated blue metal panels to match the roof and window colour. The use of the accent blue material on the alterations to the building would clearly distinguish them from its original features without competing with its character and attractive frontage to Floodgate Street.
- 6.71 The existing industrial roofline of Wild 3 would be amplified on Wild 7 to provide a unique roofscape and crown to the building based on the letter 'W' of Wild, contributing to the characterful Digbeth skyline. The proposed blue metal crown would be in contrast to the red tone brick grid on the elevations that would provide order to the elevations and generous light filled spaces. Concrete lintels are proposed to be randomly applied to a number of windows across all of the elevations to add a sense of imperfection associated with the character of Digbeth. Wild 7, due to its height at 8 storeys and dramatic roofline is the most striking of the Wild site buildings.
- 6.72 The primary material of Wild 8 that would rise from 2 to 3 to 5 storeys is blue engineering brick arranged to create dominant vertical piers and an elongated grid. Blue metal infill panels are proposed to disrupt the grid and introduce diagonal fins, to



add a layer of finer detail and irregularity. Whilst this building would have a flat roof the diagonal fins on the elevations reference the articulated roofline of Wild 7.

- 6.73 Whilst the site comprises of four separate buildings including parts of two existing buildings it is considered that the chosen palette of materials based on red bricks and blue metal would tie the buildings together with a nod to its industrial past and the adjacent viaduct.

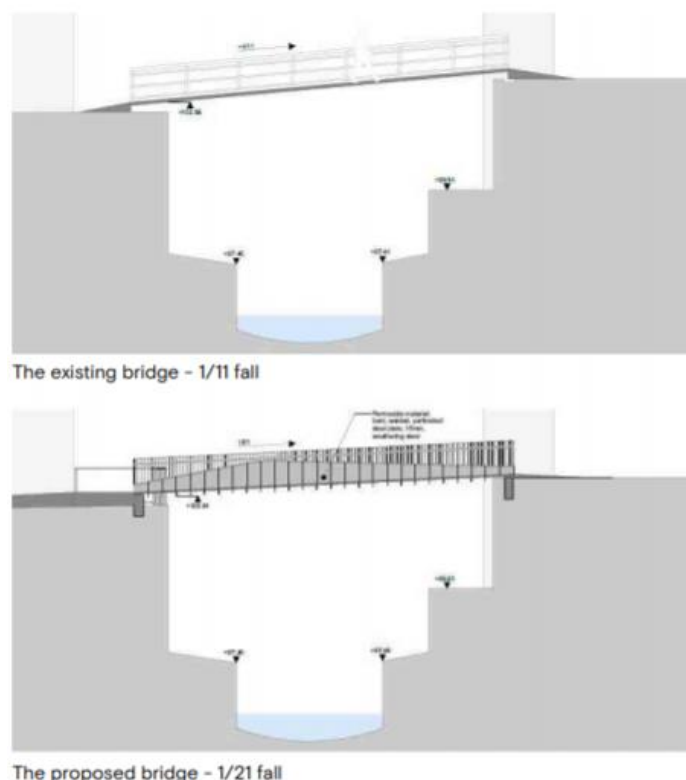
#### Custard Factory Living Plot CF2 - Layout



Fig 22: Axonometric Representation of the Wild Site, Custard Factory Living and Custard Factory extension

- 6.74 This site, informally known as the 'Triangle' site currently accommodates some poorly maintained single and two storey buildings positioned between Floodgate Street and the River Rea which, due to its low lying level can hardly be seen from this plot.
- 6.75 The proposed layout shows a triangular shaped building that at seven storeys high would fill the plot with a café and restaurant at ground floor and 40 residential units above. At ground floor this would provide active frontages to Floodgate Street and the proposed new thoroughfare that would provide a better connection between Floodgate Street and Gibb Street via a new pedestrianised bridge crossing the River Rea. These commercial uses would also have windows overlooking the River at either end of the building with a walkway aligning the River to allow pedestrians to be able to walk round the whole of the building. An access point to the River from the western end of the site is proposed with a gated ladder. This would only be used by authorised people for maintenance purposes.
- 6.76 At first floor a triangular shaped terrace is proposed for residents again overlooking the River, and the front doors to the upper floor apartments would all be positioned on this rear façade, behind a deck access. This is to give the best daylight to the living and bedrooms positioned on the north east and north west elevations.
- 6.77 The existing bridge that spans the River Rea is sited directly below the Bordesley Viaduct. The bridge is old and unfortunately does not allow for access for all. It is

proposed to provide a replacement accessible structure that would not only improve access but also safety whilst also freeing up the arches for events. The design of the bridge would reference the industrial vernacular of other bridges in the conservation area and would be a dark coloured steel.



(above) Fig 23: Existing and Proposed Pedestrian Bridges across the River Rea within Detailed Application Site



(above) Fig 24: Proposed Bridge in Context  
Custard Factory Living to lhs, Custard Factory to rhs

#### Custard Factory Living Plot CF2 – Scale and Massing

- 6.78 At seven storeys in height the scale is designed to create a relationship with the railway line, providing a sense of enclosure and intrigue for rail passengers entering the City and maintaining a cluster of increased height around the Custard Factory to mark the entrance to the application site from the High Street. Whilst taller than the existing Custard Factory, the new building seeks to complement its scale rather than compete with it.

#### Custard Factory Living Plot CF2 – Appearance

6.79 The simple, rhythmical facade of the Custard Factory has been transferred to the facade of this adjacent plot. As such the building has been designed to read as a continuation of the Custard Factory, appearing as if it was one building split by the River with a private amenity terrace at first floor providing a buffer space between them. Due to the immediate neighbourhood's character: the whiteness of Custard Factory and dark brown/blue-purple-red tints of Bordesley Viaduct a grey building is proposed by the applicant to reflect the white of the Custard Factory. However as previously explained the applicants are proposing a series of architectural/design principles, one of which is a coherent palette of materials to positively contribute to the character of the Conservation Area. It is considered that the proposed use of grey brick would not meet this principle and neither would the colour result in the redevelopment be read alongside the Custard Factory as one plot. The City Design Manager and comments made by the Conservation Office support this opinion. Therefore it is proposed to re-consider the colour brick via a suitably worded condition.

#### Custard Factory Extension Plot CF3



Fig 25: CGI of Custard Factory Living and Custard Factory Extension

#### Custard Factory Extension Plot CF3 – Layout

6.80 The three storey rooftop extension would provide two storeys of flexible use office space and a further top floor that would be smaller in area for use as function space and an outdoor roof garden. The floor plan would continue the shape of the existing building upwards providing an additional 3,440m<sup>2</sup> (GIA) of B1 office floorspace. In addition an extension of 36sqm is proposed at ground floor facing the new throughfare between Floodgate Street and Gibb Street.

#### Custard Factory Extension Plot CF3 – Scale and Massing

6.81 At street level, the proposed extension would be able to be viewed from Floodgate Street and would be a noticeable beacon within Digbeth and from the railway line on

Bordesley Viaduct. The additional height would ensure that the Custard Factory would retain its prominence on the skyline and with this in mind has been designed with an inset on the top floor to change the profile of the roof to add interest. This top floor has the opportunity to become an exclusive venue.

#### Custard Factory Extension Plot CF3 -- Appearance

- 6.82 Taking its cue from the surrounding metal work in Digbeth the extension would be constructed in a light coloured metal that would accommodate key clear windows, windows with aluminium translucent mesh and windows with opaque mesh panelling where required to give privacy. The mesh would contrast with the existing more solid and heavier brickwork of the existing Custard Factory creating a light glow that would read as a lighter more delicate addition. The combination of translucent and opaque facades would add visual interest to the building without making it top heavy and marking it as a primary destination within Digbeth. The existing Custard Factory has been painted and re-painted over the years and by adding a neutral extension, it is hoped that the rooftop extension would appear fitting with any future changes and colour trends.



Fig 26: Axonometric View of Wild Site, Custard Factory Living and Custard Factory Extension

#### Design Conclusions – Detailed Application

- 6.83 The City Design manager has commented that the three distinct plots within the detailed application respond to a different aspect of Digbeth's industrial past without being pastiche or literal. The proposed Wild 7 building and Custard Factory rooftop extension have the potential to become iconic whilst conditions prescribing and fixing quality detailing should help deliver an exceptional suite of architecture.
- 6.84 In terms of their scale the three plots would not adhere to past trends of development in this part of Digbeth and would conflict in part with the Conservation Area Appraisal and Management Plan. However on pure urban design grounds the City Design Manager comments that this would achieve two things. Firstly, it would mark the

Custard Factory cluster as the key destination within Digbeth, creating a critical density and feeling of tight, dense drama, critical to delivering the energy still anticipated in this Quarter. Secondly, the scale would start to deliver sporadic enclosure to the Bordesley Viaduct that currently dominates the area in an isolated way. From the railway there is currently no sense of arrival into the bustling City as the views are largely of low scale sheds. Instead arrival into the City could be identified by interesting and dynamic architecture. It is considered that the proposed detailed application would secure a high quality design that would create a destination and an attractive place in accordance with Policy PG3 and the NPPF.



Fig 27: Illustration of Proposed Custard Factory Extension and Wild Works Site from Bordesley Viaduct

### *Impact upon Heritage Assets*

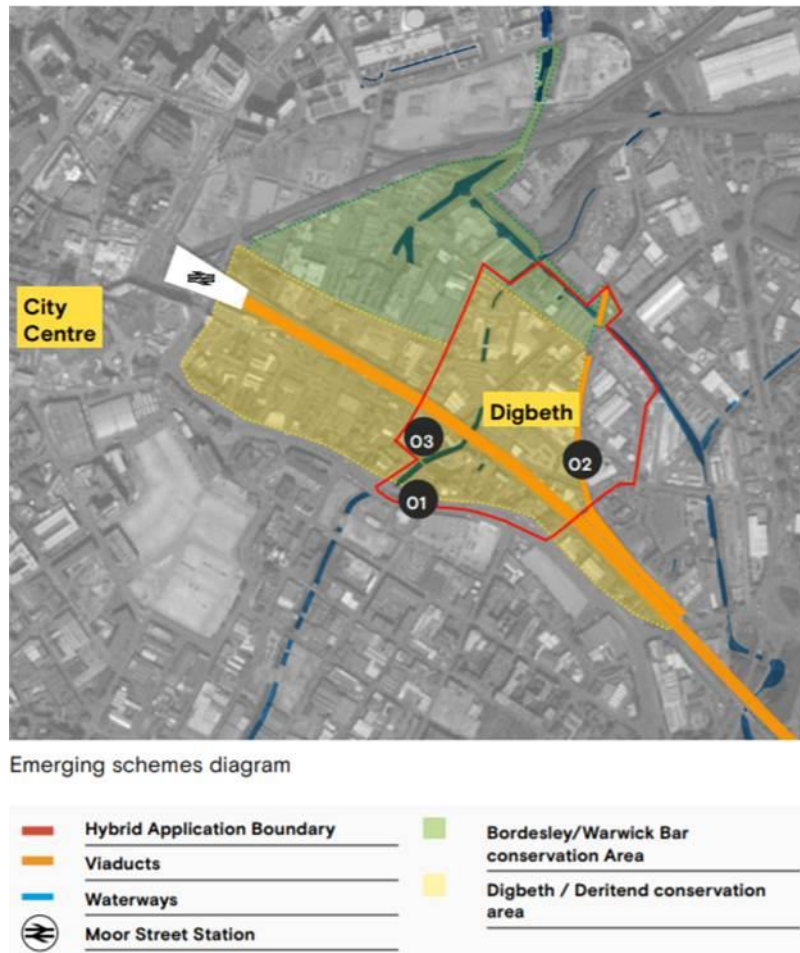


Fig 28: Hybrid Application Site within the context of existing Conservation Areas (01 River Rea / 02 Duddeston Viaduct / 03 Wild Works Site)

- 6.85 Over half the site lies within the Digbeth, Deritend and Bordesley High Streets Conservation Area or the Warwick Bar Conservation Area as shown in the Figure above. The majority of the existing buildings on the site date from the mid-19<sup>th</sup> Century onwards with a significant proportion constructed either from the closing decade of the 19<sup>th</sup> Century or from the interwar period. Typically buildings are between one and three storeys in height with the exception of some of the landmark buildings in the area, notably the early 20<sup>th</sup> century unlisted Custard Factory.
- 6.86 The site accommodates 6 listed buildings including the grade II\* listed Crown public house located on High Street and 22 locally listed buildings and structures, as listed at paragraphs 2.6 and 2.7 and shown in the Figure below. As defined on the following plan the grade II\* listed Floodgate Street School, a gothic revival board school by renowned Birmingham architects Martin and Chamberlain sits just outside the southwest boundary of the application site and forms part of the setting of the detailed planning application site.

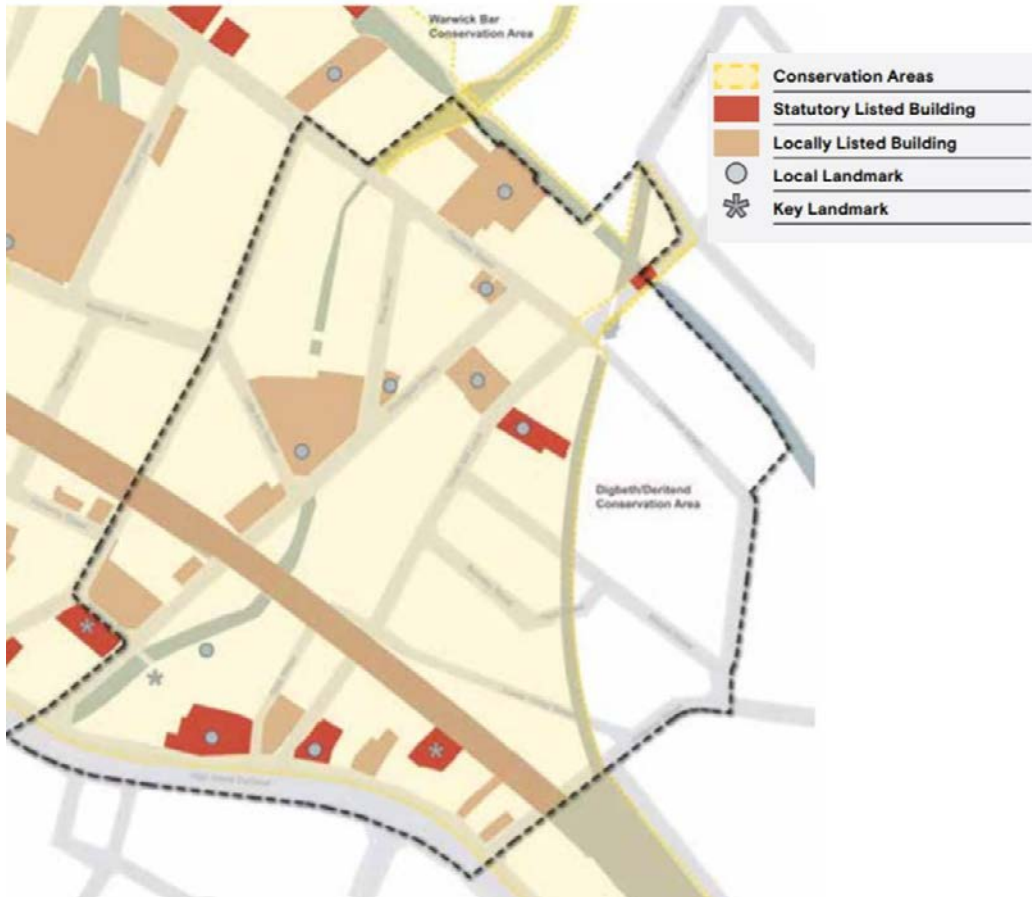


Fig 29: Hybrid Application Site with Heritage Assets

- 6.87 In determining this application the Local Planning Authority (LPA) must comply with the statutory duties relating to listed buildings and conservation areas. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires LPA's to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. In addition Section 72(1) of the Act 1990 states that LPA's should pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Case Law has now firmly established that the "special regard" and "special attention" duties of the Act requires that the decision maker should afford "considerable importance and weight" to the desirability of preserving a listed building along with its setting and preserving or enhancing the character or appearance of a conservation area. It has also been established that "preserving" means "doing no harm" for the purposes of interpreting this duty.
- 6.88 The NPPF states that when determining applications, LPA's should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal. Great weight should be given to the conservation of heritage assets and any harm to, or loss of the significance of a designated heritage asset should require clear and convincing justification. LPA's should look for opportunities for new development within conservation areas and within the setting of heritage assets, to enhance or better reveal their significance. Where potential harm to a designated heritage asset

is identified, it needs to be categorised as either less than substantial harm or substantial harm (which includes total loss) to identify which policies in the NPPF (paragraphs 194-196) apply. Within each category there is no grading scale for heritage harm and where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset paragraph 196 of the NPPF requires that this harm should be weighed against the public benefits of the proposal. Paragraph 197 applies to locally listed buildings that are defined as non designated heritage assets. In weighing applications that directly or indirectly affect such assets, the NPPF states that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage assets. Policy TP12 of the BDP states that great weight will be given to the conservation of the City's heritage assets and that development affecting a designated or non-designated heritage asset or its setting, will be expected to make a positive contribution to its character, appearance and significance.

- 6.89 In addition to the BDP are the policies of the Digbeth, Deritend and Bordesley High Streets Conservation Area Character Area Appraisal (DD&BHS) and the Warwick Bar Conservation Area Character Area Appraisal, which are also material considerations. Both Appraisals state that there will a presumption against additions and alterations to buildings which adversely affect their character and appearance or that of the Conservation Area. It seeks to retain buildings that make a positive contribution including buildings of contextual or group value. However within the DD&BHS appraisal it is acknowledged that the decline of local industry from the mid-1970's onwards combined with the severance from the City Centre core and market area caused by the post war road system has resulted in many temporary uses and void buildings, a large number of gap and underused sites and buildings that suffer from neglect and a lack of maintenance. This was recognised by the Council in 1984 within the Central Area Local Plan where Digbeth, including Warwick Bar Conservation Area, was identified as one of the six distinctive quarters around the city core where regeneration should seek to enhance the existing urban environment. Furthermore the DD&BHS Appraisal states that, *"The large size of the area affords the opportunity not only to include important historic buildings and structures but sites of lesser quality where sensitive redevelopment will be actively encouraged in order to create a harmonious street scene."*
- 6.90 The following key design principles are established for new development within both Conservation Areas:
- a) back of pavement building line;
  - b) the scale of buildings - (DD&BHS: should not be significantly higher or lower than their neighbours normally limiting new build to a maximum of six industrial/commercial storeys, new development north and north east of Bordesley Viaduct should respect the height of the viaduct parapet), (Warwick Bar: limiting new buildings to a maximum of three domestic or four industrial/commercial storeys);
  - c) roof forms and rooflines of new buildings must complement the roof forms and roof lines of the surrounding and/or adjoining buildings;
  - d) plan form and architectural treatment of new development should complement the historic and architectural character;



- e) windows (DD&BHS: new development should respect the proportion of solid to void found in the elevations of traditional buildings), (Warwick Barr: window openings in new buildings should be regularly spaced);
- f) local identity should be reinforced through the use of materials traditionally employed in the area;
- g) architectural detail of high quality and which contributes to scale, proportion and legibility will be encouraged;
- h) parking or servicing areas should be concealed;
- i) new buildings must preserve views and vistas characteristic of the Conservation Area and respect the setting of key historic landmarks. the creation of new landmarks will be discouraged; and
- j) new buildings should be accessible to all users.

The following additional key design principles are advised in the Warwick Bar Conservation Area:

- k) The creation of private landscaped spaces beside the canal will be resisted; and
- l) The creation of any direct open access from the public realm, i.e. the street, to the canalside will not be allowed.

- 6.91 Within the application site the DD&BHS Appraisal identifies significant views in a north easterly and south westerly direction along Floodgate Street, to the west and east along High Street, north easterly from the High Street along Heath Mill Lane and easterly adjacent to Bordesley Viaduct at its junction with Heath Mill Lane.
- 6.92 Within the Warwick Bar Conservation Area Appraisal significant views are identified along the Grand Union Canal and in both directions at the junction of Fazeley Street and the River Rea.
- 6.93 The planning application submission includes a Heritage Assessment alongside the Design and Access Statement and the ES that includes chapters on Town and Visual Impact, Built Heritage and Cumulative Effects. The development would be controlled by the Development Specification, Parameter Plans, Design Code and Retention Plan.
- 6.94 The Retention Plan identifies statutory and locally listed buildings and those that have been identified as 'positive contributors' to the relevant Conservation Area. It indicates which buildings are proposed for retention and those proposed for alteration or demolition. Each building is given a category as follows:
- Demolition – meaning total or very significant demolition;
  - Alteration – meaning extension and/or partial demolition;
  - Retain (with works) - meaning minimal building works which largely retain the existing building at present; or
  - Retain (without works) – meaning no building works proposed.
- 6.95 The Council's Conservation Officer has taken all of these documents into account when considering the harm to the significance of the heritage assets. From the

outset the Conservation Officer considers that the Heritage Assessment methodology is sound and references the appropriate guidance documents. Furthermore the effect of a change in the setting of the designated and non-designated heritage assets within a wider study area that extends approximately 200m beyond the application site boundary has been referenced by the applicants, and this study area is considered to be appropriate. This wider study area includes 17 listed buildings and structures and 46 locally listed buildings and structures. The listed buildings are as follows:

- i. Roving Bridge over entrance to Birmingham and Warwick Junction Canal – Grade II listed;
- ii. 85 Digbeth High Street – Grade II listed ;
- iii. 122 Fazeley Street – Grade II listed;
- iv. Ringway Engineering Service Company – Grade II listed;
- v. The Anchor Public House, Rea Street – Grade II listed;
- vi. Public toilets Liverpool Street / Great Barr Street – Grade II listed;
- vii. White Swan Public House, Bradford Street – Grade II listed;
- viii. Road Bridge North of Bordesley Junction – Grade II listed;
- ix. Birmingham Gun Barrel Proof House – Grade II\* listed;
- x. 58 Oxford Street – Grade II listed;
- xi. Canal Side Warehouse (Warwick Bar Dock & Stop – Grade II listed;
- xii. The Old Crown Public House – Grade II\* listed;
- xiii. Former Church (just off Deritend High Street, Dolphn Showers) - Grade II listed;
- xiv. 224 and 225 High Street – Grade II listed;
- xv. Former Floodgate School, Floodgate Street – Grade II\* listed;
- xvi. St Basils – Grade II listed; and
- xvii. Devonshire House – Grade II listed.

6.96 The key heritage issues to be taken into consideration in assessing the proposed development are the direct effects on the Conservation Areas and the indirect effect of the development on the significance and setting of the designated heritage assets within and beyond the application site. The Heritage Assessment provides a schedule of 70 individual or groups of the buildings and structures within the site that make a contribution to one of the two Conservation Areas. It then goes on to highlight whether these 70 buildings are proposed to be demolished, altered, retained, or retained with works. Of this number 48 buildings are identified as to be demolished, including 5 that would be part demolished. The proposed demolition includes part of the locally listed building at Wild 3 (part of the detailed site) and the Rea Studios at the junction of Floodgate Street and Little Ann Street (outline application). There would be alterations to locally listed buildings within the Wild Site (detailed application), within The Bond complex accessed off Fazeley Street (outline site), 48-52 Floodgate Street (Jukes Limited, also known as The Arch) facing Heath Mill Lane (outline site), buildings fronting River Street and Floodgate Street (outline site) and the Bordesley Viaduct (outline site).

6.97 It is also acknowledged that there needs to be a consideration of the heritage impacts on a cumulative basis. However with a site of nearly 19 hectares of which the significant majority is located within a conservation area and numerous listed and locally listed buildings it is considered more manageable to consider the impacts on a block by block basis. These blocks, named A to T, are as defined in the Financial Viability

Assessment (FVA). This block plan is used alongside the submitted Phasing Plan as the latter is purely illustrative rather than the FVA block plan that is tied to spending on the public realm. The blocks/phases within the outline application are considered first followed by those within the detailed application. The cumulative impacts will then be considered at the end of this section.



Fig 30: Extract from Financial Viability Assessment Proposed Block Plan

#### Outline Phase 1a - Blocks K, P & T

- 6.98 This part of the outline application site is located in the Digbeth, Deritend and Bordesley High Streets Conservation Area although the disused Duddeston Viaduct extends up into a small section of the Warwick Bar Conservation to the east. The existing disused viaduct is proposed to become a linear area of open space known as Viaduct Park, and it is described within the Heritage Assessment as a positive contributor to the character and appearance of the Conservation Area. A mid-20<sup>th</sup> Century Art Deco style building identified as the Former Warehouse at the corner of Lower Trinity Street and Heath Mill Lane is also considered to be a positive contributor. Both are highlighted in yellow on the plan of Phase 1A below.

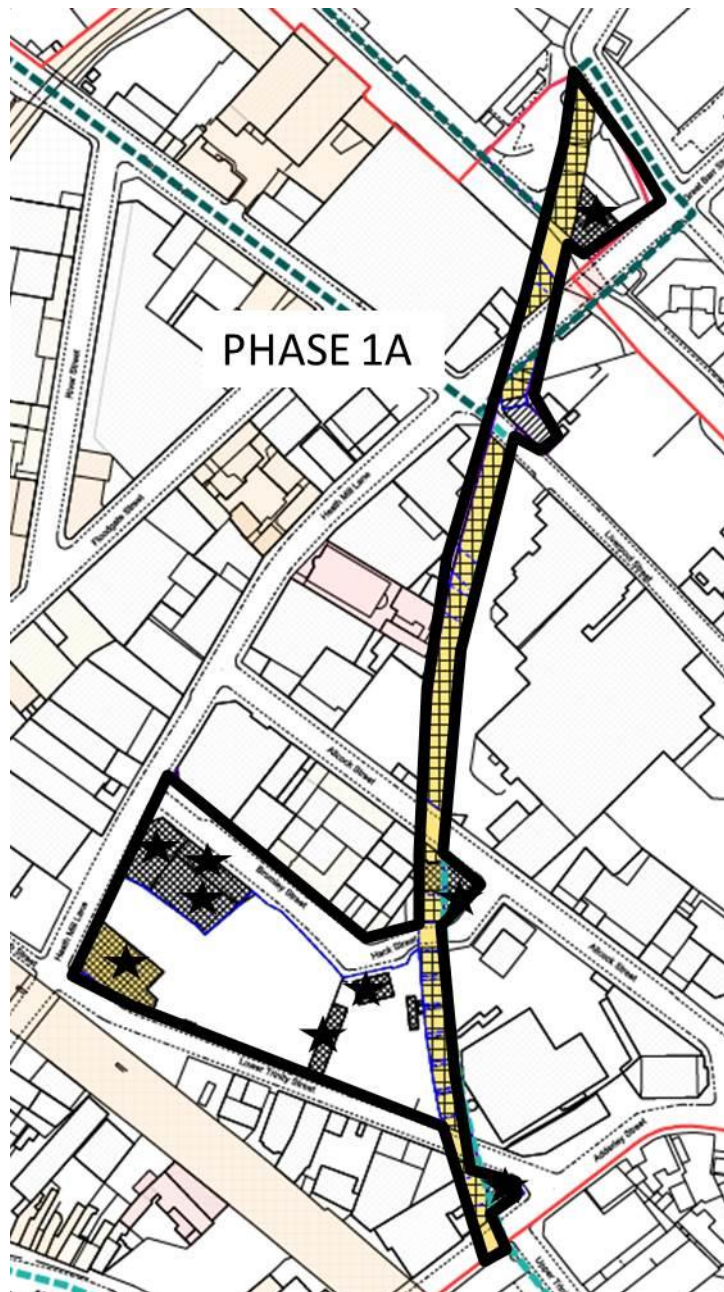


Fig 31: Phase 1a - Blocks K, P & T

(Yellow = positive contributor to Conservation Area / ★ = to be demolished)

6.99 As the above figure shows, all of the existing buildings with the exception of the viaduct are proposed to be demolished. The Conservation Officer considers that the loss of the art deco former warehouse would cause less than substantial harm to the character and appearance of the Conservation Area through its demolition, and the preference for it is to be retained. The remainder of Phase 1A site has been identified as having neutral to negative impact on the character and appearance of the Conservation Area. This site also contains large areas of hardstanding car parks and metal fencing that would benefit from enhancement.

Outline Phase 2 – Blocks E & R

6.100 Phase 2 is located within the outline application site and the part to the west of the Duddeston Viaduct lies within the Warwick Bar Conservation Area. It excludes the

Duddeston Viaduct, although the structure dissects this Phase. The Phase also accommodates the grade II listed Canal Road Bridge and the locally listed 180-182 Fazeley Street, Bond Warehouse (rear of 180-182 Fazeley Street), former Gas Retort House (rear of 176 Fazeley Street) and River Rea. A positive contributor to the character and appearance of the Conservation Area are the late 19<sup>th</sup> century cottages at 178 Fazeley Street. The Heritage Assessment identifies the significance of the Bond group of buildings, their historic associations to one another and how the Canal contributes to the functional relationship of the buildings and the wider historic industrial context and development of the Bond complex. The Canal itself is also considered to be a non designated heritage asset.

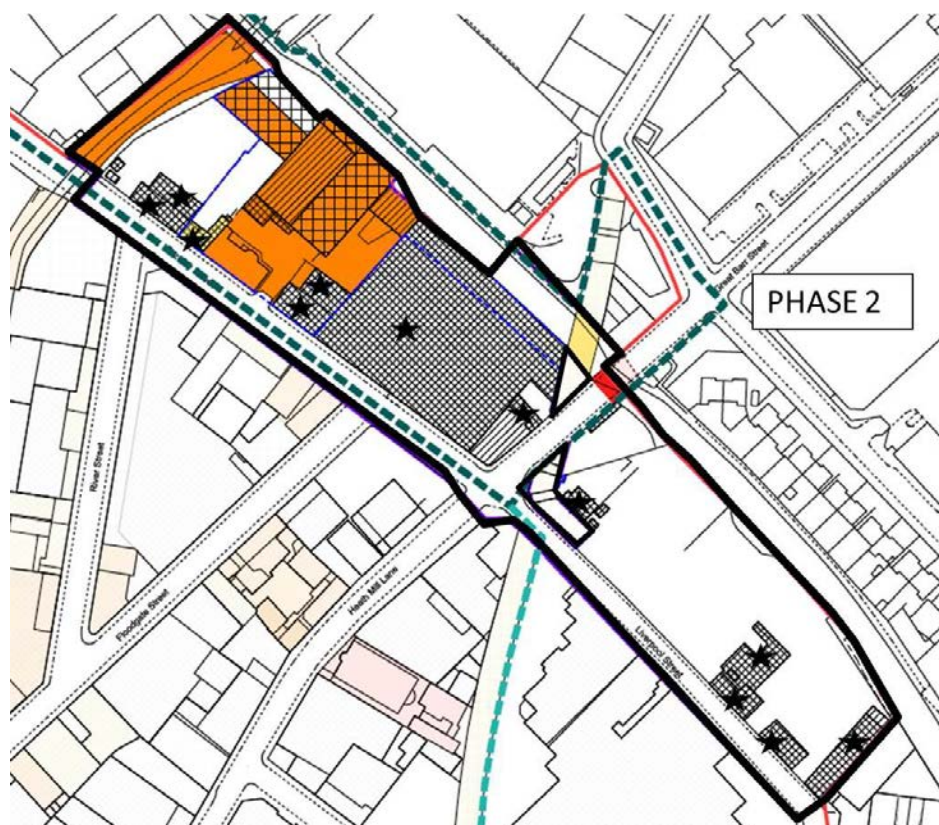


Fig 32: Phase 2 Blocks E & R (Orange = locally listed / Yellow = positive contributor to Conservation Area ★ = to be demolished)

6.101 The proposals indicate that the locally listed Bond complex would be either retained without works, retained with works or altered. As noted by the Conservation Officer the amount of works or alteration is not clear and such alterations could potentially cause harm to the significance and setting and to the character and appearance of the Conservation Area. The former Crown Metal Works now known as Teamworks Karting and the late 19<sup>th</sup> century cottages at No.178 Fazeley are also proposed for demolition. It is considered that these cottages alongside the Bond complex and other former cottages and offices along the canal have group value due to their proximity and townscape value as a row of domestic scaled 19<sup>th</sup> century properties. Therefore the proposed demolition would diminish an aspect of the character and appearance of the Conservation Area causing less than substantial harm to the significance of the Conservation Area and the significance of the Bond group of locally listed buildings. The Conservation Officer would prefer that 178 Fazeley Street be retained. The Heritage Assessment also acknowledges that the large

gabled roofline of the former Crown Metal Works (Teamworks Karting), an element that contributes to its character and appearance, would also be lost, again causing less than substantial harm to the significance of the Conservation Area.

#### Outline Phase 3 River – Blocks B & C

6.102 This part of the outline application site lies wholly within the DD&BHS Conservation Area with a border to the Warwick Bar Conservation to the north. It accommodates the locally listed W.J.Wild No.4 Works (Rea Studios), former Wild Works No.1 at No.93-96 Floodgate Street, the Floodgate Tavern PH (now known as The Ruin) and the River Rea. In addition there are a number of buildings identified in the Heritage Assessment as positive contributors to the Conservation Area: 1 Barn Street, 18-19 Barn Street, 'Anopol' Barn Street Works, 44 River Street and 35-38 River Street.

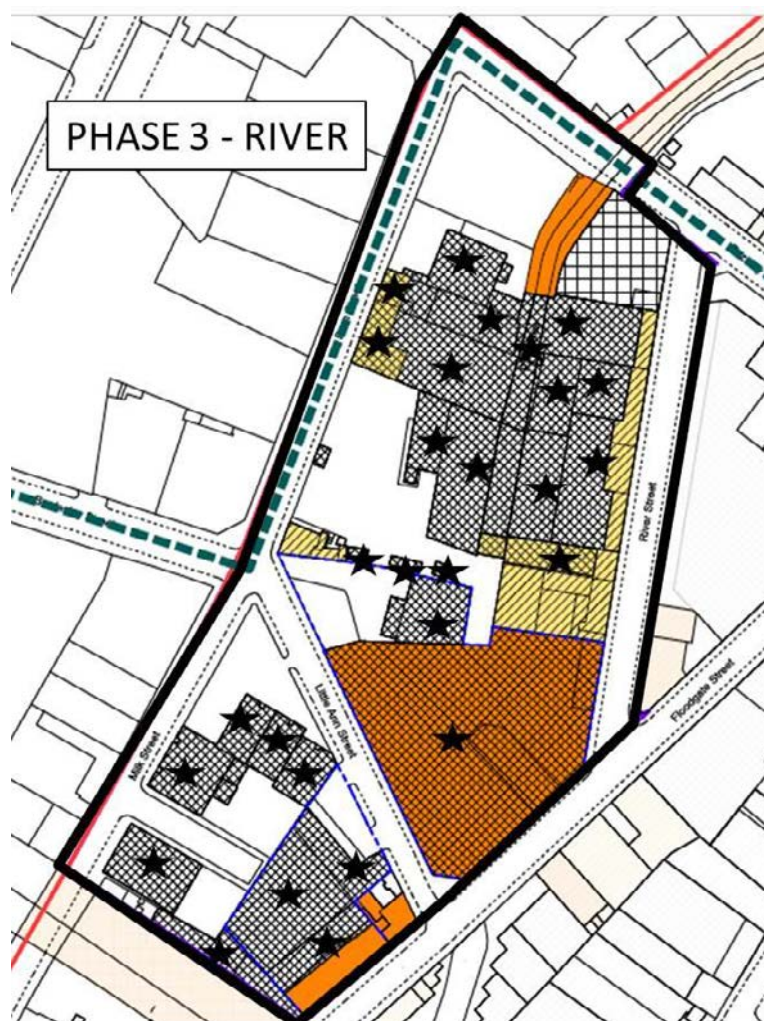


Fig 33: Phase 3 River – Blocks B & C (Orange = locally listed / Yellow = positive contributor to Conservation Area / ★ = to be demolished)

6.103 The proposals for this part of the site include the complete demolition of the locally listed W.J.Wild No.4 Works (Rea Studios) and the demolition of 18-19 Barn Street, 'Anopol' Barn Street Works, and virtually all the rear ranges to River Street and Barn Street. The River Street frontages and 1 Barn Street would be retained with works and the former Wild Works No.1 at No.93-96 Floodgate Street and the Floodgate Tavern PH (The Ruin) would also be retained with no works.

- 6.104 The loss of W.J.Wild No.4 Works (Rea Studios) would result in the total loss of significance of the locally listed building thereby leading to the complete loss of the asset. The development would also lead to harm to the setting and thereby significance of the remaining Wild Works group of buildings arising from the diminution of the completeness of the group and the reduced ability in the future to appreciate the expansion of the Wild Works company along the street. The loss of the buildings would also result in some erosion of the Conservation Area's industrial architectural character leading to less than substantial harm to the Conservation Area.
- 6.105 The demolition of 18-19 Barn Street, Anopol' Barn Street Works, some of the associated rear works/ranges, and partial demolition of 44 River Street (rear range) would result in complete loss or partial loss of buildings identified as positive contributors to the Conservation Area by virtue of the loss of industrial architectural character therefore leading to loss of its significance. The loss of this significance would lead to the less than substantial harm to the Conservation Area. The Conservation Officer has not objected but has raised concern at the loss of the above buildings proposed to be demolished.

Outline Phase 3 Bordesley – Blocks L & S

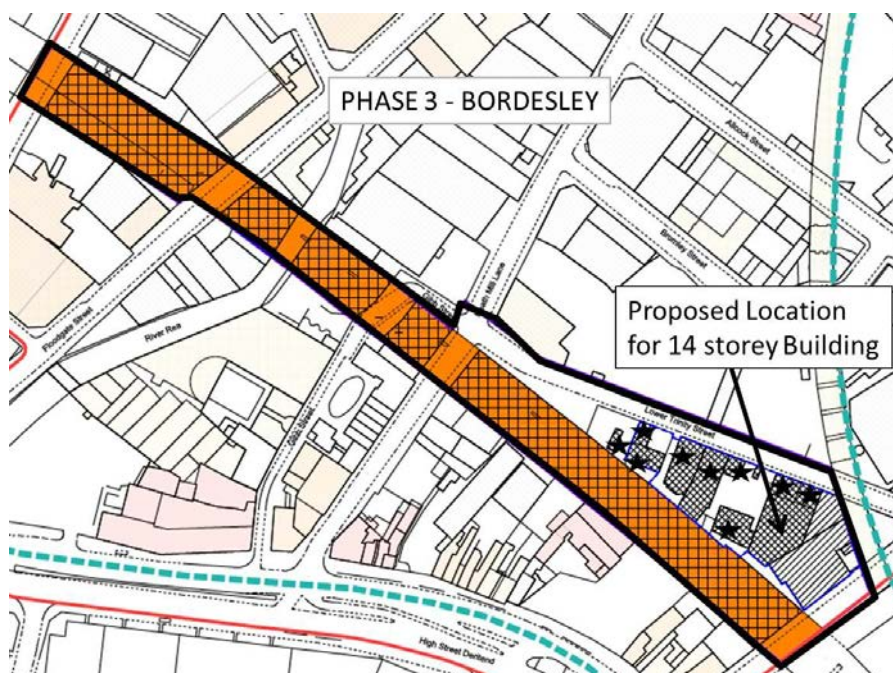


Fig 34: Phase 3 Bordesley – Blocks L & S  
 (Orange = locally listed / ★ = to be demolished)

- 6.106 This part of the outline application accommodates the locally listed Bordesley Viaduct and a parcel of land to the south of Lower Trinity Street all of which lies within the Digbeth, Deritend and Bordesley High Streets Conservation Area.
- 6.107 The Bordesley Viaduct is noted as forming a locally important element within the industrial townscape of Digbeth and its scale, form and massing as an example of a 19<sup>th</sup> century engineered structure experienced alongside adjacent buildings from a variety of locations across the surrounding street pattern. The Assessment considers

that the Viaduct is primarily a functional element of the industrial infrastructure of the area and the Council's Conservation Officer agrees, however it goes on to describe that views to and from it make a limited contribution to its significance. The Conservation Officer disagrees with this conclusion and considers that the ability to appreciate this structure and its prominence in Digbeth's industrial landscape contributes to its significance in more than a 'limited' way.

- 6.108 The proposals seek permission to alter and possibly bring forward additional floorspace to animate the existing arches of the Viaduct. However of greater concern are the proposals within this part of the site to provide redevelopment ranging from 5 to 14 storeys (Plot V1). Comments regarding the proposed landmark scale of 14 storeys has been raised by the Civic Society, the Victorian Society, and Historic England. The Heritage Assessment acknowledges that the increased height of development next to the Bordesley Viaduct would obscure parts of the structure although it concludes that there would be no harm to this asset. In contrast while the Council's Conservation Officer can accept that some views would be retained and new ones created the experience of the scale, form and massing of the Viaduct and the structure's prominence as an example of 19<sup>th</sup> century engineering and currently experienced in a relatively low scale townscape would be diminished by the introduction of the new taller buildings. Therefore the conclusion of no harm to the Viaduct is not accepted and it is considered that as a result of the reduction of its visual dominance it would lead to a small degree harm to the significance of this non-designated heritage asset. In addition the diminution of the contribution it makes to the industrial character of the Conservation Area would lead to less than substantial harm to the character and appearance of the Conservation Area.

#### Phase 3 High Street – Part of Block G & Block Q

- 6.109 This part of the outline application contains the highest density of listed and locally listed buildings and the whole of this Phase lies within the DD&BHS Conservation Area. The Figure below indicates that it accommodates the Grade II\*listed Old Crown PH, the Grade II listed Devonshire House and the Grade II Listed former church (now known as the Dolphin Works). In addition there is the locally listed Former Lloyds Bank, Deritend Free Library, 179 to 182 High Street, 164 High Street, 160 High Street (the Rainbow PH) and the Devonshire Works Chimney. The Heritage Assessment also submits that 162 to 163 and 177 High Street plus the southern part of the Custard Factory are positive contributors to the character and appearance of the Conservation Area.



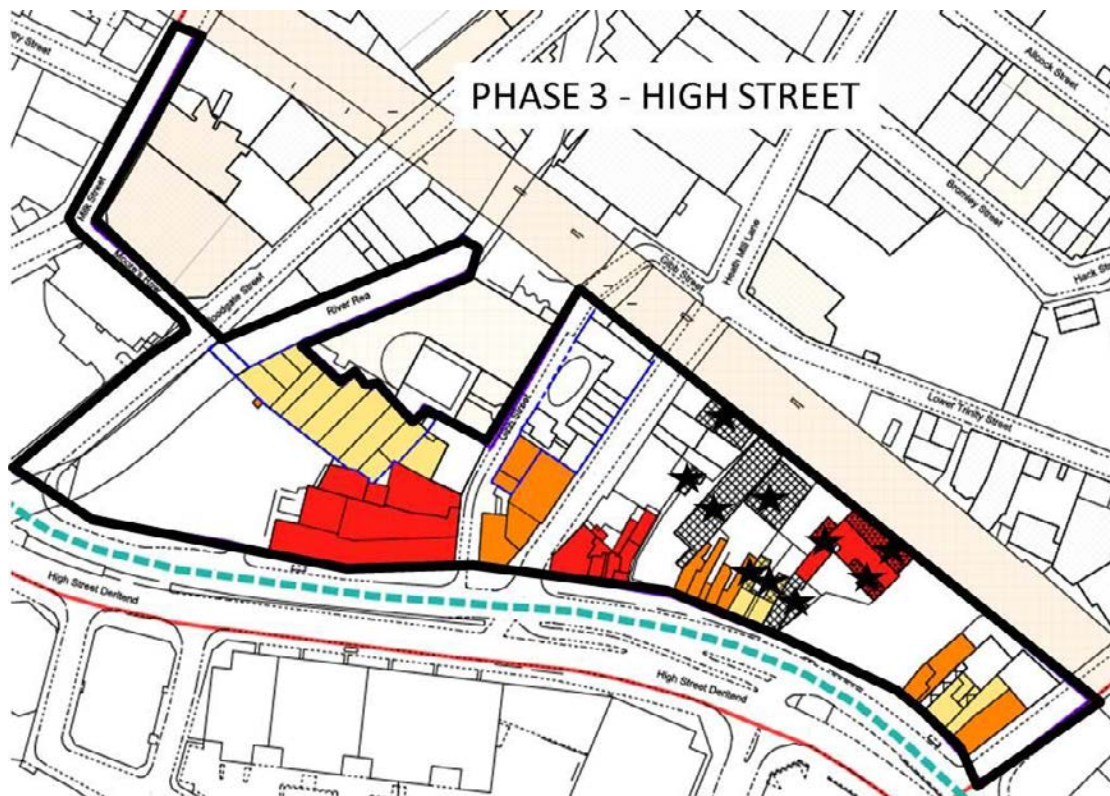


Fig 35: Phase 3 High Street – Part of Block G & Block Q (Red = listed building / Orange = locally listed / Yellow = positive contributor to Conservation Area / ★ = to be demolished)

- 6.110 The figure above shows that the majority of heritage assets within this phase would be retained without works. The proposals do however identify the demolition of No.175 High Street and the rear ranges to 177, 179 to 182 and 183 to 184 High Street, plus the demolition of later lean-tos adjoining the listed former church (Dolphin Works). However these latter works to the former listed church would require the separate benefit of listed building consent. Those buildings proposed for demolition would be replaced by buildings of 1 to 4 storeys in height.
- 6.111 The Heritage Assessment has identified the positive contribution to the Conservation Area of the variety of building types, styles and uses with the widest range of building types, architecture and detailing found along the High Street reflect its historic commercial vitality. The demolition of some buildings on or to the rear of the High Street would remove some examples of these building types, notably No.175 High Street which is an example of a former townhouse/commercial property. The Assessment has concluded this building to be a neutral contributor to the Conservation Area generally due to its poor condition and loss of original features, considering it to detract from the historic commercial frontage of the High Street. However, as the Conservation Officer comments, the condition of a building does not justify its loss, and although in a derelict state it could be restored so that it no longer detracts from the appearance of the Conservation Area. The recommendation is to retain this building. The loss of this historic building and a number of 19<sup>th</sup> and 20<sup>th</sup> century industrial rear ranges next to the Bordesley Viaduct would result in some erosion of the Conservation Area's industrial character that would cause less than substantial harm to the Conservation Area.

## Outline Phase 3 Viaduct – Blocks J, H, M & N

6.112 All of the land to the west of the Duddeston Viaduct is located within the DD&BHS Conservation Area. The Phase accommodates the Grade II St. Basils Church and listed curtilage buildings. Buildings that positively contribute to the Conservation Area are also identified as 8-10 Bromley Street, 'Night Dental' Bromley Street, the unidentified building between 'Premier' and 10-11 Hack Street and former works on Allcock Street. Whilst the Duddeston Viaduct dissects this Phase it falls outside this phase as it is identified within Phase 1A. The DD&BHS Character Appraisal describes the townscape quality of Heath Mill Lane as "... fragmented by gap sites and setbacks which dissipate the traditional sense of enclosure."

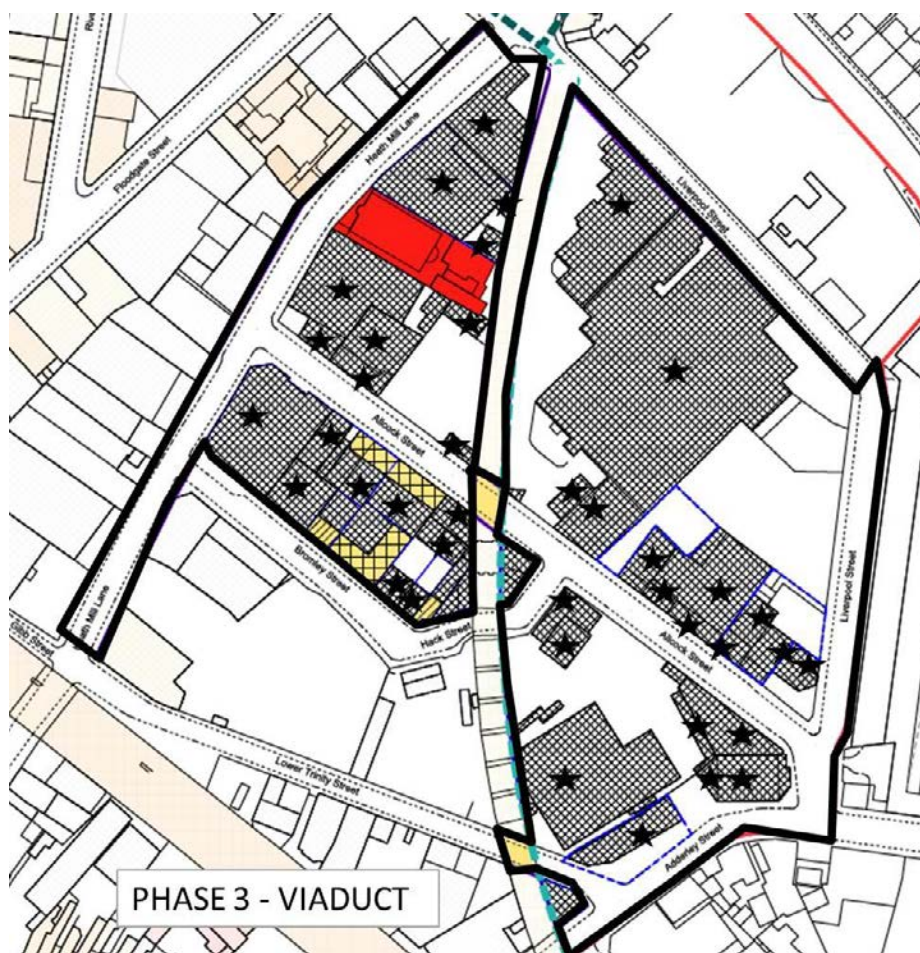


Fig 36: Phase 3 Viaduct – Blocks J, H, M & N (Red = listed building / Yellow = positive contributor to Conservation Area / ★ = to be demolished)

6.113 The original plans have been amended to exclude the demolition of the curtilage listed outbuildings to St. Basil's Church located between the Church and the Duddeston Viaduct. The Council's Conservation Officer has commented that there is agreement with regards to the positive contribution that the buildings (identified in yellow above) make to the Conservation Area. In addition there are other buildings that are also considered to positively contribute to the Conservation Area that the Heritage Assessment concludes as neutral, namely Premier' Bromley Street, 10-11 Hack Street, 31-41 Bromley Street, Progress Works Heath Mill Lane, Works on Allcock Street, 71-75 Allcock Street, 123-125 Heath Mill Lane and Frontier MOT

Centre. The Heritage Assessment limits the contribution made by these buildings to the Conservation Area based on their alteration however all of these buildings display a number of features such as age, use, materiality, roof form, back of pavement building line, scale and overall industrial character that the Conservation Officer considers contribute to the significance of the Conservation Area and in accordance with the positive key characteristics outlined within the same Assessment.

6.114 Whilst the proposals indicate that a number of the positive contributors would be retained it is considered that the amount of proposed demolition within this phase would cause less than substantial harm to the character and appearance of the Conservation Area.

Phase 4 - - Blocks D & E

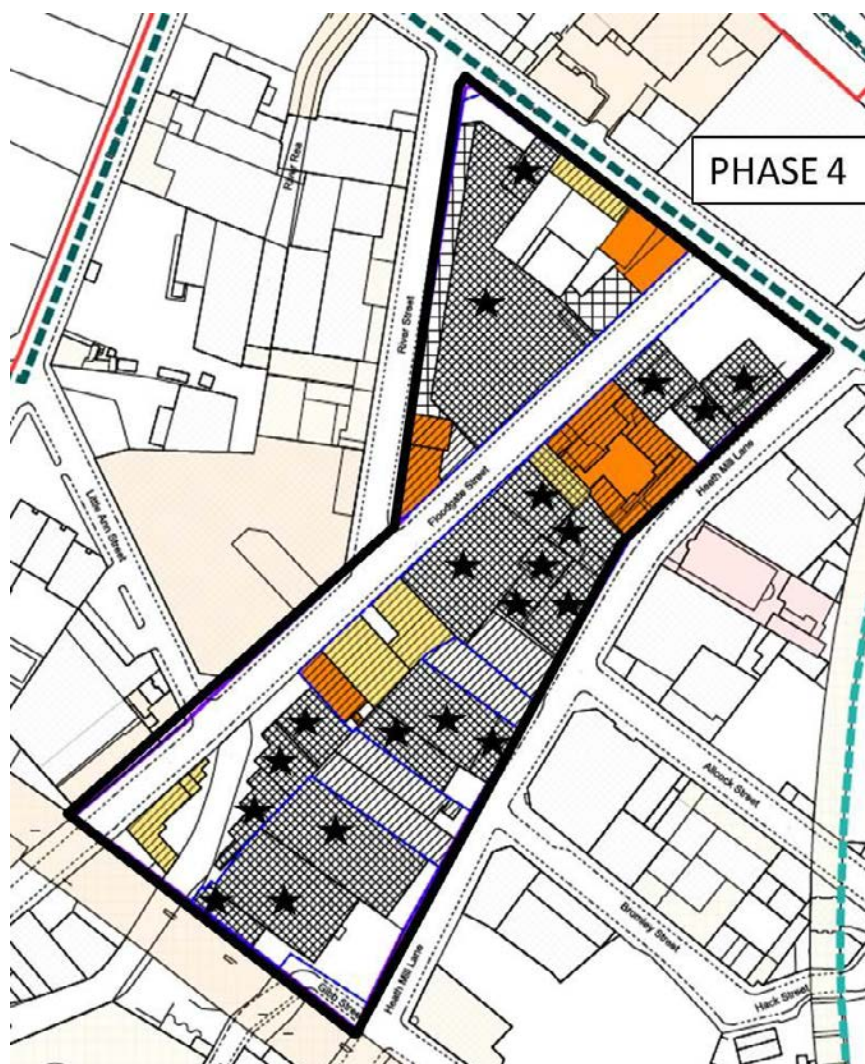


Fig 37: Phase 4 - - Blocks D & E (Orange = locally listed / Yellow = positive contributor to Conservation Area / ★ = to be demolished)

6.115 This final outline Phase sits entirely within the DD&BHS Conservation Area. The Phase accommodates the locally listed 48-52 Jukes Limited Floodgate Street (known Floodgate Street and River Street and the former Chapel and Sunday School located on Fazeley Street (all of these are identified in orange above). Positive contributors to the Conservation Area as identified in the Heritage Assessment comprise the

Former Iron Foundry/Rolling Mill (Fazeley Street), the Former WJ Wild No.5 Works (30-32 Floodgate Street), 35 Floodgate Street, Ashton Engineering Co. Limited (Floodgate Street) and 46 Floodgate Street. The Council's Conservation Officer concurs with this consideration.

- 6.116 In addition the Conservation Officer has commented that there are a number of buildings in this Phase that have been identified on the Retention Plan and in the Heritage Assessment as neutral contributors to the Conservation Area, however contrary to this conclusion they are considered to display positive characteristics. The most notable are the ranges to the west and south west of former Iron Foundry on Fazeley Street, the range to rear of Former Iron Foundry Fazeley Street, the Former Wellington Mills Fazeley Street (and elevation to River Street), the Garage at the corner of Fazeley Street and Heath Mill Lane, Eastside Projects at 86-89 Heath Mill Lane, the Former Metal Finishing Works, Heath Mill Lane and the series of former works on Heath Mill Lane and Floodgate Street. These buildings are considered to display the following positive key characteristics of the Conservation Area: variety of building types, historic context, height and grain, functional architecture, varied roofscape and back of pavement building line.
- 6.117 The proposals seek approval to retain with works all of the locally listed buildings with the exception of the former Chapel and Sunday School located on Fazeley Street that would be retained without works. In addition all of the buildings identified within the Heritage Assessment as positive contributors to the Conservation Area would be retained with works; the exception would be the demolition of No.46 Floodgate Street, a mid 20<sup>th</sup> century flat roofed industrial premises immediately adjacent to the locally listed Arch complex. The submitted mitigation is the potential recording of this building and the dissemination of information through public realm/ public art. In addition there would be the demolition of many buildings in the centre of the Phase that, contrary to the conclusions of the Heritage Assessment, are considered by the Conservation Officer to positively contribute to the character and appearance of the Conservation Area. It is considered that the combined loss of these 19<sup>th</sup> and 20<sup>th</sup> century industrial buildings and some loss of the existing articulated roof lines would cause less than substantial harm to the character and appearance of the Conservation Area.
- 6.118 The Heritage Assessment also concludes a degree of harm to the significance of the locally listed 48 to 52 Jukes (Birmingham) Ltd (The Arch) and W.J. Wild No.6 Personnel Department, both located in Floodgate Street. The harm arises from the change along Heath Mill Lane and Floodgate Street that would erode the assets' industrial setting and the ability to appreciate the expansion of the Wild Works company along Floodgate Street. The Conservation Officer concurs with this assessment of harm.

#### Conclusions regarding Impact upon Heritage Assets within outline application site

- 6.119 It is acknowledged many streets such as Fazeley Street, Heath Mill Lane and Flood Street, Liverpool Street and Allcock Street would be the subject of comprehensive demolition and rebuild with the loss of a number of original buildings, some of which are locally listed or considered to contribute positively to the character and appearance of the Conservation Areas.

6.120 The key design principles of the DD&BHS Character Appraisal advises that new development should not be significantly higher or lower than their neighbours normally limiting new build to a maximum of six industrial/commercial storeys. The illustrative heights plan demonstrates a general overall increase in scale across the Conservation Areas, the greatest being around the Bordesley Viaduct with generally 5 to 8 storeys, plus there is a development plot of 14 storeys (Plot V1). However in general lower heights are proposed in the more sensitive parts of the site; these tend to be around the central 'bowl' of the Conservation Area with taller buildings proposed in parts of the site that are considered to be less sensitive to change. These are located towards and outside of the Conservation Area boundaries and respond to the larger scale of the Bordesley Viaduct and the Custard Factory. Furthermore the Design Code allows for mitigation at the reserved matters stage in terms of roofline, design and materials. However it needs to be acknowledged that scale across a large part of the Conservation Area would change the historic character of the overall area impacting upon the existing lower scale industrial character. This would cumulatively have some negative impact causing less than substantial harm to the significance of the Conservation Area.

#### Phase 1 - Block A and part of Block G

- 6.121 The first and detailed phase of the hybrid application encompasses three distinct plots: the Wild site (Plot CF1), the 'triangle site' (Plot CF2) to be redeveloped as Custard Factory Living and the Custard Factory itself (Plot CF3).
- 6.122 All of this Phase is within the DD&BHS Conservation Area and the site accommodates the locally listed former W.J.Wild No.2 Works at 104-108 Floodgate Street (closest to the Viaduct) and the locally listed W.J.Wild No.3 works at 119 Floodgate Street. The Custard Factory and the part of the River Rea that runs through this Phase are also identified within the Heritage Assessment as positive contributors to the Conservation Area.
- 6.123 Part of the locally listed Bordesley Viaduct is located to the north but does not fall within the Phase detailed application site. The Grade II\* Former Floodgate School is located outside but very close to the application site, at the junction of Floodgate Street and Moore's Row. This Grade II\* building forms part of the immediate setting for the Wild Works site. Its significance is identified as principally arising from its architecture and historic association with education reform and the gabled Gothic form of the building that is distinctive within the surrounding area. The Council's Conservation Officer considers that the Assessment correctly identifies that there are no designed or intended views of the Grade II\* building but rather a series of glimpsed views created by the ad-hoc re-development of the area that followed the construction of the school. The Assessment concludes that the setting of the asset does not contribute to its historic or architectural significance and whilst the Conservation Officer generally agrees with this conclusion the ability to appreciate or experience significance is also considered to be a setting consideration.
- 6.124 The Wild Works buildings (Nos. 2 and 3), the Custard Factory and the existing buildings on the 'triangle site' all have key positive characteristics of the Conservation Area pertaining to a variety of building types and architecture, the height and grain of the buildings, the functional architecture of the industrial buildings, the varied roof scape, the existing street pattern, the back of pavement building line, the visual

layering of views and the quality street art. The Wild Works site also displays negative characteristics as such as the loss of enclosure and vacant and under-utilised buildings.

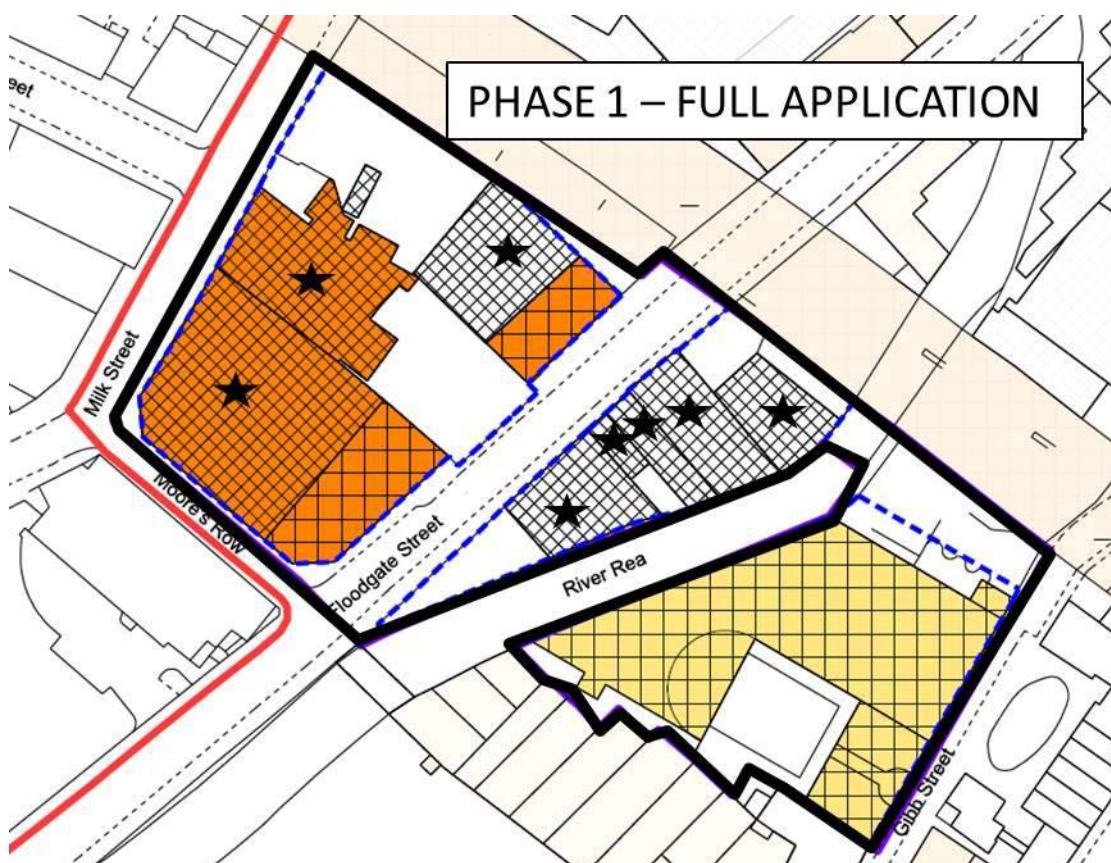


Fig: 38 Phase 1 - Block A and part of Block G Phase 4 (Orange = locally listed / Yellow = positive contributor to Conservation Area / ★ = to be demolished)

- 6.125 The Heritage Assessment identifies Wild No.3 (Wild 3) as a little altered example of a purpose built 1940's workshop premises characteristic of the areas 20<sup>th</sup> century industrial heritage, and it is also identified for its group value as forming part of the W.J. Wild works grouping along Floodgate Street. Wild No.2 works (Wild 2) is described as of local significance as an example of a purpose built 1930's workshop premises characteristic of the area's 20<sup>th</sup> century industrial heritage. The River Rea, (locally listed in another part of the hybrid site but not at this location) is identified as significant for its historic interest in relation to its role in the development of the City and the growth of Digbeth. The River is also significant for its setting in relation to the wider industrial landscape and the surviving historic buildings.
- 6.126 The detailed application proposals would result in the demolition of the rear part of Wild Works No.3 (Wild 3) and the loss of historic fabric. The front portion and principal elevation that wraps around Moore's Row would be retained as a standalone building. Note that the adjoining former canteen building is not included within the local listing description.
- 6.127 The sheds to the rear of Wild Works No.2 are also proposed to be demolished, however these are excluded from the local listing.

- 6.128 The Conservation officer considers that the partial loss of Wild 3 would erode the completeness of the Wild Works grouping whilst the loss of completeness to both Wild 2 and Wild 3 and their acknowledged contribution to the Conservation Area would contribute to the erosion of the industrial character of the Conservation Area. It is noted that the principal Floodgate Street frontages of both Wild 2 and Wild 3 would be retained and therefore some elements of their historic and architectural significance sustained.
- 6.129 The new standalone buildings titled Wild 7 and Wild 8 to the rear of the locally listed buildings would be significantly taller than the existing buildings rising to 5 and 8 storeys respectively; thereby taller than the established scale of the Conservation Area. The proposed new buildings would be sited close to Bordesley Viaduct and the Custard Factory, existing structures of some height within the Conservation Area, that has informed the height strategy for this part of the site. The Heritage Assessment comments that the range in heights across the detailed plots would create a variety typical of the Conservation Area, as well as a juxtaposition and layering in views. Historic England is not convinced by the current design approach and scale in the context of the Conservation Area, commenting that Wild 8 would be of a design that does not appear characteristic of the Conservation Area due to its large footprint and framed design influenced by the Custard Factory. HE consider that these elements would not transition comfortably to the roof design that is too contrived to emulate an industrial roof. However the Conservation Officer considers that the buildings demonstrate a contemporary response to the character of the Conservation Area through a high quality design, construction and materiality and on balance considers the design of these buildings to be acceptable
- 6.130 In terms of the impact upon the significance of the locally listed Wild 2 and Wild 3 buildings harm would arise from the partial demolition of Wild 2, which would diminish the ability to appreciate the historic extent and function of the asset, the completeness of the W.J. Wild works grouping along Floodgate Street and the ability to appreciate the expansion of the company along the street. Therefore the redevelopment of the Wild site would lead to less than substantial harm to the significance of the Wild Works grouping. As a result of the detailed phase of development the Heritage Assessment concludes that there would be no harm to the significance of the River Rea and the Conservation Officer supports this assessment. Officers consider that the scale, form and massing of the locally listed Bordesley Viaduct reveals the structure's prominence as an example of 19<sup>th</sup> century engineering. It is currently experienced in a relatively low scale townscape and, following the development of the three detailed plots, this experience would be diminished by the introduction of the new buildings and the Custard Factory roof top extension. As such the Conservation Officer disagrees with the Heritage Assessment's conclusion that no harm will be caused to the significance of Bordesley Viaduct and it is considered that as its visual dominance would be reduced a small degree of harm would be caused to this non-designated heritage asset.
- 6.131 Historic England has raised concerns over the impact of the detailed scheme on the setting of the Grade II\* building Former School, as in particular the proposed Wild 8 building would obscure views of the school's decorative ventilation tower. However the Conservation Officer advises that the views of the listed building are incidental and whilst its architectural qualities are readily experienced in the context of its

relatively low-scale immediate setting any harm perceived through introducing taller buildings would be balanced through the creation of a number of new views from the proposed Wild Walk and new roof terrace. The general increase in scale would have some impact on the setting of the listed building and the ability to appreciate some elements of the building from some vantage points however the proposed design would mitigate for this via a layered approach. The retention of the single-storey frontage to Wild 3 and the stepped-down height of Wild 8 to the Milk Street elevation would help to retain views and through the site. Plus new residents, workers and recreational users alongside an enhanced public realm would be likely to draw fresh audiences into this part of Digbeth and allow for a wider appreciation of the asset.

- 6.132 With reference to the 'triangle' site (Plot CF2) the Heritage Assessment identifies the removal of a number of 20<sup>th</sup> century sheds with brick frontages to Floodgate Street and acknowledges that, although in a dilapidated condition, the frontages survive and exhibit characteristic features. Given the extent of their alteration the buildings have not been identified as positive contributors to the Conservation Area, although the Conservation Officer considers that their loss would result in some erosion of the Conservation Area's industrial architectural character. Therefore their removal would cause some harm to the character and appearance of the Conservation Area.
- 6.133 In terms of the Custard Factory Living redevelopment the Conservation Officer does not support the use of grey brick as it would be uncharacteristic to the Conservation Area. The colour has been chosen by the applicants to 'visually bridge' between the white painted brick of the Custard Factory and the blue engineering brick of Bordesley Viaduct rather than as a contextual response. This detailed element can however be controlled via a condition.
- 6.134 The Custard Factory is identified in the Heritage Assessment as a positive contributor to the Conservation Area as an important example of a larger works within Digbeth. The functional use of brick and large windows contribute to the industrial character of the Conservation Area with the building illustrating a trend in the late 19<sup>th</sup>/early 20<sup>th</sup> century for works to increase in terms of their scale and mass.
- 6.135 The proposed three storey roof top extension is described as light weight and would not be overly dominant to the host building. The applicants seek it to be a complementary yet distinctive marker in the heart of Digbeth with a restrained and industrial materiality in neutral colouring. Within the context of the Conservation Area an upwards extension could be supported and is considered by the Conservation Officer to be a contextual response to the identified key positive Conservation Area characteristics of the variety of building types and architecture. There is considered to be no harm to the character and appearance of the Conservation Area as a result of this part of the detailed scheme.
- 6.136 Concluding the impacts of the development of Phase 1, the detailed part of the application, upon the heritage assets it is considered that the proposed demolition and the proposed scale of the redevelopment would lead to less than substantial harm to the significance of the Digbeth Deritend and Bordesley High Street Conservation Area, the proposed demolition and would lead to a small degree of harm to the locally listed Wild 2 and Wild 3 buildings and the scale of the proposed development would lead a small degree of harm to the setting and therefore significance of the locally listed Bordesley Viaduct.



## Impact of the Hybrid Application upon Heritage Assets Outside of the Application Site

- 6.137 The impact upon the significance of the 11 listed buildings and structures outside of the application site but within the Heritage Assessment study area (i.e. within 200m of the application site boundary) is summarised below and the Conservation Officer has raised no concerns with the conclusions:
- i. 85 Digbeth High Street (Grade II) – positive impact upon its setting, significance sustained;
  - ii. 122 Fazeley Street (Grade II) – ability to appreciate the group of buildings connected with the Canal and listed Canal Side Warehouse would be unaffected, significance sustained;
  - iii. 106-110 Fazeley Street (Ringway Engineering Service Company) (Grade II) - ability to appreciate the group of buildings connected with the Canal and listed canalside warehouse would be unaffected, significance sustained;
  - iv. Birmingham Gun Barrel Proof House (Grade II\*) – due to the intervening distance and limited inter-visibility no effect significance sustained; 58 Oxford Street (Grade II) - architectural and historic interest and overall significance sustained;
  - v. 58 Oxford Street (Grade II) - the architectural and historic interest and overall significance of would be sustained;
  - vi. Canal Side Warehouse at Warwick Bar, Dock and Stop Lock (Grade II) - ability to appreciate the group of buildings connected with the Canal would be unaffected, significance sustained;
  - vii. 224 and 225 High Street (Grade II) - positive impact upon its setting, significance sustained;
  - viii. Former Floodgate School (Grade II\*) – no harm, as discussed earlier in report relating to Phase 1 detailed application proposals;
  - ix. Roving Bridge over Entrance to Birmingham and Warwick Junction Canal at Bordesley Junction with Warwick and Birmingham Canal (Grade II) – no affect on its significance;
  - x. The Anchor Public House, Rea Street (Grade II) – development would not alter the urban character of its setting or the way in which its architectural or historic interest is appreciated significance sustained; and
  - xi. White Swan Public House, Bradford Street (Grade II) – development would not alter the urban character of its setting or the way in which its architectural or historic interest is appreciated, significance sustained.
- 6.138 Beyond the study area the impact upon the significance of the grade II listed Rotunda has been considered. The Heritage Assessment identifies the building as a prominent landmark, visible from numerous locations around the City and correctly acknowledges that its visibility would be lost when looking west along Lower Trinity

Street, as a result of the development to the south of the Bordesley Viaduct. The Conservation Officer agrees that this reduced visibility would reduce its the landmark qualities and to a sense of place thereby causing less than substantial harm to the significance of this heritage asset.

#### Archaeology – Hybrid Application

- 6.139 The Council's archaeological expert broadly agrees with the conclusions of the submitted Desk-Based Assessment (DBA) and supporting chapter in the ES. The hybrid application area has the potential for significant buried archaeology dating from the medieval period onwards and the site is one of the most significant locations for archaeology in Birmingham that provides a unique opportunity to gather evidence on the origins and development of the City.
- 6.140 The basic archaeological overview of the area from the DBA is that the greatest potential lies closest to Deritend High Street and then decreases northwards with the exception of a few outlying mapped sites. Based on previous archaeological field work and map sources Officers agree that this is not an unreasonable conclusion to draw but it does however perhaps underestimate the potential of the areas where no previous work has been undertaken and where there is an absence of evidence rather than evidence of absence. The submitted information suggests that the ES perhaps underestimates the significance and potential for some of the outlying areas away from the High Street. The fact that most of the area is covered by standing buildings, many of which are still occupied, means that the opportunities for undertaking archaeological evaluations with trial trenches at the pre-application stage were very limited. There is no objection in respect of the impact upon archaeology subject to the agreement to condition a programme of archaeological work within an agreed submitted written scheme of investigation. The programme of archaeological work should contain proposals for archaeological evaluation followed by mitigation works, post-excavation analysis, reporting and publication.

#### Individual and Cumulative Harm

- 6.141 Taking the phases and blocks individually and cumulatively the proposed development would lead to the following harm upon the heritage assets located within the application site:
- Phase 1a (outline) Blocks K, P & T - less than substantial harm would be caused to the character and appearance of the Digbeth Deritend and Bordesley High Street Conservation Area;
  - Phase 2 (outline) Blocks E & R - less than substantial harm to the significance of the Warwick Bar Conservation Area and a degree of harm to the significance of the Bond group of locally listed buildings;
  - Phase 3 River (outline) Blocks B & C - total loss of significance of the locally listed W.J.Wild No.4 Works (Rea Studios), harm to the setting and thereby significance of Wild Works group of buildings and less than substantial harm to the Digbeth Deritend and Bordesley High Street Conservation Area;

- Phase 3 Bordesley (outline) Blocks L & S - harm to the significance of locally listed Bordesley Viaduct and less than substantial harm to the character and appearance of the Digbeth Deritend and Bordesley High Street Conservation Area;
- Phase 3 High Street (outline) Part of Block G & Block Q - less than substantial harm to the Digbeth Deritend and Bordesley High Street Conservation Area;
- Phase 3 Viaduct (outline) Blocks J, H, M & N - less than substantial harm to the character and appearance of the Digbeth Deritend and Bordesley High Street Conservation Area;
- Phase 4 (outline) Blocks D & E - less than substantial harm to the character and appearance of the Digbeth Deritend and Bordesley High Street Conservation Area and harm to the setting and therefore significance of the locally listed to buildings known as 48 to 52 Jukes (Birmingham) Ltd (The Arch) and W.J. Wild No.6 Personnel Department both within Floodgate Street;
- Phase 1 (detailed) Block A and part of Block G - harm to the significance of the locally listed Wild 2 and Wild 3 buildings and to the Wild Works group of buildings along Floodgate Street, harm to the significance of the locally listed Bordesley Viaduct and less than substantial harm to the Digbeth Deritend and Bordesley High Street Conservation Area; and
- Hybrid Application - cumulative harm to the character and appearance of the Digbeth Deritend and Bordesley High Street and Warwick Bar Conservation Areas resulting from loss or partial loss of locally listed buildings, loss of buildings that contribute positively to the character and appearance of the conservation areas, and through the introduction of increased scale to parts of the areas. This would cause less than substantial harm to both conservation areas. This harm would be greater for the Digbeth Deritend and Bordesley High Street Conservation Area but still falls within less than substantial harm.

6.142 Therefore there is total loss of significance of W.J. Wild Works No.4 (Rea Studios), a non designated heritage asset, plus some harm to the significance of a small number of locally listed buildings and structures also defined as non heritage assets within the application site. There is individual and cumulative harm to both Conservation Areas however this harm is at a level of less than substantial. There is also less than substantial harm to the Grade II listed Rotunda that is located outside of the application site.

6.143 In accordance with Paragraph 196 of the NPPF where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, as in this case, this harm should be weighed against the public benefits of the proposals, including where appropriate, securing its optimum viable use. Paragraph 197 also requires a weighing exercise with respect to harm to non designated heritage and a balanced judgement is required having regard to scale of any harm or loss of the significance of the heritage asset. This harm needs to be weighed against the considerable importance and weight to be applied to the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990. This weighing

exercise or planning balance is considered within the conclusions to this committee report.

### *Drainage and Flood Risk*

- 6.144 The hybrid application site accommodates the River Rea that runs through both the detailed and the outline parts and the Grand Union Canal that passes through the outline site. The River Rea is located slightly west of the centre of the site and flows in a northerly direction through a partly culverted channel, with little opportunity to see or interact with it. At present, the applicants have advised that there is no evidence that any SuDS are present within the site with all surface water discharging freely to the sewers and the River Rea. The site sits within flood zones 1, 2 and 3, with almost half of the site within Flood Zones 2 and 3.
- 6.145 The following documents have been submitted to assess the impact of flooding, to explain the proposed drainage strategy and to describe how access to the River would be opened up as part of the proposals both to provide greater access for the public and for maintenance purposes.
- Flood Risk Assessment;
  - Sustainable Urban Drainage Strategy;
  - Digbeth – River Rea Proposed Phase 1 Development Model Report;
  - Digbeth – River Rea All Outline Phases Addendum Model Report;
  - Project Digbeth: FRA addendum;
  - Project Digbeth: Hydraulic Modelling – Cover Note;
  - Custard Factory Living, River Rea Retaining Wall Structural Statement; and
  - Chapter 17 of the ES
- 6.145 The FRA describes that flooding from the River, surface water, groundwater, Bartley Reservoir, the Grand Union Canal and sewers have been considered and that consultation has taken place with both the Environment Agency (EA) and the Lead Local Flood Authority (LLFA). The Updated River Rea Hydraulic Model (URRHM) was obtained from the EA in order to assess the impact of flooding from the River Rea for the different parts of the proposed development.

### Flood Risk – Outline site

- 6.146 Parts of the outline application are sited within flood zone 1, 2 and 3. The latter is where there is the highest risk of flooding. At this stage, as the detailed design of the outline plots is not known, hydraulic and flood compensation modelling has been based on the submitted Parameter Plans that define the maximum plot extents. The EA has agreed that more detailed modelling could be undertaken on a phased basis as plots are brought forward with future reserved matters applications. In the meantime the applicants have agreed to a flood strategy based on the following principles:
- i. The Technical Guidance of the NPPG determines the flood risk vulnerability classification of particular uses, defining them as more vulnerable and less vulnerable. Following the objectives of the sequential test for flooding, as set out in the NPPF, which steers new development to areas with the lowest risk of flooding the majority of vulnerable uses (which includes residential) are located

within the eastern part of the outline site, which lies in flood zone 1. Where this is not possible, the strategy proposes that building entrances would be located in areas of lower risk, with the more vulnerable uses located on the upper floors;

- ii. flood resilience measures would be adopted such as raising power sockets above the design flood level based on the flood risk vulnerability classification of the building, and using flood compatible materials on new buildings in flood zones 2 and 3;
- iii. providing a safe access route from each development plot where necessary to the nearest area that is not at risk of flooding as required via the proposed Design Code;
- iv. no reducing available flood storage volume. There is a requirement to compensate approximately 625m<sup>3</sup> of flood volume within the site, this represents approximately 4% of the existing flood volume. Areas of open space, located outside the flood extent, have been identified as locations for flood compensation that would be detailed once the relevant phase is brought forward; and
- v. opening up some sections of the culverted River Rea, agreed in principles with the EA subject to securing permit applications.

6.147 As there are limited more vulnerable building uses located on upper floors within flood zone 3 it is still necessary for the applicants to undertake the exception test in accordance with the NPPF and the guidance of BDP Policy TP6. In order to pass the exception test it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk and that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere and where possible would reduce flood risk overall.

6.148 The applicants consider that the provision of more vulnerable or residential uses across the site is necessary to improve the character of the area as well as to develop a safer and more inclusive environment in Digbeth. The FRA indicates that the outline proposals are expected to result in an overall betterment for all flood events and would increase the area for flood water storage by approximately 16%. Applying these comments plus the benefits of residential units within the application site it is considered that the requirements of the exception test are passed.

6.149 Whilst the EA are satisfied with the proposed approach a condition is recommended that requires that any bridge proposed as part of the outline application across the River Rea must have levels set in excess of 600mm above the 1 in 100 plus climate change flood level. A new pedestrian route is proposed over the River Rea between plots R3 and R4 linking Bordesley Street to Floodgate Street. As this route is considered by the EA to be a bridge then the condition as drafted by the EA would mean that the underside of the bridge in this location would have to be set 1.1m above the surrounding ground levels. The applicants consider that this would not be feasible as it would mean that where the route crosses the River, it would not be flush with the surrounding ground. The applicants have requested that this condition be

amended so that it requires bridge levels to be agreed at the reserved matters stage to enable appropriate assessment of each bridge proposal, based on site specific circumstances, to be undertaken. There is another EA recommended condition that requires hydraulic modelling to be submitted at this later stage, and the submission of additional modelling would address any change to flood risk. This amendment is considered reasonable.

- 6.150 The applicants have also queried an EA condition regarding the timing of the implementation of the route and separate bridge across the River as it is the EA's preference that no other works can be commenced within the outline application site. Acknowledging the area of the outline site at 18.9 hectares and the 10 to 15 year construction period, amending the timing of implementation is again considered to be reasonable.

#### Flood Risk – Detailed Site

- 6.151 The Wild Site (Plot CF1) is located within flood zone 3 however the risk from flooding from all sources is considered to be low. Flood resilience measures and SuDS are proposed (see proposed drainage below), safe access and egress to the site would be provided and there would be an increased area for floodwater storage. The plot would not accommodate any more vulnerable uses.
- 6.152 Between the Wild Site (Plot CF1) and the Custard Factory Living site (Plot CF2) SuDS are proposed within the Floodgate Street adopted highway to increase floodwater storage by 14m<sup>3</sup>.
- 6.153 The Custard Factory Living site (CF2) has a boundary to the River Rea and whilst the flood map for planning defines it within flood zone 3 the URRHM sites it entirely within flood zone 2. A mix of ground floor commercial uses and upper floor residential uses are proposed within this plot, however both less vulnerable and more vulnerable uses are permitted within Flood Zone 2, and therefore the residential proposals are appropriate at this location. The FRA concludes that the flood risk from all sources is low, flood resilience measures and SuDS are proposed (see below), safe access and egress to the site would be provided and there would be increased area for floodwater storage.
- 6.154 Plot CF3, the Custard Factory extension also has a boundary to the River Rea, and the site is located within flood zone 2. The commercial use of the proposed extension at ground floor and at roof level would be defined as less vulnerable, and they are therefore acceptable within this flood zone. The FRA states that the flood risk from all sources is low and the position of the existing entrances indicate that the building would stay dry. During flood events dry routes could be achieved for the purpose of safe access and egress.

#### Drainage - Outline Site

- 6.155 The Sustainable Urban Drainage Strategy assumes that surface water discharges freely to the River Rea via the public sewers at present, whilst all foul water sewers route towards the combined sewers along the edges of the site boundary. It advises that Severn Trent Water have confirmed that there is capacity for the proposed development within the local sewer network.

- 6.156 BDP Policy TP6 requires developments to manage surface water runoff as close to its source as possible in accordance with the following hierarchy:
- Storage of rainwater for later use;
  - Discharge into the ground (Infiltration);
  - Discharge to a surface water body;
  - Discharge to a surface water sewer, highway drain or other drainage system; and
  - Discharge to a combined sewer
- 6.157 The Strategy states that all plots within the outline application site would consider the use of SuDS within the proposals with an aim to incorporate SuDS into the fabric of the building and landscaping. Again as the detailed design of the plots within the outline is unknown it is proposed that the viability of each of the discharge methods above would be assessed and submitted as part of reserved matters applications following the hierarchy above.

#### Drainage - Detailed Site

- 6.158 For Wilds Works (Plot CF1) a controlled discharge to the existing surface water sewer in Floodgate Street is proposed as the most suitable method of discharge. The site would include a combination of blue roof attenuation on Wild 8 and below ground storage to achieve acceptable surface water discharge rates.
- 6.159 For Custard Factory Living (Plot CF2), controlled surface water discharge to the River Rea is proposed as the most suitable method of discharge. The site would include a combination of a green/blue roof attenuation and below ground storage to achieve acceptable surface water discharge rates. There is also the potential for permeable paving.
- 6.160 For Custard Factory Extension (Plot CF3), the report notes that attenuation at roof level is not structurally possible, hence it is proposed to discharge surface water from the roof extension to the River Rea via existing rainwater pipes. It is proposed that the external area between the Custard Factory and Bordesley Viaduct provide below ground attenuation prior to discharging to the River Rea via an existing outfall.

#### Access To and Over the River Rea and the Grand Union Canal

- 6.161 The Grand Union Canal and River Rea are important existing landscape features which run through the application site, but are not currently celebrated or generally known about by visitors. The Council has acknowledged its aspiration to reimagine the River Rea as a green corridor and this is set out in the Draft Rea Valley Quarter SPD. In addition Policy TP7 seeks to expand the green infrastructure network within the City. The Grand Union Canal forms part of this network and the Policy seeks to enhance its social, economic and environmental benefits.

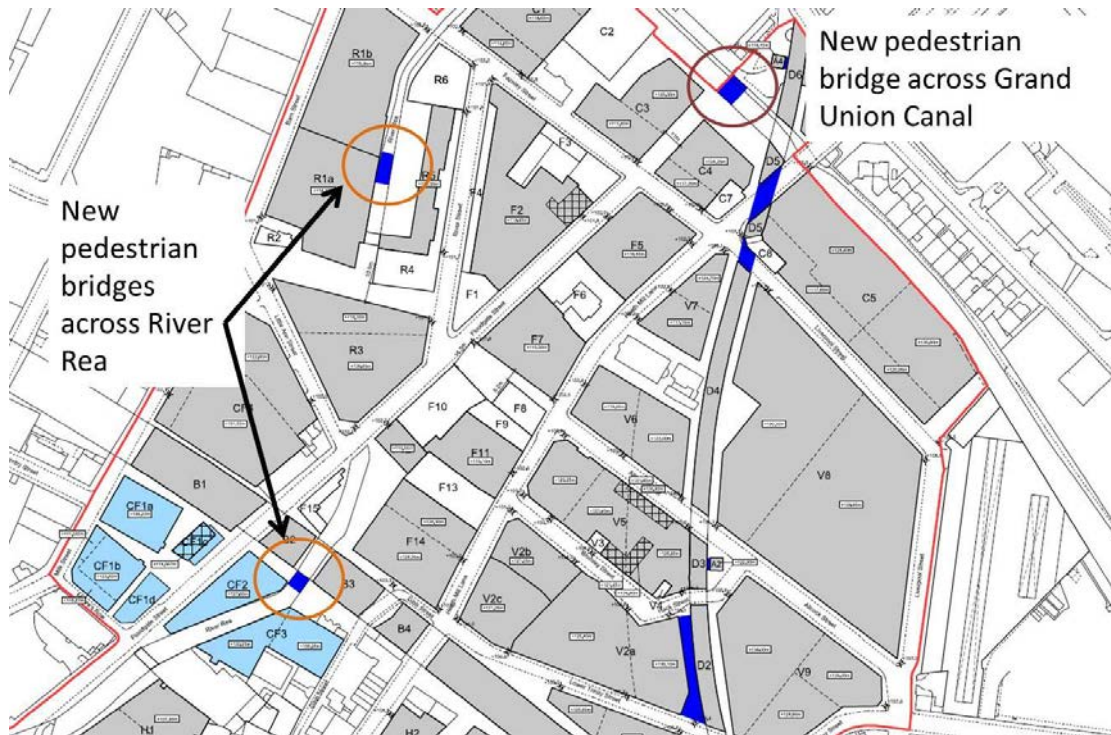


Fig 39: Position of Proposed Pedestrian Bridges

6.162 As part of the hybrid application it is proposed to expose and celebrate these waterways by constructing three new pedestrian bridges:

- i) across the Grand Union Canal with an area of public open space at each end and a link to the bridge from Fazeley Street within the outline site;
- ii) across the River Rea to the north of the site with an area of public open space at each end linking to a new east west pedestrian route though part of the outline site. The bridge would be sited to the rear of Barn Street and River Street and the detailed proposals would be developed during the reserved matters applications ensuring that that any works near the River would not increase the risk of flooding; and
- iii) across the River Rea between the Custard Factory Living Site and the Custard Factory linking Floodgate Street to Gibb Street. This would replace the existing bridge. The existing bridge spans the River Rea directly below the Bordesley Viaduct and does not allow access for all.





Fig 40: Existing Bridge Crossing River Rea below Bordesley Viaduct (to be Replaced) with Plot (CF2) to be redeveloped as Custard Factory Living in Background

6.163 The proposed bridge height has been set as high as possible, providing a ramped access at 1:20; the steepest gradient that is permitted to meet the DDA requirements. The height would also help to reduce flood risk. It has been designed with reference to the industrial character of the Conservation Area and would be constructed in steel.



Fig 41: View from the Proposed Bridge towards Custard Factory Living (Plot CF2)

6.164 The EA has also highlighted that there is a lack of maintenance access along the River Rea and therefore the detailed application would also provide improved access points comprising a mixture of vehicular access to the river wall and a gated access

point to the river from the Custard Factory Living plot (CF2). This would improve the ability for the EA to maintain the River and lower any equipment or qualified personnel down to the river channel. Details of the access would be determined and agreed with the EA via condition.

- 6.165 In their comments the EA have requested that the hybrid development provide an 8m easement to the River, however in response it is acknowledged that the existing structures align the river bank and in some cases span over the River. Therefore the existing conflict with this easement would be reduced. In addition access to the watercourse would be improved as part of the development and recognising its historic context, space constraints and the viability of the scheme it would not be possible to provide an 8m easement at this stage for all of the outline plots. It is further agreed that the existing containment of the River is part of the character of the Conservation Area that should be retained and the River should not be naturalised, as promoted as part of the River Rea SPD to the south of the application site. Hence where the River is proposed to be opened up and de-culverted, to the rear of River Street, it would have a hard landscaped terraced setting rather than a green natural setting. The applicants have agreed to review the easement as part of the reserved matters applications.

#### Flooding and Drainage Conclusions

- 6.166 It is acknowledged that the detailed design of the development plots within the outline application site is not known. However appropriate flood risk and sustainable drainage strategies have been submitted and it is considered that determining the individual proposals for flood and drainage at the reserved matters stage against these strategies is an appropriate approach. The EA and LLFA are also in agreement with this approach subject to conditions to require the necessary details. It is considered that the applicants have considered and passed the requirements of the sequential and exception tests
- 6.167 The details submitted for the detailed proposals are considered satisfactory subject to conditions to secure the necessary details and ongoing maintenance responsibilities.
- 6.168 The three proposed bridges across the two waterways are considered to be a significant benefit of the hybrid application, providing recreational opportunities, improving ecology and biodiversity, promoting a better image of Digbeth, offering safer routes for people and helping to manage flood risk and water attenuation. They will also provide better access to the River Rea for maintenance purposes. As such the proposals to mitigate flood risk, provide sustainable drainage and to open up the waterways are in accordance with Policies TP6, TP7 and PG3 of the BDP.

#### *Noise and Vibration*

##### Outline Application

- 6.169 There are a number of existing noise sources across the site including vehicular traffic and a live railway located on the Bordesley Viaduct. Digbeth has also become renowned for its entertainment venues with live music premises such as The Rainbow Venues and the O2 Institute, clubs including Spotlight and Boxxed and festivals including the Peaky Blinders and Saint Patrick's.

- 6.170 It is acknowledged that currently there are few residential uses or sensitive noise receptors within the site. However the impact upon these existing and recently approved noise sensitive receptors together with the proposed residential receptors that are part of the current scheme are material considerations.
- 6.171 Furthermore noting Digbeth's night time economy and the need to maintain this important part of Digbeth's character there is a need to ensure that the proposed residential occupiers that form part of the proposals do not threaten the viability of these premises. As paragraph 182 of the NPPF states, "*Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established.*"
- 6.172 Various environmental noise and vibration surveys have been conducted by the applicant between July and November 2019, to quantify prevailing ambient, background, road traffic and maximum event noise levels. The surveys comprised a combination of both attended and non-attended measurements. In addition a survey also conducted in November 2015 has been included as it was pertinent to the site boundary. The topic of noise is also discussed as part of the ES.
- 6.173 The ES identifies a total of 37 sensitive receptors both within and outside of the application site ranging from No.180 Fazeley Street (residential use on the first floor) to Birmingham Central Backpackers, to the Mulberry Guesthouse on Fazeley Street to the approved Lunar Rise development on the opposite side of the High Street. This list has been added to as a result of recent planning approval granted at Bordesley Wharf, the Irish Centre, the Stone Yard (Bull Ring Trading Estate) and the current application at Upper Trinity Street.

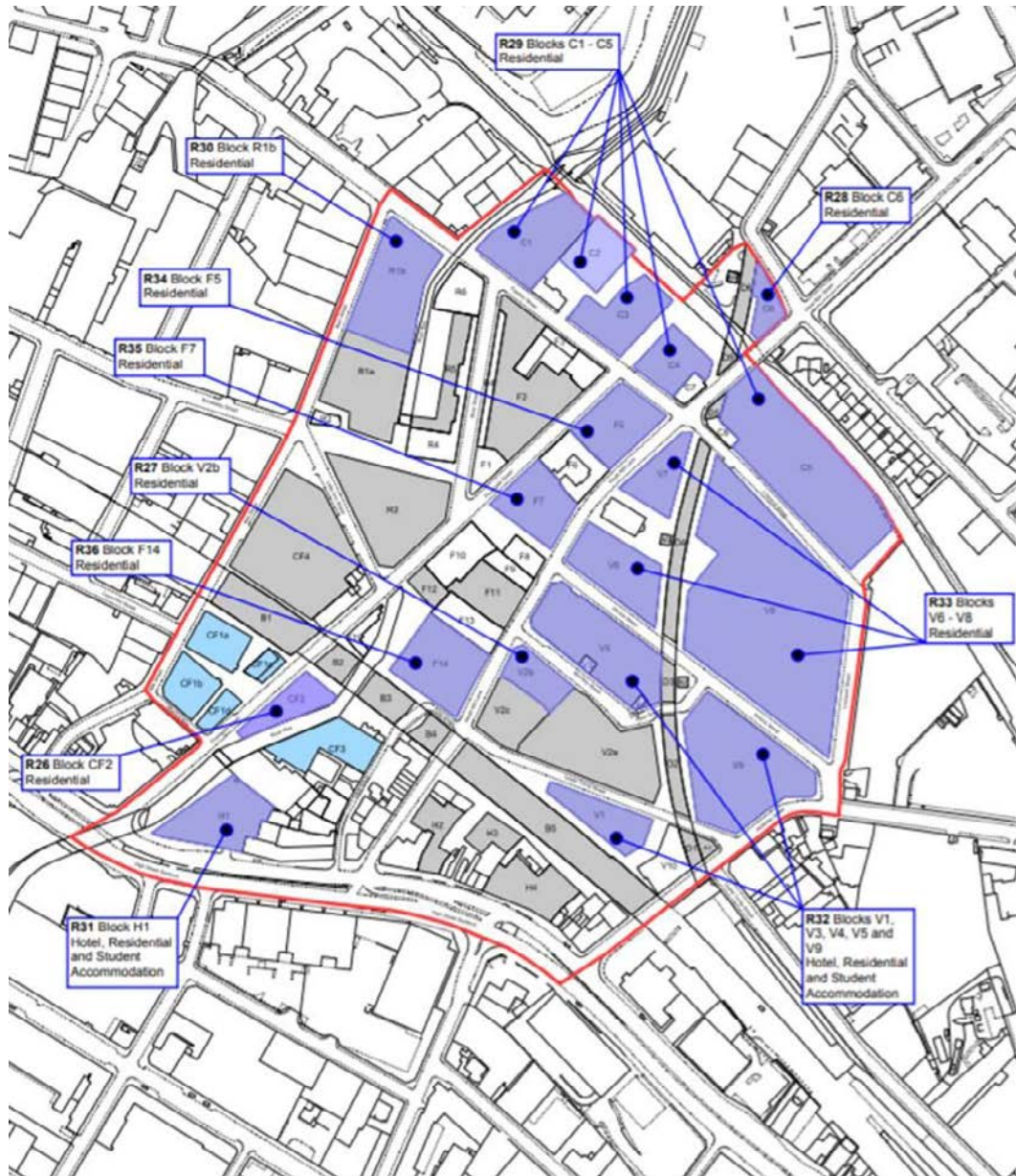


Fig 42: Proposed Sensitive Receptors within the hybrid application site

6.174 In addition the following late night entertainment venues have been assessed as sensitive receptors:

- a) 158 Fazeley Street (art, dance, creative spaces and events hire);
- b) Dead Wax, 28 Adderley Street (residential at first floor, late-night entertainment at ground floor)
- c) The Old Crown, High Street Deritend (guest house, late-night entertainment);
- d) The Ruin, 92 Floodgate Street (residential at first floor, late-night entertainment)
- e) The Rainbow Venues Units 1 to 5, Lower Trinity Street (late-night entertainment)
- f) The Rainbow Venues Custard Factory Car Park and The Arena, Lower Trinity Street (late-night entertainment);
- g) The Rainbow Venues The Mill and Fabfit, Lower Trinity Street (late-night entertainment);
- h) The Night Owl, Lower Trinity Street (late-night entertainment);
- i) Quantum Digbeth, 77A Upper Trinity Street (late-night entertainment);

- j) The Rainbow, High Street Deritend (late-night entertainment);
- k) Monastery, 173-174 High Street Deritend (late-night entertainment);
- l) Stag Digbeth, The Custard Factory, Gibb Street (late-night entertainment); and
- m) Ghetto Golf, The Custard Factory, Gibb Street (late-night entertainment).

#### Outline Site - Impact of Road and Rail Movements

- 6.175 HS2 is likely to be operational by the time the outline proposals are implemented. In addition the proposed Midlands Metro and the Rapid Transport Network are also likely to be operational changing the mix of vehicles predominantly on High Street Deritend. The applicants consider that the location of HS2 is satisfactorily far enough away from the site that it is not expected to increase future baseline noise levels in its current configuration.
- 6.176 The Bordesley Viaduct passes through the site. The Midlands Rail Hub and in particular the Camp Hill Chords that form one part of this improvement scheme may have implications for Birmingham Moor Street Station and the Bordesley Viaduct. The Strategic Outline Business Case (SOBC) submitted to the DfT in 2019 refers to the potential need to increase capacity on the rail network. One option is to provide an additional four railway tracks (six tracks in total) on the existing Bordesley Railway Viaduct between the Bordesley Station area and Birmingham Moor St Station. The SOBC together with the comments of Midland Connect and WMRE/TfWM refer to widening Bordesley Viaduct to accommodate additional track(s) with the consultees estimating the necessary increase to the width to the north of the Viaduct is approximately 10m (5m for the additional structure and 5m for a temporary construction area). This intervention would have implications in terms of rail noise by virtue of more trains passing through the application site and trains running closer to the development plots on the north side of the Viaduct.
- 6.177 To take account of the unknowns, the ES reports a provision of a 3dB increase in daytime noise levels for the nearest proposed buildings to the Bordesley Viaduct has been assumed. This potential 3dB increase takes account of the widening of the Viaduct closer to the proposed residential plots to the north of the Viaduct.
- 6.178 In terms of noise from predicted road traffic Transportation Officers have confirmed that it is to be treated as zero percent growth implying no additional impact to the existing prevailing conditions.

#### Outline - Noise from Existing Entertainment Venues on Proposed Sensitive Receptors

- 6.179 The proposed scheme would introduce up to 1,850 homes within 19 separate development plots within an area that accommodates established late night entertainment premises. The ES advises that the 'Agent of Change' principle has been assessed in a simple manner at this stage to avoid lengthy detailed assessments based on assumptions that are likely to become redundant or out of date over the course of the 15-year development period. As such the ES has adopted a simplified approach following a principle from the Institute of Acoustics guidance on entertainment noise whereby the background noise level (the underlying noise level for more than 90% of a time period) with no entertainment noise present has been subtracted from the measured ambient noise level (average noise over the

same period of time) containing entertainment noise. Thereafter the difference in level has been compared to the assessment criteria. The ES reports that the existing identified late night entertainment premises have a high sensitivity to the presence of the proposed new homes.

6.180 The applicants are therefore proposing to submit a noise assessment for each new residential development located within the outline application at the reserved matters stage. The noise assessment would include noise mitigation measures specific to that development plot based on the survey information gained at that point time. These mitigation measures could be in the form of:

- façade design including sound insulation specification to achieve British Standards and City Council guidance on internal noise;
- orientating the habitable rooms to avoid bedrooms overlooking existing noise generating sources;
- enhancing internal sound insulation and vibration transfer between non-domestic uses and new homes; and
- Providing ventilation to all proposed residential units where necessary.

6.181 It needs to be acknowledged that by following this approach planning permission would be granted in principle for up to 1,850 residential units at this outline stage, but with the noise mitigation requirements being agreed to at a later date, at the time of the reserved matters. Therefore worst case scenario a significant proportion of 1,850 residential units may require specialist glazing or be totally sealed with reliance upon mechanical ventilation in order to avoid a potential threat to the operation of existing late night premises.

#### Outline - Noise from Proposed Entertainment Venues on Existing and Proposed Sensitive Receptors

6.182 Taking account of the potential range of proposed retail/food and drink uses (use classes A1 to A5) plus the proposed leisure uses (use class D2) the outline proposals could introduce up to 27,822 sqm floorspace (GIA) of new late night uses, each of which may provide different entertainment attractions and could include amplified music and external spaces for patrons. The ES states that operational leisure noise generation has been assessed qualitatively at this stage, as the worst case noise levels is not quantifiable and would be dependent on many factors including detailed design and the desires of the future operators. Mitigation could however be implemented in the form of controlling opening hours, restricting the use of external areas, the use of sound limiting devices and the ES points to:

- enhancing internal sound insulation between non-domestic uses and new homes;
- restricting delivery and collection times to new commercial, retail, bar, restaurant and entertainment premises to exclude the hours outside of 07:00 to 23:00 hours; and
- Ensuring that internal vibration transfer between different building uses or from building services plant is designed to accord with British Standards and City Council guidance.

6.183 Again it needs to be acknowledged that by following this approach planning permission would be granted in principle for 27,822sqm (GIA) of retail and leisure

uses, all of which could have potential late night noise effects. Again the noise mitigation requirements relating to these proposed premises would be submitted to and considered by officers at the later reserved matters stage.

#### Outline – Noise During Construction

- 6.184 During the construction phase, the ES predicts that there would be a significant adverse effect from noise and vibration resulting from construction activities (excluding traffic) and the demolition of structures on sensitive receptors. A worst case scenario based on all the potential phases of the proposed scheme being implemented concurrently over a 15 year period has been considered. However it would be controlled by the imposition of an agreed Construction Environmental Management Plan (CEMP) that would be submitted to and agreed in order to define how the noise effects would be controlled. The ES states that such a CEMP would include predictions of noise levels from the proposed working approach and temporary noise monitoring of boundary working activities adjacent to the identified sensitive receptors, with an adjustment of working hours as necessary in order to mitigate the effects.
- 6.185 Construction road traffic generated by development within the outline application site is proposed to be restricted to north of the Bordesley Viaduct on Milk Street to prevent use of the part of Milk Street south of the Viaduct between the Viaduct and High Street in order to restrict the impact of noise. This again could be agreed via the CEMP condition.

#### Detailed Application

- 6.186 According to the Noise Assessment submitted the existing noise sources relative to the detailed application site comprise firstly the Bordesley Viaduct that primarily carries cross-country rail passenger services to London with occasional freight movements. The Viaduct currently has two live tracks adjacent to the site. The Noise Statement advises that all rail movements past the detailed application site are at a relatively slow speed due to its proximity to Moor Street Station located approximately 400m to the north west.
- 6.187 Secondly there are late night entertainment uses close to the site. The venue known as The Crossing is located within the South and City College buildings at Milk Street and the O2 Institute is on the High Street located approximately 55m and 110m respectively from the Wild Works site (Plot CF1). Ghetto Golf is located to the east at a distance of approximately 60m from the proposed Custard Factory Living (Plot CF2), Birdies Bar at approximately 90m and The Ruin public house at approximately 65m. To the east of the Custard Factory beyond the Viaduct on Lower Trinity Street is Digbeth Dining Club.
- 6.188 Thirdly is the traffic noise associated with B4100 High Street Deritend that lies at a distance of approximately 100m to the south.
- 6.189 The impact upon existing sensitive receptors as a result of the proposed development is also a material consideration with the Birmingham Central Backpackers hostel the nearest residential accommodation to the Wild Works site (Plot CF1).

#### Detailed Site - Noise from Vehicle and Rail Movements

- 6.190 Unattended noise monitoring has been undertaken over a four day and an eight day period. The results have allowed for a future increase in rail traffic on Bordesley Viaduct that could consequently be expected to increase daytime levels by 3dB (i.e a doubling of train movements on the existing Viaduct or on a widened Viaduct where new lines would be set further away from the proposed residential development that forms part of Custard Factory Living). It is predicted that night time maximum levels would be unlikely to change with any increase in rail traffic.
- 6.191 According to the Noise Assessment the principal noise impact for the site is from traffic on the High Street with additional intermittent noise as a result of train movements on the Bordesley Viaduct.
- 6.192 The Assessment concludes that mitigation would be required to reduce noise from rail and vehicular traffic for future residential occupiers within the Custard Factory Living plot. This would be in the form of glazing.

#### Detailed Site - Noise from Entertainment Venues

- 6.193 Data from unattended noise monitoring equipment has been used to assess the noise impact from existing late night uses. The Assessment also includes reference to onsite data collated at Ghetto Golf from 2018 and a planning condition attached to the Birdies Bar planning permission (on Floodgate Street) that seeks to limit noise via the use of a noise limiting device. It is also noted that there is potential for entertainment noise from the Custard Factory site and the occasional use of the Market Hall within Custard Factory for functions.
- 6.194 The Assessment indicates that noise from Ghetto Golf, Birdies Bar, Digbeth Dining Club and any other commercial premises within the vicinity would not have any significant impact upon the proposed residential development on the Custard Factory Living site. Noise reduction is assisted by the presence of Bordesley Viaduct that acts as a screen. Regulatory Services has suggested a condition to agree a scheme of noise insulation that takes account of window sizes proposed glazing and the construction of the external walls, in order to mitigate any impacts of noise from both traffic and entertainment.
- 6.195 Insulation between ground floor commercial units and the upper floor residential units would also need to be attached to achieve a minimum in-situ sound reduction as this forms a separate condition.

#### Detailed Site - Impact of Proposals Upon Existing Residential Use

- 6.196 It would also be necessary to ensure that activity noise break-out from the proposed use of the commercial units would not adversely impact upon nearby existing residential occupiers. The Noise Assessment considers it unlikely that there would be any significant noise break-out or transfer from premises that do not use loud amplified music. Regulatory Services have advised a condition to restrict the decibel level of noise emanating from the proposed uses at the façade of any noise sensitive premises. A CEMP is proposed to be submitted to minimise noise and vibration during the construction phase upon nearby noise sensitive premises. Construction



road traffic generated by the detailed application is proposed to be routed either north or south along Milk Street, and such a measure can be controlled via a condition.

#### Detailed Site - Effects of Vibration

- 6.197 The site vibration measurements beneath the railway viaduct indicate that there is no significant vibration impact on the site from rail movements and levels are significantly below the screening trigger level given in the Council's guidance.

#### Noise and vibration – Conclusions

- 6.198 The Assessments and information submitted by the applicants advise that due to the lengthy construction period the preferred approach is to submit a noise assessment for each development plot that proposes to accommodate residential uses at the time of the reserved matters applications. Such submissions would include proposed means of mitigation noise from commercial uses based on up to date noise data at that time as it may be that, in the future, the noise environment changes. It is considered that adopting this long term approach is appropriate given the timescale for implementing the outline proposals and the flexibility of uses proposed within the individual development plots. Furthermore by utilising up to date noise data and up to date noise mitigation methods it would offer existing and future commercial premises owners comfort that there could be the option of agent of change agreements in the future if required. It does however need to be acknowledged that adopting a long term approach leaves less certainty regarding the noise mitigation that may be necessary and by agreeing the principle of residential development on 19 plots within the outline application area it is feasible that all of these 19 plots may require a range of mitigation from specific glazing to sealed units. Whilst this would be the worst case scenario it would remain a possibility in order to provide a satisfactory living environment and safeguard the existing entertainment uses in the area.
- 6.199 During the construction phase a CEMP to include a route that ensures that construction traffic avoids apart of Milk Street is considered appropriate to mitigate against any impacts on existing and future sensitive noise receptors.
- 6.200 Regulatory Services are satisfied with applying conditions to require mitigation for noise within the detailed site and following a longer term approach for the outline application and requiring further noise assessments at the reserved matters stage.
- 6.201 Based on these measures it is considered that the proposed development would accord with PG3 and emerging Policy DM2 of the Development Management DPD by making the best use of land and creating a sustainable neighbourhood and a functional place.

#### *Air Quality*

- 6.202 A baseline air quality review was undertaken to determine the existing air quality in the vicinity of the site, which is located within the city-wide Air Quality Management Area (AQMA) designation and within the proposed Clean Air Zone (CAZ), which will be introduced in June 2021. Air quality is generally expected to improve with time due to the increased uptake of cleaner vehicles and the implementation of the CAZ,

however as the submitted air quality chapter of the ES clarifies, it is unclear whether the CAZ will be effective and therefore a worst case approach has been applied.

- 6.203 A three-month diffusion tube monitoring study commenced at several locations within the site at the beginning of March 2020. However due to the outbreak of Covid-19 and the subsequent lockdown the monitoring study was temporarily suspended. The data from existing roadside air quality monitors operated by BCC has also been considered.
- 6.204 A total of 101 existing and proposed sensitive receptors have been identified within the review at locations representing the worst-case public exposure alongside roads within the site and positioned close to the Grand Union Canal. A worst case assumption has also considered the effects at existing and proposed receptor locations that allows for maximum flexibility in the proposed phasing of the development.
- 6.205 The ES acknowledges that the residual effects for construction road traffic emissions would be negligible following the implementation of a limit to the daily HGV and LGV trips on the road links within the study area to ensure sensitive receptors are protected from elevated NO<sub>2</sub> concentration from road traffic emissions. It is considered that restricting the number of HGV and LGV trips on the road via a condition would be unenforceable as monitoring this number over the whole of the outline site would be very difficult. However in response it is considered highly unlikely that such a condition would be required as in reality each plot would be independent and working to a different timescale. Therefore the volume of construction traffic across the whole area would be naturally limited and the worst case scenario would not transpire.
- 6.206 The impacts of emissions from the road traffic associated with the operation of the Proposed Scheme on NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> concentrations at sensitive receptors is considered significant. To mitigate for this impact it is proposed that mechanical ventilation be installed at the ground floors of the following development plots where the annual mean NO<sub>2</sub> concentration exceeds air quality objectives; C5, V7, V6, V5, V2c, B5, H2, H4 and H1. It is considered that as there is the potential for air quality to improve it is appropriate to require an air quality assessment for each reserved matters application that contains residential units within these aforementioned development plots with the necessary mitigation secured at the reserved matters stage. Following this approach it is considered that the proposals would comply with Policy GA1.1 and emerging Policy DM2.

### *Transportation*

- 6.207 The hybrid application site has good public transport links and, as explained below, its accessibility via public transport will only increase in the future. It falls within the Digbeth Controlled Parking Zone that commenced last year. This has introduced a mixture of permit parking for local residents and workers, pay and display parking and areas of no waiting. The Zone seeks to prioritise parking for local residents and businesses and discourage commuters from using the area for all-day parking. It supports the Council's aim of encouraging sustainable travel into the City, an aim supported by the Clean Air Zone that will come into force in 1<sup>st</sup> June 2021 and the Midlands Rail Hub (MRH). The MRH is a largescale strategic rail proposal

comprising of 20 interventions across the Midlands that may affect the outline site as explained below.

6.208 Currently, nine bus services operate within a 400m walking distance of the majority of the application site providing numerous high frequency services to and from the City Centre core. Furthermore Moor Street railway station is located approximately at a 800m walking distance.

6.209 In the future the proposed HS2 Curzon Street Station would be sited less than a 15 minute walk away. The site would also be accessible by the Eastside extension to the Metro connecting Digbeth to the new HS2 Curzon Street Station and providing improved links to New Street, and Snow Hill Railway Stations. Future stops are proposed on Bordesley Street and Adderley Street. Finally Sprint, a new rapid transit bus service will be delivered by 2026. This route will also run along High Street Deritend with a number of stops in close proximity to the site.

#### Outline Application

6.210 The Midlands Rail Hub (MRH) seeks to increase rail network capacity across the Midlands in phases between now and 2033 via 20 infrastructure interventions proposed across the region. One of the interventions is to connect the Moor Street to London railway line to the former Midland Railway Camp Hill Lane from Kings Norton to Water Orton. This would be achieved by the provision of the Camp Hill Chords (also known as the Bordesley Chords) comprising two new viaducts, or Chords, that would link to the East Midlands and the South West. At a local level the Chords would also increase the capacity of the Camp Hill line once it is reopened, increasing the predicted 2 trains per hour via the approved new stations at Moseley, Kings Heath and Hazelwell into New Street Station, to 10 trains per hour into and out of Moor Street.

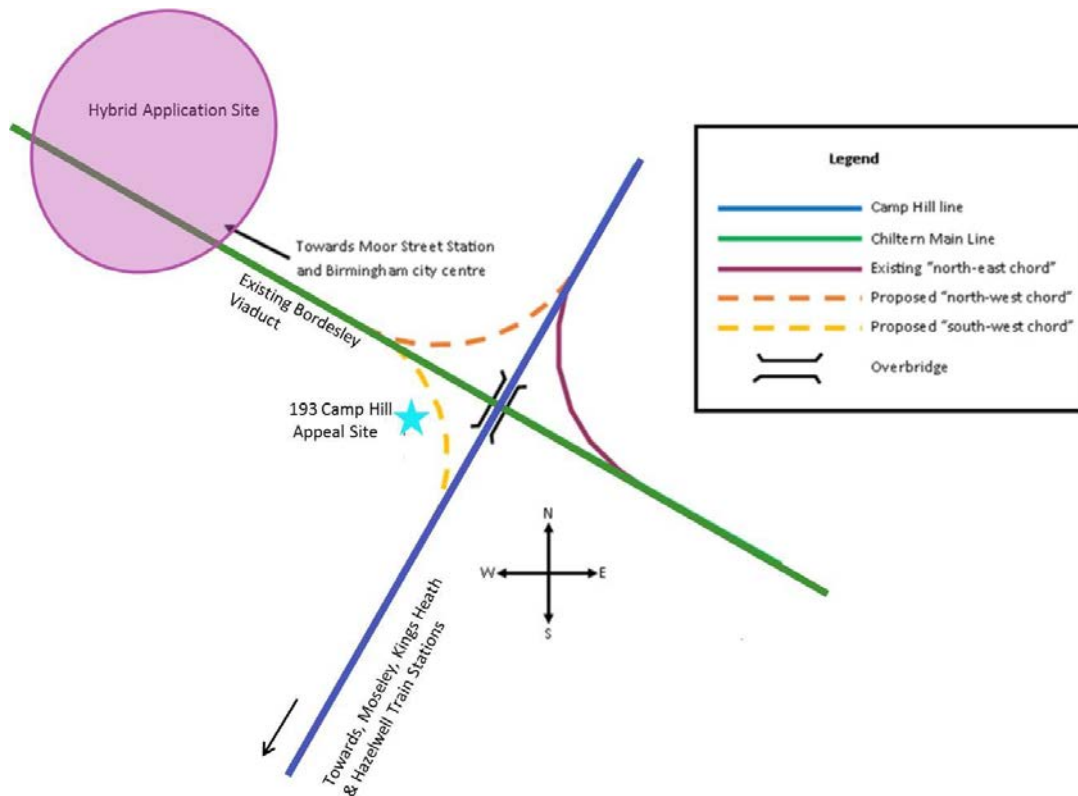


Fig 43: Schematic Diagram Showing Approximate Location of Existing Bordesley Viaduct, Current Application Site, Proposed Camp Hill Chords and Appeal Site at 193 Camp Hill

(Not to Scale and Does Not Accurately Represent the Exact Layout or Geometry of Existing and Proposed Infrastructures – Provided for only Illustrative Purposes to Provide a General Understanding of the Existing and Proposed Railway Infrastructure)

6.211 In order to provide the two Chords it may be necessary to provide additional tracks on top of the existing Bordesley Viaduct that runs through the hybrid site, and this may require the Viaduct to be widened to the north, one of the options that is suggested in the Strategic Outline Business Case (SOBC), submitted by Midlands Connect to the Department for Transport (DfT) in June 2019. The widening of the Viaduct to the north may affect the redevelopment of plots directly to the north of the Viaduct, however the MRH would need to progress through the Outline Business Case and the Full Business Case before it becomes a committed scheme, with a defined route not available until 2023 to 2024. Thereafter construction would not start until 2024 to 2029.

6.212 The City Council refused an application for the redevelopment of 193 Camp Hill to provide a mixed use scheme of 480 residential units and 1,480sqm of commercial floorspace in February 2020 (App. Ref. 2018/9467/PA). The primary reason for refusal focused on the potential prejudice to the operation, construction and operation of the South West Camp Hill Chord, contrary to Policy TP38 and TP41 of the BDP, the principles of the Adopted Bordesley Area Action Plan (2020) and paragraphs 102 and 103 of the NPPF. The decision was the subject of an appeal, the Secretary of State decided to recover the appeal and, following a virtual public inquiry, issued his decision in March 2021.

- 6.213 Within the context of national, regional and sub-regional transport policy for rail, the Inspector agreed that the Chords is an intervention of recognised importance, highlighted by the fact that the DfT took over as the promoter of the Chords last summer and as such the potential prejudice to the provision of the Chords is a material consideration.
- 6.214 It was then determined by the Inspector that this potential prejudice would conflict with the strategic objectives reflected in Policies TP38 and TP41 of the BDP bringing the scheme into conflict with the development plan as a whole. These policies seek to ensure that land use planning decisions support and promote sustainable travel, and specifically support the delivery of the Camp Hill Chord scheme. However the Inspector acknowledged that the weight to be afforded to the conflict with these policies depends on the associated circumstances, including the degree and extent of any potential prejudice, the likelihood of that prejudice occurring and the effects of any prejudice. During the course of the inquiry the implications of such issues as the curvature of the line, line speeds, electrification and the impact upon heritage assets were tested with the conclusion that, based on evidence presented, there was sufficient flexibility to enable the Chord to be constructed alongside the appeal scheme such that, “.....if the development proposed were to go ahead, the ability to construct the south-west Chord would not be lost.”
- 6.215 Therefore the conflict with Policies TP38 and TP41 was afforded limited weight in the overall planning balance with greater weight given to the substantial benefits of the scheme.
- 6.216 With respect to the current application comments have been received from WMRE/TfWM and Midlands Connect highlighting concerns with respect to the impact of the current outline application upon the potential delivery of the Midlands Rail Hub. As indicated by Midlands Connect one of the key questions to be considered in the Outline Business Case is whether the Bordesley Viaduct will need to be widened to accommodate the additional train services. The current Viaduct accommodates up to four tracks, but within its footprint, could accommodate a fifth track. However, should a sixth track be needed then the Viaduct would require widening. This widening would almost certainly be on the north side of the Viaduct, bringing an enlarged structure very close to some of the proposed development plots. In addition a scenario where the Viaduct needs to be widened any development within the existing arches may pose construction and delivery challenges for Midlands Rail Hub. Notably neither Midlands Connect nor WMRE/TfWM nor Network Rail have raised objection, just raised concern.
- 6.217 Bearing these comments in mind, particularly the possible requirement to widen the Viaduct by 10m, the Inspector has given clear guidance indicating that the potential prejudice is a material consideration, and that this prejudice would conflict with Policies TP38 and TP48 bringing the scheme into conflict with the development plan as a whole. Notably development plots CF4, F14, F15, V1 and V10 are located within this 10 zone. However as with 193 Camp Hill limited weight is given to this Policy conflict because there is no safeguarding policy within the BDP to preclude development to the north of the Viaduct, the Midlands Rail Hub is not a committed scheme and won't be defined as such until 2023 and this is the earliest point in time that the Council will know the exact alignment of the Chords and whether the

widening of the Viaduct is required. Widening the Viaduct is only one of the options explained in the SOBC of 2019. The scoping of any detailed alignment for the Chords is at an early stage.

- 6.218 As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 it is for this limited weight afforded to the conflict with Policies TP38 and TP41 to be considered against the weight attached to other material considerations. This is undertaken in the planning balance section at the end of the report.
- 6.219 Moving onto other transport related items up to parking 286 spaces could be built out as part of the podiums of buildings, 18 spaces within development plot H1 on the corner of Floodgate Street and High Street, and 453 spaces within a multi storey car park on development plot V2a. This plot would provide a link via a bridge to Viaduct Park. The applicants have advised that up to 10% of proposed car parking will be accessible spaces. As discussed earlier in the report this parking provision goes against the aims of Policies TP39, TP40 and TP41 and the Parking Consultation Draft SPD that encourage trips by alternative modes of transport other than by the private car. However the total would be less than the maximum outlined within the current Car Parking SPD.
- 6.220 There is however parts of the outline scheme that support Policies TP39, TP40 and TP41. First, the existing pedestrian and cycling network will integrate with the planned improvements to provide Viaduct Park that would link to Grand Union Canal. Viaduct Park would include a pedestrian priority route along its entire length with a number of access points allowing pedestrian access onto Viaduct Park from street level. Bridges are also proposed across the Grand Union Canal and two across the River Rea promoting pedestrian and cycling links through the site. A new pedestrianised thoroughfare is also proposed to link Bordesley Street to Floodgate Street to Heath Mill Lane.
- 6.221 The applicants are also proposing a transport hub as part of the multi-storey car park within development Plot V2a, which will include vehicle sharing, electric vehicle charging, and centralised parcel drop-off and cycle storage facilities. The implementation of the hub and the overall management of the MSCP would be secured via condition.
- 6.222 It is considered that taking the outline application as a whole there is sufficient improvements to the public realm and additional links to encourage cycling and walking through the site to outweigh the conflict with Policies TP39, TP40 and TP41 by virtue of the provision of a multi storey car park.
- 6.223 Traffic flows associated with the future development both during the construction and operational phases have been considered within the TA. The minor impacts noted in the TA as a result of the development upon traffic on key junctions within the application site and its vicinity are forecast to operate within capacity.
- 6.224 BCC Highways have raised no objections subject to conditions. On this basis, the outline scheme is considered to be acceptable in highway terms in accordance with Policy TP44.

[Detailed Application site](#)

6.225 The three plots within the detailed site; the Wild Site, Custard Factory Living and the Custard Factory extension would have no parking provision, although 130 cycle spaces would be provide at the Wild site and 50 cycle spaces at the Custard Factory Living site. BCC Highways have raised no objections subject to conditions.

### *Biodiversity*

- 6.226 The impacts of the development upon biodiversity have been assessed through the ES. The hybrid planning application is also supported by an Ecological Baseline Report that includes an ecological desk study, an extended Phase 1 habitat survey and a preliminary roost assessment for bats. The Report advises that there are no statutory designated sites of international, national or local nature conservation importance within the Site or within 2km of the site. There are two non-statutory designated sites of City importance within the site and these are The River Valley Site of Local Importance to Nature Conservation (SLINC) that runs through the site and the Grand Union Canal SLINC, part of which also runs through the site. Both sites are designated for their aquatic habitats and their landscape-scale connectivity through the City. There are four other SLINCs within 2km, all of which comprise canals and are hydrologically linked to the Grand Union Canal.
- 6.227 In addition The Duddeston Viaduct Potential Site of Importance (PSI) aligns the proposed Viaduct Park thereafter connecting to the south to Snow Hill to Solihull Railway PSI. Part of the detailed application site at development plot CF3 (Custard Factory Living) is located within the Floodgate Street PSI is also within the Site, within Development Plot CF3. Outside of the site to the north of Grand Union Canal SLINC lie the Land off Montague Street PSI that in turn connects to Curzon Junction PSI.
- 6.228 The site also falls within the Birmingham and Black Country Nature Improvement Area (NIA), a designation aiming to target landscape-scale nature conservation actions. The site falls within an Ecological Linking Area within the NIA, designed to encompass key wildlife corridors such as rivers, streams and canals. The desk study identified the River Rea as a 'Wildlife Corridor', which are protected through local policy.
- 6.229 The Ecological Baseline Report explains that the scope of Phase 2 surveys undertaken at the site was defined following the initial Desk Study and Extended Phase 1 Survey, based on the type and extent of habitats present within the site, the presence of records for protected and notable species and professional judgement. Due to the long terms nature of the proposals, detailed and comprehensive Phase 2 surveys of each building were not carried out, however the Phase 2 surveys sought to gain sufficient information regarding the ecological receptors within the site, to determine the value of the resource that the site presents within the scope of the current development proposals. Phase 2 surveys have been undertaken for roosting and foraging bats and black redstarts. The Phase 1 and 2 surveys have identified the following.
- 6.230 Habitats - The principal habitat types within the site are described as buildings and hardstanding. The habitat on the top of the Duddeston Viaduct primarily consists of a mosaic of scrub and self-seeded, immature trees with open areas of grassland and small patches of bare ground and rubble. The combination of the type of habitat

present and the lack of disturbance over an extended period mean this habitat is of local ecological value. Very little semi-natural habitat is present within the remainder of the site. Two invasive, non-native plant species are present within the site including Himalayan balsam.

- 6.231 Birds - Records of 13 bird species of conservation concern were noted during the desk study completed in November 2018. The site also presents suitable nesting and foraging opportunities for black redstart and there is potential for them to colonise the area.
- 6.232 Bats - The desk study returned records for four species of bats at numerous locations within 2km; overall, the majority of buildings within the site were assessed as providing negligible bat roost potential. However one building within the site was identified during the roost assessment as being of high potential and later confirmed as a bat roost. This building is located within development plot R6 that has frontages to Fazeley Street, River Street and the River Rea to the rear. The building is shown to be retained on the Retention Plan with alterations as part of the outline application.
- 6.233 The Grade II\* listed Old Crown pub was found to be of high potential for bat roosts. Whilst this building lies within the outline site it is shown to be retained without any works. Existing buildings and structures within the following development plots were recorded as providing moderate bat roost potential
- C1: Outline site, adjacent to Grand Union Canal, buildings to be demolished and locally listed building altered;
  - C2: Outline site, adjacent to Grand Union Canal, locally listed buildings to be altered and retained with works;
  - C6: Outline site, adjacent to Duddeston Viaduct, buildings to be demolished
  - D6: Outline site, Part of Duddeston Viaduct, part of proposed Viaduct Park;
  - F3: Outline site, Fronting Fazeley Street, building to be retained with works;
  - F15: Outline site, adjacent River Rea, building to be retained with works;
  - V1: Outline site, adjacent Bordesley Viaduct, buildings to be demolished;
  - V5: Outline site, Adjacent Duddeston Viaduct, some buildings to be demolished, some to be retained with alterations
- 6.234 Existing buildings and structures within the following development plots were recorded as providing low bat roost potential:
- B1 - B5: Outline site, locally listed Bordesley Viaduct Arches, to be retained with works;
  - C1: Outline site, adjacent to Grand Union Canal, buildings to be demolished and locally listed building altered;
  - C7: Outline site, former Forge Tavern Fazeley Street, building to be retained with alterations;
  - C8: Outline site, adjacent to Duddeston Viaduct, buildings to be retained with alterations;
  - CF2: Detailed site, Custard Factory Living, buildings to be demolished;
  - D2 - D5: Outline site, Part of Duddeston Viaduct, part of proposed Viaduct Park;
  - F1: Outline site, Junction of River Street and Floodgate Street, locally listed buildings to be retained with works;
  - F6: Outline site, the Arches, locally buildings to be retained with works;



- H4: Outline site, positioned between High Street Deritend and Bordesley Viaduct, buildings to be demolished;
  - R1a: Outline site, adjacent culverted River Rea, buildings to be demolished;
  - R1b: Outline site, adjacent culverted River Rea, buildings to be demolished;
  - R3: Outline site, River Rea Studios, locally listed buildings to be demolished;
  - V1: Outline site, adjacent Bordesley Viaduct, buildings to be demolished;
- 6.235 All other buildings were found to be of negligible bat roost potential whilst the brick structure of the Duddeston and Bordesley Viaducts provide crevices suitable for roosting bats.
- 6.236 In general, very limited bat activity was recorded during the surveys, with higher levels of activity recorded during surveys of buildings adjacent to either the River or the Canal. It is assumed bats use the habitats on top of Duddeston Viaduct for foraging and commuting. However, the majority of habitat within the site is of negligible value for foraging or commuting bats, due to a lack of semi-natural habitat and high levels of artificial lighting and human disturbance. Based on the assemblage of bats recorded during the multiple bat surveys undertaken within the site and their local and national conservation status, the bat assemblage is assessed as being of Local value.
- 6.237 Reptiles - The assessment of potential reptile habitat within the site concluded that the majority of habitats within the site are unsuitable for reptiles.
- 6.238 Policy TP8 seeks to ensure that the maintenance, enhancement and restoration of sites of local importance, such as SLINC's will be promoted and supported.
- 6.239 Development which directly or indirectly causes harm to SLINCs will only be permitted if it has been clearly demonstrated that the benefits of the proposal outweigh the need to safeguard, the damage is minimised and measures can be put in place to mitigate remaining impacts, and where damage cannot be avoided or fully mitigated, appropriate compensation is secured. The Policy also seeks to maintain and encourage opportunities to enhance notable or protected species.
- 6.240 The ES reports that the proposal to open up part of the culverted River Rea to the rear of River Street has the potential to cause unavoidable, albeit temporary habitat loss and disturbance to the Rea Valley SLINC. Habitat loss and disturbance would be caused by the alteration of the habitats within and immediately adjacent to the SLINC and the noise, vibrations and increased human activity caused during construction works. However the SLINC is approximately 20km in length with only approximately 0.5km inside the hybrid site boundary. Therefore, habitat loss is estimated to be a small proportion (<2.5%) of the overall SLINC site and unlikely to change the baseline conditions such that it would affect the reasons for designation of the SLINC as a wildlife corridor. Furthermore the effects would be temporary as once construction is complete the SLINC would return to the same function and similar habitats as prior to construction.
- 6.241 The proposed scheme also includes the replacement of existing habitats with a raised pedestrian walkway plus soft and hard landscaping on top of the proposed Viaduct Park. This would result in disturbance from construction activities and unavoidable loss of habitat, including reptile habitat. There is no public access to the

top of the Viaduct and the predicted magnitude of change is large. Effects are permanent since it is assumed that all habitats along with the structure and function of this feature would be lost and the chance of reversibility within a reasonable timeframe is unlikely. Therefore, the ES explains that there is likely to be a direct, permanent, long-term adverse effect. The Viaduct also provides potential bat foraging and commuting habitat and the increase in artificial lighting along the proposed linear park would significantly detract from this habitat.

6.242 The ES reports the loss of black redstart habitat from the site during the construction phase and based on the scale of the development advises that there is the potential for a significant effect on the wider population of black redstart present outside the boundary.

6.243 The proposed scheme would result in the phased demolition or refurbishment of buildings within in accordance with the submitted Retention Plan. The building at development plot R6 has a confirmed roost and several others listed above show low to high bat roosting potential.

6.244 The following is suggested to mitigate these impacts upon biodiversity:

- Production of a CEMP during the construction phase to include timing constraints on when works affecting sensitive habitats/species should be avoided and details of lighting to avoid impacts on habitats supporting nocturnal species sensitive to artificial lighting,
- A Materials Management Plan would be implemented to control spillages, soil erosion or the generation of suspended solids to protect ecologically valuable aquatic habitats, including River Rea and Grand Union Canal plus any connecting SLINC sites such as Digbeth Branch Canal SLINC.
- Outside of construction footprints, retention and buffering of the Rea Valley and Grand Union Canal SLINCs would ensure these wildlife corridors are retained and protected during development.
- Dust suppression measures would be implemented to ensure no damage to retained vegetation or aquatic habitats,
- buildings and structures with bat roosting potential would be subject to pre-commencement surveys to identify any further mitigation which may be required. Works would be designed to allow the retention of existing bat roosting features within buildings where possible and if confirmed bat roosts are to be unavoidably affected, a European Protected Species Mitigation (EPSM) would be gained prior to commencement of works. In addition appropriate mitigation measures will be implemented to ensure compliance with the legislative protection for birds.
- Implementation of a reptile mitigation strategy for the habitats on top of Duddeston Viaduct to ensure compliance with the legislation protecting reptiles,
- Implementation of an invasive species management plan

- the incorporation of existing habitats within the soft landscaping proposals within Viaduct Park where practical. Where this is not possible the post-construction soft landscaping proposals should include the creation of a similar habitat structure and composition to that which is currently present.
  - Provision of a mix of soft and hard landscaped public realm as shown on Parameter Plan 05: Public Realm
- 6.245 Acknowledging that the vast majority of the hybrid site is in outline, with the detail of the redevelopment development plots largely unknown the applicants approach is supported by Council ecology officers. It is noted that the integration of green infrastructure and ecological enhancements have been considered through the wider development from street level, canal side and River interventions to Viaduct Park. However it is advised that, given the timescale for implementation each phase would need to be presented with up to date protected species and invasive species data and accompanied by landscaping schemes showing ecological enhancement. Conditions are advised to require a CEMP, additional ecological surveys and details of enhancement and management.
- 6.246 The EA have commented that there is a missed opportunity to enhance the River Rea as a focal point of the development and that it is unclear which sections of the River Rea will be de-culverted. Furthermore there is a lack of detail regarding the proposed terracing around the River Rea. Historic development that has encroached on watercourses has severely impacted on their ecological value whilst new developments provide an opportunity to re-naturalise river corridors. This would help wildlife adapt to climate change and restore watercourses to a more natural state as required by the river basin management plan.
- 6.247 A condition is suggested to require a scheme to re-naturalise the River Rea wherever possible as supported by paragraphs 170 and 175 of the National Planning Policy Framework (NPPF) that recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity. It is also supported by legislation set out in the Natural Environment and Rural Communities Act 2006 and Article 10 of the Habitats Directive which stresses the importance of natural networks of linked corridors to allow movement of species between suitable habitats, and promote the expansion of biodiversity.
- 6.248 In response the applicants have confirmed that the application does not propose the naturalisation of the River Rea. Retaining the urban nature of the River has been agreed as an appropriate strategy in this part of Digbeth during pre-application discussions with the Council and the EA. Furthermore the Parameter Plans are clear that the River would only be opened up to the rear of River Street where there would be a new publicly accessible bridge and an adjoining area of open space that is indicated as predominantly hard surfaced. Naturalisation of the River is not proposed within the hybrid application and this is considered to be the correct approach acknowledging the tight urban character of Digbeth.
- 6.249 Notwithstanding the urban setting of the application site the proposals as submitted, particularly the opening up of the River Rea would, subject to safeguarding conditions, create habitat and biodiversity net gain, which would outweigh the habitat

loss and deliver long-term environmental benefits to biodiversity in accordance Policies TP7 and TP8 of the BDP and paragraph 175 of the NPPF.

### *Amenity of Existing and Future Occupiers Resulting from Changes to Daylight, Sunlight and Overshadowing*

- 6.250 The changes in terms of daylight, sunlight and overshadowing from the proposed development are assessed within the ES and a stand-alone Daylight, Sunlight and Overshadowing Report.
- 6.251 Policy GA1.1 encourages well designed high quality living environments whilst Policy PG3 states that new development will be expected to create a positive sense of place and local distinctiveness. The impact upon sunlight and daylight will have an effect on the quality of the indoor and outdoor spaces within the proposed development.

### Impacts upon the Proposed Residential Units and Areas of Public Realm within the Site

- 6.252 The purpose of the Report is to ascertain the potential daylight/sunlight amenity available to the proposed dwellings and overshadowing to the identified amenity areas within the Proposed Scheme. This study covers the residential uses proposed within the detailed application, (development plot CF2, Custard Factory Living) and the development plots containing proposed residential units identified within the outline application. It should be noted that the outline element has been considered using an illustrative scheme. The applicants advise that the illustrative scheme provides a more realistic basis for analysis than the maximum Parameter Plans as the latter are comprised of unbroken/linear blocks to provide maximum spatial flexibility. They do not generally indicate the individual proposed buildings, typologies or courtyards that are necessary to provide a meaningful assessment of daylight potential.
- 6.253 For the overshadowing assessment of proposed amenity space, the maximum parameter scheme has been used thus presenting a worst-case.
- 6.254 BRE Guidelines have been used for assessment purposes and individual assessments have been tested to consider the amount of the daylight and sunlight that would be received by the proposed residential units and areas of public realm within the hybrid application. These tests are called Vertical Sky Component (VSC), No Sky Line (NSL), Annual Probable Sunlight Hours (APSH) and Sun Hours on Ground (SHOG).

### Outline Application

- 6.255 At this stage, window and room positions and sizes are unknown therefore the Vertical Sky Component test refers to the potential daylight received on the facades to the buildings.
- 6.256 The assessment indicates that there are only a few pinch points where it may be difficult to provide adequate daylight. Inevitably, these are generally located in the corners and lower levels of the inner faces of the courtyards e.g. development plots V8, V6 and C4; at the lower levels of blocks in close proximity to the viaducts e.g.

development plots V6 to V9. However mitigation could be applied either to maximise daylight potential (e.g. increasing window sizing, adopting dual-aspect configurations, chamfering of blocks opposite, increased separation gaps) or by arranging the floor plans to place less sensitive bedroom windows or non-habitable space windows in these isolated areas.

- 6.257 The vast majority of the facades would have good daylight potential with a significant proportion indicating high levels of sky visibility. These can be further maximised through the detailed design for the respective plots and through the commitments made as part of the Design Code.
- 6.258 An overshadowing assessment has been undertaken for 11 key amenity areas, principally public realm space that includes the disused Duddeston Viaduct to be reactivated as Viaduct Park. This has been undertaken using the BRE Sun Hours on Ground (SHOG) quantitative test. The guidance suggests that at least 50% of an area of open space should receive at least 2hrs of SHOG on 21st March to appear well sunlit throughout the year. The maximum parameter scheme has been used as the basis of the SHOG assessment thus providing a worst-case.
- 6.259 Four individual public space areas would meet the BRE suggested criteria including Viaduct Park that would be virtually fully sunlit to the suggested level. The remaining seven areas would fall below the suggested threshold, which is not surprising given the proposed tight-knit layout. Nevertheless, five of the seven areas would receive 2hrs of sun to between 25% and 40% of their areas. There would be two areas sited either side of Viaduct park, to the rear of St. Basils church that would receive little or no sunlight.
- 6.260 As an aggregate for all amenity spaces considered, around 62% of the total area tested would receive at least 2hrs of sun on 21 March. It is also important to reiterate that the overshadowing analysis in the Report is based upon the maximum parameters, which represent a worst-case. Sunlight levels have the potential to improve once gaps between buildings are introduced and the massing and associated rooflines are fully articulated. Despite a small number of isolated transgressions which are not uncommon for a site of this nature it is considered that the proposed scheme is acceptable in terms of daylight, sunlight, and overshadowing and in line with BRE guidance.

#### Detailed Application

- 6.261 The Custard Factory Living site includes 40 units residential accommodation. The standalone Report advises that due to the site orientation and neighbouring obstruction posed by the existing Custard Factory building immediately to its south, the key habitable spaces have been designed with the main windows facing the lowest levels of obstruction, to the northwest. Technical analysis demonstrates that overall 95% of all habitable rooms assessed within the plot would meet and exceed the recommended Average Daylight Factor (ADF) criteria, and 87% of habitable rooms would achieve recommended levels of No Sky Line (NSL).
- 6.262 In terms of sunlight the plot is constrained by its narrow footprint and orientation, with the existing Custard Factory building and South Birmingham College buildings closing off the aspect to the south, in such a way that access to sunlight is limited.

The Report advises that it would be virtually impossible to ensure the BRE targets are met in this context. Of the 40 south-facing rooms with living areas tested, unsurprisingly, only a minority would contain at least one window satisfying the default annual and winter APSH targets. However, the results show that around half of the living areas tested are only marginally below and the retained levels would be commensurate with more urban locations. The BRE Guidelines are not fixed standards and they should be applied flexibly to take account of the specific circumstances of each case. Bearing in mind the high level of daylight compliance, this is considered acceptable and in accordance with Policy DM10 of the emerging Development Management DPD.

- 6.263 Paragraphs 122 and 123 of the NPPF and Policy TP30 encourage more efficient use of land, with the former promoting higher densities at locations well served by public transport and a flexible approach in adopting and applying daylight and sunlight policy and guidance that could inhibit this objective.

#### Impacts upon Existing Development Inside and of Outside of the Site

- 6.264 The ES considers the impact upon sunlight and daylight as a result of the proposed scheme on existing residential and educational development both within and outside of the application site. Again BRE Guidelines have been used for assessment purposes to test the potential loss of daylight and sunlight and a qualitative assessment of transient overshadowing has been undertaken to provide a comparison of amenity space before and after development. The effects of the proposed scheme have been based on the maximum parameters.

- 6.265 In respect of daylight and sunlight, the ES has studied the impact of the proposals upon 28 existing residential and educational properties that are located inside and outside the site. These are termed sensitive receptors as they may potentially be affected by the proposed development:

- Great Barr Street (no.6)
- Glover Street (nos. 1-12)
- Adderley Street (no.28)
- High Street (nos.160, 177-180 & The Old Crown pH)
- Milk Street (no.80)
- Coventry Street (no.58)
- Floodgate Street (no.92)
- Former Floodgate School, South Birmingham College
- Barn Street (nos.1-2)
- Fazeley Street (Minerva Works, nos.158-160 & 230).

- 6.266 In addition 22 open spaces have been considered. These include private rear gardens to the properties at Great Barr Street and Glover Street and parts of Grand Union Canal and River Rea. Again the Vertical Sky Component (VSC), No Sky Line (NSL), Annual Probable Sunlight Hours (APSH) and Sun Hours on Ground (SHOG) plus Transient Overshadowing BRE Guideline testing methods have been used to establish the likely effects.

- 6.267 In terms of daylight major adverse effects are predicted at:

- i. 6 Great Barr Street and 1-12 Glover Street - The external inspection indicates that the key windows facing the site serve a mixture of bedrooms, kitchens and non-habitable space. Currently they face very low levels of existing obstruction as they are positioned directly opposite undeveloped land. Furthermore all windows at first floor are currently blinkered by an overhanging roof above. Reductions in daylight and sunlight would inevitably arise with any meaningful development of the application site in that context. Whilst the proposed maximum parameter massing for the development blocks opposite is an unbroken linear block the Design Code would ensure that the eventual effect on these buildings would be substantially lower and that adequate daylight amenity would remain. Positively the principal living rooms appear to be served by main windows that face away from the site and therefore would be completely unaffected.
- ii. 28 Adderley Street - The existing level of obstruction to the two windows is very low and therefore, any meaningful increase in massing opposite would inevitably result in greater relative changes in light. It is anticipated that they are in bedroom use where light is less important.
- iii. 177-181 High Street - According to online records, there are no residential listings within nos. 179 and 180 however it is unclear from external observation whether residential accommodation can be entirely ruled out. Therefore, these buildings have also been considered as part of the assessment. Certainly not all of the 37 windows facing the site serve habitable rooms. It is predicted that 22 of the windows would experience medium to large changes however these are mostly bedrooms.
- iv. South Birmingham College & Former Floodgate School - A total of 97 windows serving 62 rooms have been assessed for daylight. Of the 26 windows experiencing medium to large changes, 14 relate to rooms with multiple light sources while the remainder appear to serve rooms that would be reliant on electric lighting e.g. catering, IT suites and caretaker offices.
- v. 92 Floodgate Street – The Ruin public house at ground floor, with residential accommodation above. Three of the existing six windows would be notably affected of which 2 relate to less sensitive bedroom use.
- vi. 1-2 Barn Street – The Barn public house. According to online records, there are no residential listings at this address however it is unclear from external observation whether residential accommodation can be entirely ruled out. Therefore, these buildings have also been considered as part of the assessment. Of the 15 windows, 9 windows are predicted as recording noticeable effects. These are generally blinkered by rear projections or tight corners of the building, exaggerating their sensitivity to massing changes and 4 appear to serve secondary or a non-habitable space. The impact upon amenity would be reduced by virtue of the Design Code principles for Plot R1a.
- vii. 230 Fazeley Street – The former Forge Tavern. It appears to have been used as a B&B-style hotel, although it is unclear if it is still in use. Of the 9 windows assessed 5 show that there would be significant alterations however the applicants have advised that no layout information could be obtained. It is

anticipated that around half the windows tested serve secondary space with the remainder serving bedrooms, assuming the B&B is still in operation.

6.268 In terms of change in the amount of sunlight received significant effects are predicted at:

- i. 6 Great Barr Street and 1 to 12 Glover Street – There are a total of 117 windows within these properties that both face the site and are oriented within 90 degrees of due south and therefore are relevant for sunlight assessment. For the 38 windows below the winter criteria 10 appear to relate to bathrooms and could be discounted on that basis and 12 would either retain 4% APSH (compared against the 5% target) or meet the winter targets. The results of the Design Code in relation to Plot C5 would also reduce the impact of loss of sunlight.
- ii. 177-181 High Street - There are a total of 5 windows within these properties that are relevant for sunlight assessment. The potentially affected windows within these buildings are highly likely to either serve ancillary space or bedrooms/kitchens, rather than living rooms, which the BRE recognise as most important in regard to sunlight.

In terms of overshadowing or loss of sunlight to amenity areas a low level or minor adverse effects are predicted at:

- i. River Rea – 6 parts of the River have been tested within and outside the site boundaries five of which would meet the BRE guidelines for SHOG.
- ii. 6 Great Barr Street and 1 to 12 Glover Street - The gardens at nos. 11 and 12 Glover Street would fall below the suggested guidance levels. However the design principles committed to as part of the Design Code would ensure that the eventual effect on these amenity spaces would be lower than predicted in the assessment, such that adequate sunlight amenity on ground is anticipated to remain.

6.269 Acknowledging the area encompassed by the hybrid application and the City Centre context of the site it is considered that the changes to daylight, sunlight and overshadowing of these existing properties would be acceptable and would not cause unsatisfactory living conditions. Therefore the scheme is considered to comply with Policy PG3, GA1.1 and Policy DM2 of the emerging Development Management DPD and the NPPF.

### *Energy and Sustainability*

6.270 The City Council is committed to a 60% reduction in total carbon dioxide emissions produced in the City from the level produced in 1990 to the future emission levels in 2027. As stated in BDP Policy TP1 this is to be achieved in a number of ways. An Energy and Sustainability Strategy has been submitted as part of the hybrid application explaining the approach within the outline and detailed applications.

### Outline Application



- 6.271 As the detailed design and the use of each individual development plot is not known at this time the Strategy proposes a 'Be Lean, Be Clean, Be Green' hierarchy on a plot by plot basis utilising passive design and energy efficiency measures. This is to ensure that the forthcoming buildings are constructed to a standard that exceeds minimum Building Regulation requirements in terms of energy performance in terms of the construction materials. In line with the Council's guidance the applicants have advised that each new-build non-residential development plot with a single use class of more than 1,000sqm (NIA) would commit to undertaking a BREEAM Assessment, with the aim to achieve a BREEAM Excellent rating in accordance with TP3.
- 6.272 As required by Policy TP4 the feasibility of connecting to any existing district heating networks has been reviewed by the applicants, but no opportunities have been identified in the vicinity of the site. However it is also acknowledged that there is the potential for use of heat pump technology either Ground Source or Air Source Heat Pumps (GSHP or ASHP), photovoltaic panels (PVs) and solar thermal panels. The feasibility of the preferred low and zero carbon energy system is proposed to be determined at the reserved matters stage and would be influenced by the needs of the occupier, *"a development plot with a comparatively large estimated hot water demand may opt for solar thermal panels (pending roof space availability), whereas a plot with a high demand for lighting energy may see greater benefit from implementing [photovoltaics] PVs. Precise location and size of suitable technologies such as PV arrays will be determined on a building by building basis, dependant on available roof space once other plant and amenity space is also accommodated."*
- 6.273 In order to reduce carbon dioxide emissions the Council's guidance note expands on Policy TP5 by encouraging residential developments to aim for a reduction in carbon dioxide emissions of least 19% against the Target Emission Rate (TER) of the 2013 Edition of the 2010 Building Regulations (Part L). The applicants have advised that by adopting an all-electric strategy, i.e. eliminating gas combustion on site, carbon emissions from the residential plots would meet this aim.
- 6.274 It is considered that the Strategy is appropriate at this stage and provides sufficient detail to ensure that development would be able to meet the requirements of Policies TP1 to TP4. First a condition is proposed to require each reserved matters application for each new non-residential building in excess of 1,000sqm or having a site area of 0.5ha or more to be accompanied by sustainable construction statement detailing how the development will meet BREEAM standard excellent. A subsequent condition is attached to require the submission of a low and zero carbon technology report to explain the feasibility of the utilising a range of technologies on site as identified in the submitted Energy and Sustainability Statement in accordance with Policy TP4.

#### Detailed Application

- 6.275 The detailed application comprises the Wild Site (Plot CF1), Custard Factory Living (Plot CF2) and the Custard Factory (Plot CF3). A BREEAM New Construction pre-assessment has been produced for the office areas of the Wild site; the only parts of the detailed application that, according to BDP Policy TP3, require a BREEAM Assessment. The submission indicates this plot will pursue a BREEAM 'Very Good' rating. Justification regarding the decision to target a 'Very Good' instead of 'Excellent' rating is contained within the Energy and Sustainability Strategy. Where

the applicants have been unable to commit to 'Excellent' targets this is largely down site constraints, whilst some extra credits may be achievable at the next stage of the design to raise the rating of the buildings. Colleagues in Planning Policy consider that the justification is acceptable to accord with Policy TP3.

6.276 The Strategy outlines the proposed passive design measures that are proposed to reduce demand for energy without consuming energy in the process. These comprise thermal insulation, fabric air permeability and high specification glazing. Energy efficient lighting and ventilation is also proposed plus the following low and zero carbon forms of energy:

- Wild 2 – Photovoltaics (PV) covering an area of 70sqm with an annual output of 10,700kWh per year;
- Wild 3 - Air Source heat pumps are proposed to generate domestic hot water to Wild 3;
- Custard Factory Living - PVs to be installed on the residential roof space covering an area of 90sqm with an annual output of 13,200kWh per year, and air source heat pumps to provide space heating and cooling and domestic hot water to commercial units on ground floor
- Custard Factory Extension - Air Source heat pumps to provide space heating and cooling

6.277 Colleagues in Planning Policy consider that an appropriate assessment of LZC energy options has been carried out and following advice a condition is proposed to require full details of the technologies proposed on each of the detailed plots in order to ensure that the developments accord with Policy TP4.

### ***Ground Conditions and Contamination***

6.278 Ground conditions and contamination have been assessed within the ES with the detailed application (development plots CF1, CF2 ad CF3) supported by stand-alone Geo-technical and Geo-environmental Desk Study Reports.

6.279 Consideration has been given to the site's conceptual model, including construction and industrial history, geology, hydrology, hydrogeology and site geo-environmental conditions. The earliest maps available of the site at 1889 to 1890 indicate that the industrial areas of note are a metal works near the eastern boundary of the site founded over a historical burial ground, Devonshire Works (Custard Powder) within the south western part of the site, Minerva Works Agricultural Tools to the north of the site and a chemical works in the northeast corner of the site. Other industrial uses included tube works, wire tube rolling mills, ice manufactories, iron foundries and a galvanised tin works. During WWII the site was reportedly heavily bombed and there was a significant amount of development with some ruins present along Floodgate Street and Gibb Street. Following WWII the site became significantly more industrial with various new buildings constructed. There are approximately 120 contemporary trade directories recorded at the site including printing, metal spinners, commercial cleaning services, firework sales, pest and vermin control, garage services, car paint and lacquer manufacturing and supplies, air compressor sales,

non-ferrous metal works, used car dealers, fabricated metal works, scaffolding suppliers, car body repairs, MOT test centres, electronic component manufacturing and supplies and a brewery.

- 6.280 The variety of contaminative activities that have taken place over the last two-hundred years at the site are likely to have resulted in a number of spillages and leaks throughout the lifetime of these industrial processes, impacting the soils on the site. There is the potential that below-ground storage tanks, fuel lines and other infrastructure are present beneath parts of the site associated with commercial and industrial operations and that potential infilling of below-ground structures throughout the various phases of redevelopment may have occurred. It is likely that various voids across the site have been infilled and at present the nature of the filling that has taken place is currently unknown.
- 6.281 A number of sensitive receptors have been identified within the ES; the human health of existing and future residents and workers including construction workers, groundwater and surface water.
- 6.282 For the detailed site plots the stand-alone reports propose a preliminary investigation scope arising from the desk based review undertaken that includes on site field work, laboratory based work, monitoring and reporting. A similar commitment to further site investigations and remediation strategy is proposed within the ES for the outline development plots. The applicants have also committed to the submission of a Material Management Plan as part of the CEMP to control spillages and the careful removal of hardstanding.
- 6.283 Regulatory Services and the EA are content to condition the requirement for further site investigations to inform a remediation strategy followed by a remediation verification plan.
- 6.284 Therefore, subject to safeguarding conditions the location of the proposed residential units would accord with Policy TP28 whilst in respect of the other proposed land uses the development would accord with Policy DM3 of the emerging Development Management DPD.

### *Environmental Statement*

- 6.285 The Environmental Statement (ES) is one of the documents submitted in support of the application and has the status of a material consideration during the determining of the application. The ES is produced following the Environmental Impact Assessment (EIA) process, undertaken in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (SI2017/571) (the 'EIA Regulations').
- 6.286 The aim of Environmental Impact Assessment (EIA) is to protect the environment by ensuring that a local planning authority, when deciding whether to grant planning permission for a project which is likely to have significant effects on the environment, does so in the full knowledge of the likely significant effects, and takes this into account in the decision-making process.

6.287 In accordance with Planning Practice Guidance and EIA Regulations the ES also reports the 'reasonable alternatives' in terms of site location, design and technology. An alternative design was the only factor that was considered to be relevant and the ES contains an overview of why the alternative design options were discounted in order to avoid, reduce or offset environmental impact.

6.288 The format of each chapter of the ES is as follows:

- i. A description of the scope of the Assessment;
- ii. Explanation of the extent of the study area for that particular topic;
- iii. The assessment methodology;
- iv. An explanation of the sensitivity of receptors;
- v. An explanation of the proposed magnitude of change: assessed on a scale of large, medium, small and negligible;
- vi. Description of the baseline conditions relevant to that topic;
- vii. The proposed primary mitigation during the construction and operational phases: Modifications to the location or design of the Proposed Scheme
- viii. The proposed Secondary mitigation during the construction and operational phases: Actions that will require further activity; it is anticipated that such measures would be secured by condition; and
- ix. The proposed Tertiary mitigation mitigation during the construction and operational phases: Actions that would occur with or without input from the EIA feeding into the design process. These may include actions that would be undertaken to meet other existing legislative requirements, or actions that are considered to be standard practices used to manage commonly occurring environmental effects.
- x. An explanation of the significance of the remaining or residual effects after the mitigation measures have been implemented. The method for assessing the significance of effects varies between topics but in principle it is based on the environmental sensitivity or value of a receptor and the magnitude of change from the baseline conditions. Sensitivity is assessed on a scale of high, medium, low and negligible. In addition, a distinction is made between direct and indirect, permanent and temporary, short, medium or long term and beneficial or adverse effects.

6.289 The following technical disciplines and their associated likely significant environmental effects have been taken forward and assessed within the EIA:

- i. Traffic and Access;
- ii. Air Quality;
- iii. Noise and Vibration;
- iv. Biodiversity;
- v. Townscape and Visual;
- vi. Built Heritage;

- vii. Archaeology;
- viii. Ground Conditions and Contamination;
- ix. Climate Change;
- x. Socio-Economics and Human Health;
- xi. Daylight, Sunlight and Overshadowing;
- xii. Flood Risk, Hydrology and Water Resources

6.290 As part of the EIA process, there are technical topics for which there are no likely significant environmental effects and therefore these technical topics have been scoped out of the ES. IN this case these technical topics are artificial lighting, the risk of major accidents and/or disasters, waste and wind.

#### Traffic and Access

6.291 The ES reports the likely significant environmental effects arising from the proposed scheme in relation to traffic and access. Effects have been considered in relation to all modes of travel including pedestrians, cyclists, public transport users and drivers. The impacts considered have been assessed based on highway links and junctions within the site where traffic flows are predicted to increase as a consequence of the Proposed Scheme. The trip generation of the existing and proposed uses has been calculated using TRICS vehicle rates although the ES indicates that vehicle trip generation rates are likely to be lower than TRICS rates suggest due to the location of the site, the mode share data reflects 2011 travel characteristics, and no account has been taken of the forthcoming CAZ or the recently implemented Controlled Parking Zone. The following adjustments have however been applied:

- 50% reduction in convenience retail, pubs/bars and restaurants as pass-by or liked trips; 100% reduction in community and entertainment uses as they would be complementary to the existing and proposed leisure uses;
- 15% reduction in residential trips to local employment uses;
- An adjustment factor on the basis of there being a level of modal shift away from the private car achieved through delivery of travel planning measures and initiatives; and
- An adjustment factor on the basis of vehicular demand being constrained by the availability of car parking which has been defined in the study area using a market-led approach in line with the emerging Development Management DPD and emerging Parking Standards SPD.

6.292 The same parameters and assumptions have been used to calculate the trips generated by the existing uses and the proposed uses. In terms of the construction phase the following impacts have been considered:

- i. the increase construction traffic upon existing pedestrians, cyclists and drivers;
- ii. the changes to pedestrian and cycling networks/connectivity and changes in journey times and safety risks; and

- iii. the increased public transport journey times as a result of additional traffic upon users of public transport.
- 6.293 The impacts ranges from a negligible impact to minor adverse, however these impacts are not considered to be significant.
- 6.294 During the operational phase the following impacts were found:
- i. changes to pedestrian and cycling networks/connectivity and changes in journey times and safety risks for pedestrians and cyclists
  - ii. the increased public transport journey times as a result of additional traffic upon bus services and drivers; and
  - iii. the increased congestion and delays as a result of additional traffic upon road users.
- 6.295 The impacts were all found to be negligible beneficial and therefore not to be significant.

#### Air Quality

- 6.296 The ES reports the outcome of the assessment of likely significant environmental effects arising from the proposed scheme in relation to air quality, specifically in relation to emissions associated with road traffic. The study area for construction traffic emissions and for the operational phase includes all roads within the site and the impacts upon both the existing sensitive receptors and future residents of the proposed scheme have been considered.
- 6.297 The residual effects for construction road traffic emissions are predicted to be negligible following the implementation of a limit to the daily HGV and LGV trips on the road links within the study area to ensure sensitive receptors are protected from elevated NO<sub>2</sub> concentration from road traffic emissions.
- 6.298 The impacts of emissions from the road traffic associated with the operation of the proposed scheme on NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> concentrations at existing sensitive receptors is considered significant. A number of mitigation measures have been recommended in a Travel Plan but the residual effects are considered to remain significant as it is unclear to what extent the Travel Plan would reduce operational traffic trips. In terms of existing sensitive receptors there would be a moderate adverse effect on High Street Deritend and Gibb Street leading to a significant effect.
- 6.299 The impact of operational road traffic emissions on future residents of the proposed scheme are considered to be moderate adverse for sensitive receptors in Development Plots D1, V1, H2 and H4. This adverse effect is considered to be significant. A moderate beneficial effect is predicted at the redevelopment of Plot C5, which is located between Liverpool Street and the Canal. This effect again is considered to be significant.

#### Noise and Vibration

- 6.300 Construction works can potentially lead to adverse noise and vibration generation. The ES reports that the worst case working locations nearest to existing and proposed sensitive receptors have been assessed considering the commitments in place as part of the proposed scheme and concurrent working across all phases.
- 6.301 For four sensitive receptors The Old Crown, 180 High Street, BIMM Birmingham and The Ruin pH sited in very close proximity or directly attached structures a bespoke construction working plan protocol or CEMP is proposed based on the actual conditions to be dealt with. This would need to involve all parties of interest and may require a period of non-occupation of existing buildings to achieve a desirable outcome. The ES reports that it is considered that this approach would result in the best practical means of undertaking the construction and demolition works to reduce the effects to direct, temporary and short to long-term, causing a minor adverse effect. However, if agreement cannot be reached regarding non-occupation, the residual effect for these four sensitive receptors would remain un-changed as a direct, temporary, short to long-term, major adverse effect. The result is significant if sensitive receptors remain occupied. There would also be a minor adverse for the sensitive receptor at 80 to 82 Floodgate Street (Arthaus Music School) if it remains occupied.
- 6.302 A full assessment of operational road traffic noise has been conducted for Adderley Street and Lower Trinity Street that were identified during the proposed scheme scoping process and their associated sensitive receptors at Dead Wax together with the proposed development plots for potential residential use. The ES advises that following secondary mitigation in the form of planning conditions to control the design of future development a predicted direct, permanent, long-term, minor adverse effect would remain, rather than a significant effect.
- 6.303 The proposed scheme would introduce leisure and late night uses within mixed use development plots across the site. The ES reports that unabated noise transfer internally and breakout through facades or from external areas, if not controlled by the detailed design process, would have the potential to generate adverse effects considered to be major at 18 existing sensitive receptors both within and outside of the application site. However following implementation of secondary mitigation in the form of planning conditions to control the design of future development it is considered to be a direct, permanent, long-term, adverse effect, assessed as a minor effect would remain, rather than a significant effect.
- 6.304 The proposed scheme would introduce new residential uses within an area where the Council has identified a history of noise complaints from late-night entertainment premises. Secondary mitigation enhancement is proposed to reduce the impact upon these new homes to minor adverse, rather than significant.

#### Biodiversity

- 6.305 The following sensitive receptors have been identified and assessed within the ES:
- The Rea Valley SLINC;
  - Grand Union Canal SLINC;
  - Duddeston Viaduct PSI habitat of local value;
  - Black redstart - assumed presence within the site;

- Roosting bats - one confirmed bat roost building and several other buildings/structures within the site have the potential to support roosting bats;
  - Foraging and commuting bats using the site; and
  - Reptiles - assumed presence on the Duddleston Viaduct
- 6.306 Mitigation during the construction phase would be achieved via a CEMP, updated ecological surveys to identify further mitigation, the retention of existing habitats, the incorporation of similar habitats within the soft landscaping strategy and the pre-construction scheduling of mitigation for black redstart and roosting bats. However due to the proximity of some development plots residual effects for the Rea Valley SLINC and potentially Duddleston Viaduct would still remain and these are considered to be significant.
- 6.307 The ES reports the beneficial impact of the introduction of planting and soft landscaping within the design of the public realm, brown and green roofs, securing the management of retained and newly created habitats via a Landscape Ecology Management Plan (LEMP). However with the proposed creation of Viaduct Park that would be lit and accessible by the public there are no secondary mitigation measures that could be implemented during the operation phase for the fragmentation of bat foraging and commuting routes along Viaduct Park. Therefore the residual adverse effect would remain, and this residual effect would be significant.

#### Townscape and Visual

- 6.308 The assessment of townscape character and views and visual amenity concludes that the proposed scheme would have a beneficial effect on local townscape character. Key buildings and characteristics such as the local street art that make a positive contribution to the character of the area would be retained. Buildings of lower quality would be removed and would be replaced with new development of high quality and of a scale and character that would provide a positive response to local townscape character. Public realm improvements and the creation of new public open space including Viaduct Park would also have a beneficial effect on the local townscape character.
- 6.309 Primary Mitigation would be secured via the Design Code at the Reserved Matters stage. The design quality would not alter the identified magnitude of change but would give greater certainty to the quality of future development.
- 6.310 The TVIA divides the site into 5 Local Townscape Character Areas (LTCA's) relating their unique special qualities. Significant beneficial residual effects have been identified four of the five defined local townscape character areas:
- LTCA2 - River Rea Industrial Area;
  - LTCA3 - Canalside;
  - LTCA4 - Viaduct Triangle; and
  - LTCA5 - Adderley Street.
- 6.311 Moderate beneficial residual effects were identified for the following visual receptors and representative views tested both inside and outside of the site. These impacts are considered to comprise significant effects:
- Milk Street/Barn Street - Pedestrians and Road Users;
  - Floodgate Street - Pedestrians and Road Users;



- Heath Mill Lane/Great Barr Street - Pedestrians and Road Users;
- Little Ann Street - Pedestrians and Road Users;
- Grand Union Canal Walk - Users of pedestrian/cycle route
- Lower Trinity Street - Pedestrians and Road Users; and
- Allcock Street - Pedestrians and Road Users.
- Grand Union Canal Walk – Looking South East
- Great Barr Street Bridge – Looking Southwards;
- Floodgate Street – Looking south from junction with Fazeley Street
- Heath Mill Lane – Looking North
- Little Ann Street – Looking South east;
- Milk Street – Looking south
- Lower Trinity Street – Looking West
- Allcock Street – Looking West

### Built Heritage

6.312 The effects of the proposed scheme on the significance of the designated and non-designated heritage assets that are located within the site and within 200m of the site have been assessed. Beyond this study area limit the impact upon the grade II listed Rotunda that has been identified as having the potential to be affected due to the specific nature of its significance. Taking account of the Parameters Plans and Retention Plan the majority of the heritage assets would not experience any significant effects. However the locally listed Wild No.3 Works is to be partially demolished and the locally listed Wild No.4 Works is to be totally demolished. Notwithstanding secondary mitigation in the form of historic recording of these assets there would be a direct, permanent long term moderate adverse residual effect. This effect is considered to be significant.

### Archaeology

6.313 The ES assesses the likely significant environmental effects arising from the proposed scheme in relation to archaeology, including waterlogged deposits and palaeoenvironmental remains within the site. Features of interest have been identified dating back to the Prehistoric and Roman, medieval, post medieval, Georgian and more recent periods.

6.314 Features of interest are as follows:

Prehistoric and Roman - little prehistoric or Roman activity known in Birmingham and those finds which are known in the vicinity of the Site tend to be stray artefact finds;

Medieval - Deritend was a medieval suburb to the Manor of Birmingham by at least c. 1270, with St John's Chapel (now under the High Street) and The Old Crown Public House in the south of the Site originating in the 14th century. Potential for remains of the medieval period in this area of the Site is high. Potential remains of the medieval and later Heath Mill water mill, later Cooper's Mill (in the late 18th century); and associated features. The manorial corn mill may have been established as early as the 12th century and by the 15th century there were three mills in the manor of Birmingham, although Heath Mill is first recorded in 1542-3.

Post Medieval - Archaeological investigations in advance of development within the southern part of the Site, and adjacent to it, have identified evidence of tanning, metal working and smithing in the 16th to 18th centuries, including evidence for working metals such as brass and silver. There is also evidence of flax processing in the 17th and 18th centuries. High potential in the backplots of High Street Deritend (where this has not been truncated by subsequent development) and unproven potential for the presence and survival of remains such as the post medieval Heath Mill and associated remains including waterlogged deposits and palaeoenvironmental remains.

Georgian and Later - Deritend Heath Windmill, also known as Cooper's Mill is thought to have been to the east of the watermill, on Heath Mill Lane. A large triangular mill pool was constructed in the angle between the two arms of the River Rea by 1819. The eastern arm of the River Rea had been infilled by c. 1849; and the triangular mill pool by the mid-19th century. Fazeley Street Gasworks, built in 1836; and Deritend tannery, present by 1847. Some possibility for burials associated with the early to mid-19th century St John's burial ground south of Liverpool Street.

- 6.315 The ES concludes that there is no reason to believe or expect that land within the site would contain archaeological remains that would represent any constraint to the proposed scheme acknowledging that all archaeological investigation and recording could be undertaken in advance of and during development, secured via appropriately worded conditions. An archaeological field evaluation, comprising trial trenches, would be undertaken following demolition of the buildings to slab level, in order to establish the extent, condition, nature, character, quality and date of any surviving archaeological remains. This would inform a programme of archaeological excavation and recording, followed by full post-excavation assessment and publication of the results, to be undertaken in areas of identified archaeological potential. This would help to realise the evidential value of the remains and would have the potential to complement local and regional research aims. Therefore, it is considered that this would mitigate the adverse effect of their loss to some degree.
- 6.316 Whilst surviving archaeological remains may be of great interest in understanding the history and development of the area, the truncated and partial nature of archaeological remains and sequences of deposits likely to be encountered would be most likely to be of interest at a local level. Taking into account this level of importance, and the proposed programme of archaeological work including the public dissemination of the, the effect is considered to be not significant.

#### Ground Conditions and Contamination;

- 6.317 The ES assesses the likely significant environmental effects arising from the proposed scheme in relation to the potential historical ground, groundwater and ground gas contamination on human health and controlled waters during construction.
- 6.318 The ES concludes that tried and tested mitigation measures, such as following best practice and implementing appropriate design and planning, would result in residual effects that are considered to be negligible.

6.319 The exception to this relates to the compounding effects of exposing multiple contamination pathways to the human health receptor concurrently via multiple active construction sites across the site. The proposed mitigation measure for this would be to appropriately phase the construction works into discrete zones to minimise the compounding effect. Such phasing is proposed to be conditioned.

#### Climate Change

6.320 The ES assesses the likely significant environmental effects arising from the proposed scheme in relation to climate change, specifically embodied carbon and carbon emissions from proposed buildings. The Statement considers all relevant carbon emissions arising over the lifecycle of the proposed scheme associated with the site subject to certain limitations. It also captures certain emissions occurring outside the site including emissions associated with the raw material extraction and manufacturing of building materials.

6.321 The current carbon baseline for the site has been assumed to be zero. While there are many buildings on-site currently in use, the ES has elected to assume zero emissions as this represents a worst-case. The overall operational emissions at the site in the absence of the proposed scheme would be expected to decrease over time as a result of external actions to reduce the emissions associated with the energy consumption arising from the uses on the site.

6.322 The present assessment has not identified any carbon emissions expected to be generated throughout the lifecycle of the proposed scheme that are likely to result in effects which are considered adverse and either moderate or major. The effects assessed are not considered significant for the global climate. All likely effects associated with the carbon emissions reviewed as part of the ES have been classified as being minor which is reduced to negligible following the implementation of secondary mitigation. This would take the form of the installation of smart meters, a travel plan, energy efficient equipment, 100% renewable electricity contracts and smart technology.

6.323 On this basis, the ES concludes that no likely significant effects are expected to be produced during the construction or operational phases.

#### Socio-Economics and Human Health

6.324 The ES reports that the study area has been difficult to define and differs according to the subject matter. A one mile radius from the site has been used for primary healthcare provision, 2 miles for early years' education and 3 miles for secondary education. However with regards to more socio economic topics the study area has been based on a neighbourhood impact area, a local impact area (the administrative area of BCC) and a wider impact area (the West Midlands).

6.325 The following aspects are considered within the ES:

- Population and age profile;
- Economic activity and employment rates;
- Labour Market and Industry;
- Economic output;
- Office market;

- Housing market;
  - Education infrastructure;
  - Health infrastructure; and
  - Open space.
- 6.326 It is considered that this increase in employment opportunities and GVA would both generate beneficial effects which are considered to be significant.
- 6.327 Due to the worst case assumption that current commercial occupiers would relocate as a result of the proposed scheme, this would generate an adverse effects on social cohesion among the business community, which are mostly small businesses with many operating in creative industries.
- 6.328 The ES predicts that the delivery of the proposed development would not result in any marked displacement of current residents and therefore the delivery of the proposed residential units would result in beneficial effects in increasing the population in the neighbourhood impact area and generating positive effects for social cohesion among the residential population. The effect of the expenditure by new residents and hotel visitors is considered to have a minor beneficial effect, although is not considered to be significant.
- 6.329 Although there is some pressure on GP and dental facilities, overall there is sufficient spare capacity to accommodate the impact of the additional residential population generated by the proposed scheme. Therefore the assessment considers that these effects are not significant.
- 6.330 There is sufficient provision of open space and sports facilities if BCC's quantity and access standards are applied. The provision of public realm improvements and new open space as a result of the proposed scheme is considered to be a beneficial effect, although is not considered to be significant.

Daylight, Sunlight and Overshadowing:

- 6.331 The ES reports the outcome of the assessment of likely significant environmental effects arising from the propose scheme in relation to daylight, sunlight and overshadowing.
- 6.332 The scope of the daylight and sunlight analysis has focused on the surrounding residential properties where the occupants may have a reasonable expectation of daylight and sunlight as per the relevant BRE guidelines, in addition to neighbouring educational buildings, hotel or hostels and an art gallery. The potential for overshadowing of key neighbouring open space has also been included in the assessment.
- 6.333 The potential daylight, sunlight and overshadowing effects for the identified sensitive receptors would vary throughout the construction phase, depending on the level of obstruction caused. The effects would almost certainly be less than that of the completed proposed scheme, given that the extent of permanent massing would gradually increase throughout the construction phase. Once the proposed scheme is complete, this would represent the worst case.

- 6.334 The assessment is based on a maximum parameter massing and therefore, design principles have been committed to as part of the primary and tertiary mitigation to ensure the effect on the most sensitive receptors would be substantially reduced at detailed design stage, and that adequate daylight amenity would remain once the development is complete.
- 6.335 Moderate and major adverse impacts upon the change in daylight to the following receptors are reported, and the resulting impact is considered would be significant:
- 6 Great Barr Street;
  - 1-12 Glover Street;
  - 28 Adderley Street;
  - 177-181 (incl.) High Street;
  - South Birmingham College & Former Floodgate School, Digbeth Campus;
  - 92 Floodgate St (The Ruin pH);
  - 1-2 Barn Street; and
  - 230 Fazeley Street.
- 6.336 Moderate adverse impacts upon the change in sunlight to the following receptors are reported, and the resulting impact is considered would be significant:
- 6 Great Barr Street;
  - 1-12 Glover Street; and
  - 177-181 (incl.) High Street.
- 6.337 Minor adverse an impact upon overshadowing of the following areas of amenity space is reported, and the resulting impact is considered would be significant:
- River Rea;
  - 6 Great Barr Street; and
  - 1-12 Glover Street.

#### Flood Risk, Hydrology and Water Resources

- 6.338 The ES reports the outcome of the assessment of the likely significant environmental effects arising from the proposed scheme in relation to the risk of flooding to the site and the wider area.
- 6.339 Mitigation during the operational phase is proposed in the form of:
- siting all 'more vulnerable uses'(e.g. Land Use Classes C1 and C3) outside of Flood Zone 3 where possible;
  - adopting flood resilience measures;
  - using flood compatible materials on new buildings in Flood zones 2 and 3;
  - providing safe access routes;
  - not causing flood water displacement;
  - opening up some sections of the culverted river; and
  - providing SuDS to reduce run off rates.
- 6.340 With respect to the latter there is a requirement to compensate approximately 625m<sup>3</sup> of flood volume within the site, representing approximately 4% of the existing flood volume. Open spaces, located outside the flood extent, have been identified as locations for flood compensation that would be detailed once the relevant phase is brought forward.

6.341 The ES concludes that there is likely to be an indirect, permanent, long-term minor beneficial residual effect in terms of the change to fluvial flood risk off site which is considered to be minor.

#### Cumulative Effects

6.342 To accord with the EIA Regulations, the following cumulative effects have been considered within the EIA:

- i) Effect interactions: the interaction of environmental effects of the Proposed Scheme affecting the same receptor either within the Site or surrounding area; and
- ii) In-combination interactions: the combination of environmental effects of the Proposed Scheme and Approved Projects affecting the same receptor.

#### Effect Interactions

6.343 The residual effects as concluded with the individual technical chapters of the ES have been collated into a matrix so that the effect interactions in common receptors could be identified for the construction and operational phases. The residual effects have been grouped into the common sensitive receptors of population and human health, biodiversity, water, cultural heritage and landscape.

6.344 During the construction phase the ES predicts that there would be no effect interactions upon biodiversity, water, cultural heritage or landscape. There would be residual effects upon population and human health. The beneficial effects are described as the generation of employment and economic productivity. The adverse effects would be disturbance from construction activities, changes in the amenity due to daylight and sunlight and the risk of exposure to contamination. The sensitivity of the population and human health is considered to be high and some of the changes would be beneficial and some adverse. In both cases the combined magnitude of change during operation is considered to be large at some receptors and therefore there are effect interactions during the operation phase considered adverse and beneficial up to major.

6.345 Whilst no additional mitigation is required, it would be a priority to provide certainty around reduced rental costs to existing tenants and monitor the effectiveness of the proposed Travel Plan to quantify its benefits. These will both reduce the significant adverse residual effects which are contributing to the overall effect interactions at some receptors.

#### In-combination interactions - Step One: Identification of Projects for Consideration

6.346 The projects applicable for consideration of in-combination effects were determined using the following criterion:

- Approved applications either under construction or not yet implemented;
- Submitted applications not yet determined but that have the potential to be determined prior to the determination of the application for the Proposed Scheme; or

- All applications refused that are subject to appeal procedures not yet determined.

6.347 In terms of scale the following thresholds has been applied;

- 200 residential units or more or 10,000sqm of more floorspace, or an application with a site area of 2 hectares; and
- meeting the Schedule 2 criteria of the EIA Regulations at which there is a potential for 'likely significant effects'.

6.348 Using these thresholds a short list identified 25 projects has been assembled within the ES and supplementary Technical Note for the assessment of on in-combination effects.

#### In-combination interactions - Step Two: Assessment of In-Combination Effects

6.349 The sensitive receptors identified for the proposed scheme have been cross checked against the receptors of the approved projects that are above the thresholds identified in (i) and (ii) above. Consideration has also been given to whether there is likely to be a concurrent construction or operational phase within the proposed scheme (that has a construction period from 2021 to 2035). In order for there to be a potential in-combination effect, there needs to be a potential effect on the same receptor for a similar duration within the overall programme for the proposed scheme. The ES has defined following common receptors:

Traffic and Access – Common receptors identified but no in-combination effects identified;

Air Quality - Common receptors identified but no in-combination effects identified;

Noise and Vibration – a precautionary in-combination assessment has been conducted for construction noise. The level of the in-combination effect at Connaught Square is considered to be minor adverse.

Biodiversity – roosting bats, black redstarts and the Rea Valley SLINC are common receptors. The in-combination effect is considered to be minor adverse upon these receptors.

Townscape and Visual – again a common receptor between the proposed scheme and a number of approved projects. For pedestrians and road users inside the site there would be an in- combination effect with Connaught Square and Martineau Galleries. The Approved Projects have also been considered in relation to each of the other townscape and visual receptors within the TVIA for which significant effects had not been identified, as a precautionary measure to assess whether significant in-combination effects would arise where effects were not considered significant for the proposed scheme. There would be an in-combination effect for Local Townscape Character Area 1. (High Street Deritend). For pedestrians and road users views from outside of the application site there would be an in-combination effect with Stoneyard, Lunar Rise and Connaught Square. There would also be an in-combination effect on the view from Kingston Hill identified as a strategic view in the High Places SPD.

Where these in-combination effects are considered to be greater than considered by the ES previously in isolation the effects are considered to be beneficial.

Built Heritage –No common receptors and therefore no in-combination effects identified;

Archaeology - No common receptors and therefore no in-combination effects identified;

Ground Conditions and Contamination – Common receptors identified as construction workers and/or the existing and the future residential and business community who are likely to be subject to increased risks, albeit the majority would be managed through good practice construction measures. The in-combination effect is considered to be no greater than considered by the ES in isolation, i.e. minor adverse.;

Climate Change – Common receptors identified but not possible to provide a meaningful assessment for the proposed scheme in-combination with the approved projects as there is insufficient, robust data on the technical specifications of the approved projects;

Socio Economics and Human Health – All of the approved projects would affect some of the following receptors identified for the proposed scheme, i.e. construction workforce, businesses, local residents, workforce in the economy, pupils attending primary or secondary school within a 2 or 3 mile radius and local residents of all demographic profiles within a 1 mile radius. During the construction phase there is likely to be in-combination effects though the creation of employment and the generation of economic productivity. This effect is reported as minor beneficial. When the scheme becomes operational there are predicted to be a number of in-combination effects summarised as population change, employment creation, economic productivity and expenditure by new residents and visitors. The in-combination effects are all considered to be moderate beneficial.

Daylight, Sunlight and Overshadowing – In-combination effects upon South Birmingham College & Former Floodgate School and No.28 Adderley Street as a result of Approved Projects at Connaught Square and Stoneyard. The effect is the same as considered by the ES previously, up to major adverse but no greater than that identified in isolation.

Flood Risk, Hydrology and Water Resources – Common receptors identified but the in-combination is considered to be no greater than that identified in isolation.

- 6.350 As required by the Regulations the ES has been submitted to the Planning Casework Unit of the Ministry of Housing, Communities and Local Government. It has been subsequently acknowledged but no further comments have been received.

#### Summary of Significant Impacts Report in the Environmental Statement

- 6.351 There would be adverse impacts that are considered to be significant with respect to the following:



- Air Quality - The impact of emissions from the road traffic associated with the operation of the proposed scheme on existing and proposed sensitive receptors;
- Noise and Vibration – The impact upon existing sensitive receptors as a result of noise and vibration during the demolition/construction phase;
- Biodiversity – impact upon habitats and species of the Rea Valley SLINC and Duddeston Viaduct;
- Built heritage – Impact upon the locally listed Wild No.3 Works and Wild No.4 Works;
- Daylight, Sunlight and Overshadowing – change in daylight to 8 receptors (including more than one property in Glover Street, High Street and Barn Street);
- Daylight, Sunlight and Overshadowing – change in sunlight to 8 receptors (including more than one property in Glover Street and High Street)
- Daylight, Sunlight and Overshadowing – overshadowing of 3 amenity spaces (including more than one property in Glover Street)
- Effect interactions resulting from changes to daylight or sunlight and noise or vibration interacting with construction related effects.

6.352 There would be beneficial impacts that are considered to be significant with respect to the following:

- Townscape and Visual – Impact upon four Local Townscape Character Areas;
- Townscape and Visual – Impact upon fifteen visual receptors and representative views inside and outside of the site; and
- Socio-Economics and Human Health - increase in employment opportunities and GVA.140

6.353 The significant adverse effects are considered be acceptable subject to conditions to secure mitigation.

### *Planning Obligations*

6.354 Policy TP31 of the BDP requires 35% affordable dwellings on sites of 15 dwellings or more and TP9 seeks either on site public open space at 2ha per 1000 population or contribution towards off site provision for developments of 20 or more dwellings.

6.355 Section 106 contributions have also been requested from the following consultees:

- Leisure Services - £4,117,575 (hybrid site);
- Education – £116,507.00 (detailed application) and £12,352,185.93 (outline application);

- Canal and River Trust – request for contribution towards upgrading the access onto the canal at Great Barr Street and lighting improvements along the towpath; and
- Sport England - £1,980,280 (outline site).

6.356 The applicant has submitted a Financial Viability Assessment (FVA) report with the application. This explains where and how much expenditure the applicants are proposing to spend on the public realm.

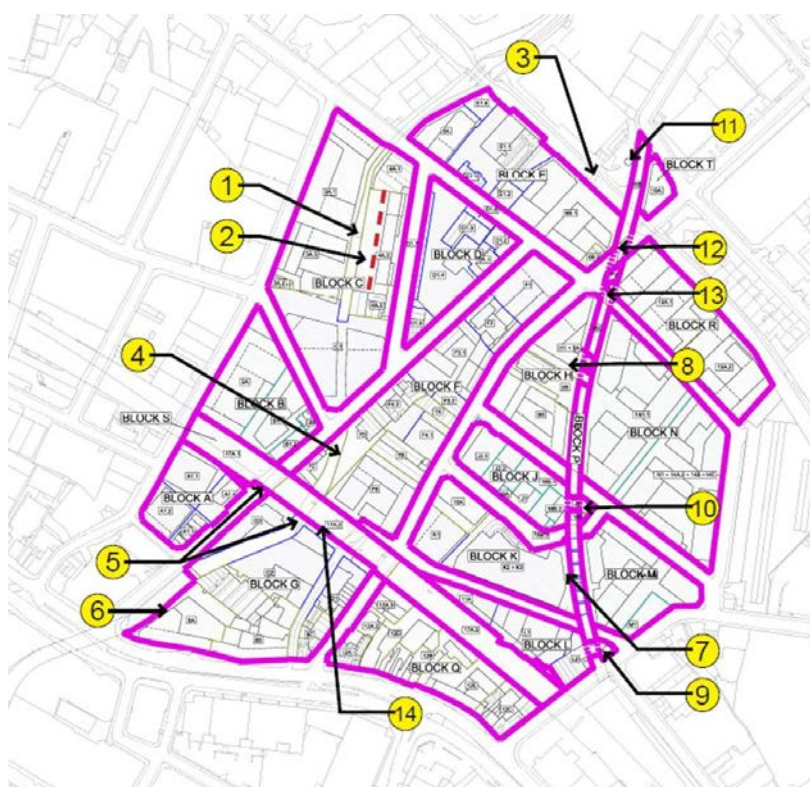


Fig 44: Locations of Proposed Expenditure on Public Realm

- 1) River Street Bridge: Pedestrian bridge connect new piece of public realm to Barn Street over River Rea. Estimated £750,000;
- 2) Activation of River Rea: creation of open square and seating to encourage ground floor building uses to spill out into public space. Repair works and improvements to the River embankments and River bed. Estimated £2,500,000;
- 3) Floodgate Street bridge: spanning the canal to create a key pedestrian/cycle link to the northern side and a canal square on the southern side, seating areas, canal side planting. Estimated £1,500,000;
- 4) Activation of River Rea: creation of public space between Floodgate Street and the River enabling access to the edge of the River wall. Estimated £1,500,000;
- 5) Custard Factory Bridge: new accessible bridge to replace existing within proposed area of public realm comprising new surfacing, stepped and ramped access, tree planting and seating areas. Rain gardens, tree planting, loading

areas and traffic calming measures along Floodgate Street. Estimated £750,000;

- 6) Activation of River Rea: improvements to public realm to encourage ground floor uses to animate public spaces. Repair works and improvements to River embankments and River bed. Estimated £2,500,000;
- 7) Upper Level Bridge: New bridge to connect the upper level roof top leisure offer of the proposed Lower Trinity Street car park to Viaduct Park. Ground level improvements to public realm including surfacing, tree planting, street furniture and lighting. Estimated £1,000,000;
- 8) Viaduct access: stair access to Viaduct Park from the proposed adjacent public space at mid point to Viaduct Park. Estimated £100,000;
- 9) Lift: Stair/lift access to Viaduct Park at the beginning of this new area of linear open space. Estimated £100,000;
- 10) Viaduct access: stair access to Viaduct Park. £100,000;
- 11) Lift: Stair/lift access to Viaduct Park from public realm to the north of the Canal at the end of Viaduct Park providing a key connection to the end of Floodgate Street and the new pedestrian bridge. Estimated £100,000;
- 12) Upper Level Bridge: Bridge connection between existing viaduct structures to ensure that the full length of Viaduct Park is delivered. Improvements at ground floor including surfacing, tree planting, street furniture and lighting. Estimated £1,000,000;
- 13) Upper Level Bridge: Bridge connection between existing viaduct structures to ensure that the full length of Viaduct Park is delivered. Improvements at ground floor including surfacing, tree planting, street furniture and lighting. £750,000; and
- 14) Activation of arches to Viaduct: new hard landscaping with the ability to accommodate active ground floor uses. Estimated £1,000,000

6.357 The total estimated cost on the public realm within the hybrid site amounts to £13,650,000.

6.358 The FVA has been independently assessed by the Council's consultants who have concluded that, the overall viability of the detailed application would provide sufficient headroom for the allocation of 10% or 4 units on-site as affordable dwellings as part of the Custard Factory Living plot. This would be in the form of affordable private rented units at a 20% discount to market rent.

6.359 Whilst acknowledging the detailed scheme is not able to meet the 35% target outlined in Policy TP31 or the other requests for contributions the provision of 10% affordable units on site would meet paragraph 64 of the NPPF that expects at least 10%. Plus this provision would be in addition to an estimated spend of £750,000 on the public realm within this first phase. Officers consider that the proposed replacement bridge across the River Rea with its associated public realm would be a

significant benefit, promoting the accessibility of the area, encouraging cycling and walking into and out of the City Centre and improving the visual amenity of this part of the site. Furthermore national guidance states that the weight to be given to a viability assessment is a matter for the decision maker, and it acknowledges that the cost of all relevant policies should not be of a scale that would make a development unviable.

- 6.360 Consideration of the viability of the outline site is more complex. First it is a large site, covering 17.88ha. Next with a construction period of 15 years costs and output sales values are likely to change. Plus as the applicants own less than half of the site area they will need to acquire a significant proportion of the site and land values are likely to fluctuate. From the outset the submitted viability assessment states that the outline part cannot afford to provide any affordable housing on or off site. However basing the viability on the assessment submitted would be a snapshot of the market now and would not be a true representation of viability at the point of implementation. Therefore a series of reviews is proposed to ascertain whether there is headroom for on site and off site planning obligations at the point of each first reserved matters application. The reviews would take into account the spend on the public realm within that associated block.
- 6.361 To highlight, the spend on the public realm in the outline application includes the delivery of Viaduct Park including two high level bridges necessary to construct one linear area of open space of 4,144sqm and four points of access from the ground floor. In addition there would be a bridge across the canal with associated open space, a bridge across the River Rea and its associated open space to open up this part of the River and a west east link from Bordesley Street to Allcock Street.
- 6.362 The amount of publicly accessible open space at ground level would total 27,105sqm. There have been requests for contributions towards open space, the figures above would be delivered in addition to Eastside City Park, Garrison Lane Park and Kingston Hill Local Park, which are all located within a 10 minute walk. It is considered that the delivery of the open space and public realm on site would mitigate for an off site contribution towards open space.
- 6.363 Unfortunately the scheme cannot afford to contribute towards education and sports facilities, however it is considered that with respect to the latter the on site improvements to the public realm and open space would provide some capacity of outdoor recreation.
- 6.364 The application site falls within a high value area that attracts a CIL payment in respect of the proposed hotel and student accommodation.

## 7 The Planning Balance and Conclusions

- 7.1 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 provisions 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.*'

- 7.2 The starting point is the development plan, and the proposed hybrid development would accord with a number of BDP Policies by providing mix of uses within the City Centre Growth Area, enhancing existing and delivering additional links for walking and cycling through this part of the City, improving the public realm via the provision of areas of open space, opening up the River and not least by providing Viaduct Park. Furthermore the Digbeth, Deritend and Bordesley High Streets (DD&BHS) Conservation Area Character Appraisal acknowledges that the site contains a number of void buildings, gap sites and buildings that suffer from neglect and, subject to adherence with the Design Code the proposed development would enhance the Conservation Area in these respects.
- 7.3 There are however conflicts with the BDP. Policy TP12 states that great weight will be given to the conservation of the City's heritage assets and that development affecting a designated or non-designated heritage asset or its setting, will be expected to make a positive contribution to its character, appearance and significance. It is considered that there would be harm to the existing heritage assets as set out below:
- Phase 1a (outline) Blocks K, P & T - less than substantial harm would be caused to the character and appearance of the Digbeth Deritend and Bordesley High Street Conservation Area;
  - Phase 2 (outline) Blocks E & R - less than substantial harm to the significance of the Warwick Bar Conservation Area and a degree of harm to the significance of the Bond group of locally listed buildings;
  - Phase 3 River (outline) Blocks B & C - total loss of significance of the locally listed W.J.Wild No.4 Works (Rea Studios), harm to the setting and thereby significance of Wild Works group of buildings and less than substantial harm to the Digbeth Deritend and Bordesley High Street Conservation Area;
  - Phase 3 Bordesley (outline) Blocks L & S - harm to the significance of locally listed Bordesley Viaduct and less than substantial harm to the character and appearance of the Digbeth Deritend and Bordesley High Street Conservation Area;
  - Phase 3 High Street (outline) Part of Block G & Block Q - less than substantial harm to the Digbeth Deritend and Bordesley High Street Conservation Area;
  - Phase 3 Viaduct (outline) Blocks J, H, M & N - less than substantial harm to the character and appearance of the Digbeth Deritend and Bordesley High Street Conservation Area;
  - Phase 4 (outline) Blocks D & E - less than substantial harm to the character and appearance of the Digbeth Deritend and Bordesley High Street Conservation Area and harm to the setting and therefore significance of the locally listed to buildings known as 48 to 52 Jukes (Birmingham) Ltd (The Arch) and W.J. Wild No.6 Personnel Department both within Floodgate Street;
  - Phase 1 (detailed) Block A and part of Block G - harm to the significance of the locally listed Wild 2 and Wild 3 buildings and to the Wild Works group of

buildings along Floodgate Street, harm to the significance of the locally listed Bordesley Viaduct and less than substantial harm to the Digbeth Deritend and Bordesley High Street Conservation Area; and

- Hybrid Application - cumulative harm to the character and appearance of the Digbeth Deritend and Bordesley High Street and Warwick Bar Conservation Areas resulting from loss or partial loss of locally listed buildings, loss of buildings that contribute positively to the character and appearance of the conservation areas, and through the introduction of increased scale to parts of the conservation areas. This would cause less than substantial harm to both conservation areas. This harm would be greater for the Digbeth Deritend and Bordesley High Street Conservation Area but still falls within less than substantial harm.

7.4 Therefore there is total loss of significance of W.J. Wild Works No.4 (Rea Studios), a non designated heritage asset, plus some harm to a small number of locally listed buildings also defined as non heritage assets within the application site. There is cumulative harm to both Conservation Areas however this harm is at a level of less than substantial. There is also less than substantial harm to the Grade II listed Rotunda that is located outside of the application site. This harm to heritage assets and subsequent conflict with Policy TP12 triggers the application of the tests found at Paragraphs 196 and 197 of the NPPF and it is necessary to consider whether the public benefits of the scheme outweigh the harm to these heritage assets.

7.5 The proposed development would provide the following public benefits:

#### Environmental Benefits

- new pedestrian routes providing enhanced links within the area and to the wider city centre core and neighbouring destinations including a new linear open space along Viaduct Park;
- Improving the amount and quality of the public realm and open spaces and opening up the River;
- retaining and increasing opportunities for street art;
- Creating and enhancing the habitat of the River Rea and Grand Union Canal to deliver long term benefits to biodiversity;

#### Heritage Benefits

- providing additional opportunities to experience the River Rea, enhance its surroundings and facilitate and understanding of the area's historic relationship with the river;
- reinstating historic buildings lines and enclosure along streets within the Digbeth conservation area;
- increasing the incidence, juxtaposition, variety and quality within the townscape around the viaducts leading to a greater appreciation of their form and structure

via development under the arches, maintaining Bordesley Viaduct, removing negative development adjacent to Duddeston Viaduct within the site and framing the viaducts with new buildings and extensions;

- enhancing the quality of views within the conservation areas through the removal of negative elements of the built environment and gap sites;
- encouraging greater appreciation of the group and townscape value of the canal assets within the Warwick Bar Conservation Area through greater connectivity between the canal and the wider area and in views from Viaduct Park;
- improving the ability to appreciate the architectural form of the former St Basil's Church from Viaduct Park;

### Economic Benefits

- bringing vacant or underutilised buildings back into use, supporting their long term viable use and retention;
- creating a range of new and improved commercial floorspace providing opportunities for a range of businesses from small scale start-ups to larger companies;
- generating direct net additional employment of approximately 7,250 FTE jobs in the wider impact area of the West Midlands regional economy, inclusive of 3,300 FTE jobs that are likely to be taken up by those living in the local impact area of the administrative area of BCC;
- generating up to 245 net full time jobs during the construction period;
- Creation of up to 16,400 gross full time equivalent jobs supported by the proposed on site uses within the application site;
- £462.4million in GVA generated during the construction phase to the West Midlands economy of which £423.6 million could contribute to the growth of the Birmingham economy;
- £753.6 million on site GVA generation generated by proposed uses and gross employment;
- potentially delivering a 350 bed hotel;
- £29.9 million per annum expenditure on retail and leisure by residents which will support 170 jobs in these sectors;
- £9.6 million expenditure in retail and leisure per annum generated by hotel visitors supporting jobs in these sectors in the local and wider economy.

### Social Benefits

- supporting the Custard Factory and environs as a cultural destination;

- increasing the level of activity and vibrancy to the area creating a truly mixed-use area with new homes, retail and leisure uses
  - generating a population of approximately 3,400 residents with the majority of residents (78%) of working age (15-64 years) equivalent to 2,406 residents;
  - delivering up to 1,890 houses to help meet the City's housing need;
  - creating additional areas of public realm offering places for workers, residents and visitors to socialise, relax and enjoy the enhanced environment, leading to improved health and wellbeing; and
  - building community cohesion through the provision of opportunities for on-site education and community facilities.
- 7.6 In my view, applying the relevant statutory tests as set out in Sections 66 and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the policy tests of paragraphs 196 and 197 of NPPF, and the conflict with Policy TP12, whilst attaching great weight and importance to the less than substantial harm that the development would cause to the significance of the heritage assets, it is concluded that the public benefits of the development identified above outweigh such harm.
- 7.7 Separate to the above is the conflict with strategic Policies TP38 and TP41 resulting from the potential prejudice to the Midlands Rail Hub (MRH), in particular the option of widening the Bordesley Viaduct. In the case of the recent appeal decision at 193 Camp Hill the Inspector concluded that this potential conflict would bring the scheme into conflict with the development plan as a whole. However like 193 Camp Hill the conflict is afforded limited weight as there is no safeguarding policy within the BDP to preclude development to the north of Bordesley Viaduct, the Midlands Rail Hub is not a committed scheme and the widening of the Viaduct is only one of the options explained in the SOBC of 2019. In my opinion the material considerations in terms of the environmental, heritage, economic and social benefits as listed above outweigh the conflict with Policies TP38 and TP41.
- 7.8 In order to secure the weighting afforded to the benefits outlined above the conditions and legal agreements will ensure that the physical benefits to the public realm are delivered on a block by block basis. This will be achieved through the completion of a Section 106 Legal Agreement in relation to those parts of the application site in the control of the developer (with subsequent Supplemental Section 106 Legal Agreements in respect of the balance of the application site secured pursuant to the planning conditions).

### Conclusions

- 7.9 The proposed hybrid application would deliver a significant contribution to the wider regeneration of Digbeth delivering new homes and jobs alongside new retail, hotel, leisure and community opportunities. As such it would provide an effective use of previously developed land at a sustainable location and meet important local growth objectives as set out in the BDP and the Curzon Masterplan for the area. It also seeks to create new and improved public realm, a unique destination in the form of Viaduct Park, greater opportunities from walking and cycling, encourage the cultural



and artistic offer, improve safety through natural surveillance and increased footfall and deliver new and exciting townscape. As such it is considered to accord with BDP Policies PG2, PG3, TP28, TP30, TP39, TP40 and the NPPF.

- 7.10 The aim of the hybrid planning application is to ensure flexibility while establishing a coherent approach across the site that allows individual development plots to come forward within an agreed set of site wide principles. However these improvements necessitate the loss of commercial floorspace and the redevelopment of sites within the existing Conservation Areas to increase the viability of the scheme to enable the benefits to be delivered. Some of this redevelopment is contrary to Policy. However it is considered that the Council would have sufficient control through the development specification, parameter plans and design code to ensure that the redevelopment is of high quality and creates a place that is attractive to residents, businesses and visitors alike. Having undertaken a planning balance it is concluded that there are sufficient material considerations to outweigh the harm to heritage assets and the conflict with the development plan.
- 7.11 The impacts of the hybrid application upon biodiversity, flooding, drainage, energy, sustainability, contamination, noise, amenity and transportation have been assessed and it is considered that, subject to safeguarding conditions, the proposals comply with Policies PG3, TP6, TP7, GA1.1, TP44, TP7, TP8, TP4 of the BDP and emerging Policy DM2 and DM3 of the Development Management DPD and the NPPF. The significant impacts as described in the ES, including the cumulative impacts have been considered and again the subject to safeguarding conditions the impacts are considered to be acceptable.

## 8. Recommendation

- 8.1 That application 2020/03634/PA be APPROVED subject to conditions and the prior suitable Legal Agreement to secure the following:
- a) in respect of the detailed part of the application, 4 residential units (10%) on-site affordable private rent dwellings at a 20% discount to Market Rent;
  - b) All of the following additions and improvements to the public realm:
    - 1) River Street Bridge: Pedestrian bridge connect new piece of public realm to Barn Street over River Rea;
    - 2) Activation of River Rea: creation of open square and seating. Repair works and improvements to the River embankments and River bed;
    - 3) Floodgate Street bridge: spanning the canal to create a key pedestrian/cycle link to the northern side and a canal square on the southern side, seating areas, canal side planting;
    - 4) Activation of River Rea: creation of public space between Floodgate Street and the River enabling access to the edge of the River wall;
    - 5) Custard Factory Bridge: new accessible bridge to replace existing within proposed area of public realm comprising new surfacing, stepped and ramped access, tree planting and seating areas. Rain gardens, tree

planting, loading areas and traffic calming measures along Floodgate Street;

- 6) Activation of River Rea: improvements to public realm to encourage ground floor uses to animate public spaces. Repair works and improvements to River embankments and River bed;
  - 7) Upper Level Bridge: New bridge to connect the upper level roof top leisure offer of the proposed Lower Trinity Street car park to Viaduct Park. Ground level improvements to public realm including surfacing, tree planting, street furniture and lighting;
  - 8) Viaduct access: stair access to Viaduct Park from the proposed adjacent public space at mid point to Viaduct Park;
  - 9) Lift: Stair/lift access to Viaduct Park at the beginning of this new area of linear open space;
  - 10) Viaduct access: stair access to Viaduct Park;
  - 11) Lift: Stair/lift access to Viaduct Park from public realm to the north of the Canal at the end of Viaduct Park providing a key connection to the end of Floodgate Street and the new pedestrian bridge;
  - 12) Upper Level Bridge: Bridge connection between existing viaduct structures to ensure that the full length of Viaduct Park is delivered. Improvements at ground floor including surfacing, tree planting, street furniture and lighting;
  - 13) Upper Level Bridge: Bridge connection between existing viaduct structures to ensure that the full length of Viaduct Park is delivered. Improvements at ground floor including surfacing, tree planting, street furniture; and
  - 14) Activation of arches to Viaduct: new hard landscaping with the ability to accommodate active ground floor uses. Estimated £1,000,000;
- c) Submission of a review of the Financial Viability Assessment (FVA) with each reserved matters submission and appropriate payment for independent assessment of the FVA. If that FVA identifies that the development set out in the reserved matters submission could sustain a planning obligation it shall take the form of affordable housing (on-site or an off-site financial contribution) totalling no more than 35% affordable housing;
- d) Payment of a monitoring and administration fee associated £10,000 (minimum).

8.2 In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority on or before 1<sup>st</sup> July 2021 or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reasons:

- 1) In the absence of a legal agreement to secure any affordable private rent dwellings at a 20% discount to Market Rent the proposal conflicts with Policy

TP31 of the Birmingham Development Plan and the National Planning Policy Framework.

2) In the absence of any legal agreement to secure the additions and improvements to the public realm as described in points 1 to 14 above the development is contrary to Policies PG3, GA1.1, GA1.3, TP12, TP27 and TP47 of the Birmingham Development Plan and the National Planning Policy Framework.

8.3 That the City Solicitor be authorised to prepare, complete and seal an appropriate legal agreement and any necessary supplemental agreements under Section 106 of the Town and Country Planning Act.

8.4 That in the event of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority on or before 1<sup>st</sup> July 2021, or such later date as may be authorised by officers under delegated powers, planning permission for application 2020/03634/PA be APPROVED, subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

- 
- 1 Detailed: Pre - Demolition: Method Statement
  - 2 Detailed: Pre - Demolition: Submission of Demolition Ecological Management Plan (DEcMP)
  - 3 Detailed: Pre - Demolition Submission of Demolition Environmental Management Plan (DEMP)
  - 4 Detailed: Pre - Demolition Submission of Demolition Traffic Management Plan (DTMP)
  - 5 Detailed: Prior to Commencement of Development Submission of Construction Ecology Management Plan (CEcMP)
  - 6 Detailed: Prior to Commencement of Development Submission of Construction Environmental and Management Plan (CEMP)
  - 7 Detailed: Prior to Commencement of Construction Traffic Management Plan (CTMP)
  - 8 Detailed: Pre - Demolition Submission of a Written Scheme of Investigation (WSI)
  - 9 Detailed: Prior to Commencement of Development Submission of a Contamination Remediation Scheme
  - 10 Detailed: Prior to Commencement of Development Submission of Sustainable Drainage Scheme
  - 11 Detailed: Prior to Commencement of Development Submission of Details of Surface Water Flood Resilience
  - 12 Detailed: Prior to Commencement of Development Submission of a Construction Employment Plan
-

- 
- 13 Detailed: Prior to Commencement of Development Details of public realm works (excluding replacement Bridge) and Hard and Soft Landscaping
  - 14 Detailed: Prior to Commencement of Development Details of Approved Replacement Bridge Across River
  - 15 Detailed: Prior to Commencement Details of Details of LZC energy installation(s)
  - 16 Detailed: Prior to Above Ground Works Submission of Sample Materials on Approved Buildings and Extensions
  - 17 Detailed: Prior to Above Ground Works Submission of Shopfront Design for commercial units at Wild Works and Custard Factory Living
  - 18 Detailed: Prior to Above Ground Works Submission of Biodiversity Enhancement Plan
  - 19 Detailed: Prior to Above Ground Works Submission of Extraction and Odour Control Details for A3 and A4 uses
  - 20 Detailed: Prior to Above Ground Works Submission of Details of Cycle Parking
  - 21 Detailed: Prior to Above Ground Works Submission of Details of CCTV scheme
  - 22 Detailed: Prior to Occupation Submission of a Contaminated Land Verification Report
  - 23 Detailed: Prior to Occupation of Plot CF2 Submission of a scheme of Noise Insulation (Between commercial use at ground floor residential)
  - 24 Detailed: Prior to Occupation of Plot CF2 Submission of a scheme of Noise Insulation to residential units to Achieve Sound Reduction (glazing/building envelope)
  - 25 Detailed: Prior to Occupation of Plot CF2 Submission of means of enclosure and landscaping to podium garden
  - 26 Detailed: Prior to Occupation of Plot CF2 Vehicle access to River Rea
  - 27 Detailed: Prior to Occupation Submission of a Sustainable Drainage Operation and Maintenance Plan
  - 28 Detailed: Prior to Occupation Implementation of Public Realm (including replacement bridge)
  - 29 Detailed: Prior to Occupation Submission of landscape management plan
  - 30 Detailed: Prior to Occupation Installation and Retention of Flood Resilience measures for the Wild Works and Custard Factory Living
  - 31 Detailed: Post Occupation Submission of BREEAM standard very good certificate/statement
  - 32 Detailed: Rating Levels for cumulative noise from all plant and machinery
  - 33 Detailed: Maximum Noise Levels Emanating from Commercial Noise
-

- 
- 34 Detailed: Implement within 3 years (Full)
  - 35 Detailed: Implemented in accordance with Approved Plans
  - 36 Detailed: Pedestrian Bridge Soffit Level
  - 37 Detailed: Finished floor levels for the Wild Works and Custard Factory Living
  - 38 Detailed: Limits the maximum gross floorspace of each single unit within Retail Use Classes A1 to A5 (inclusive) to maximum of 1,050sqm
  - 39 Detailed: No demolition undertaken prior to redevelopment contract being entered into
  - 40 Detailed and Outline: Limits the maximum gross floorspace within Retail Use Class A1 to maximum of 2,500sqm
  - 41 Outline: Reserved Matters Submission of Development Plot and Public Realm Delivery Phasing Plan
  - 42 Outline: Reserved Matters Submission of Build Out Plan showing Amount of Development and Parking Spaces Consented and Completed and a Comparison with Floorspace Schedule
  - 43 Outline: Reserved Matters submission to be accompanied by a completed Design Code Checklist
  - 44 Outline: Reserved Matters Submission of a Further Bat Survey
  - 45 Outline: Reserved Matters Submission of Student Needs Assessment
  - 46 Outline: Reserved Matters submission for A3, A4, A5, C3, D2 and nightclub uses to be accompanied by Noise Assessment including noise mitigation measures
  - 47 Outline: Reserved Matters submission to be accompanied by Vibration Assessment from Railway including mitigation measures
  - 48 Outline: Reserved Matters Submission of Air Quality Assessment Including Necessary Mitigation Measures
  - 49 Outline: Reserved Matters Submission of Updated Energy Statement Including Details of Proposed LZC Energy Generation Installation(s)
  - 50
  - 51 Outline: Reserved Matters Submission of Daylight, Sunlight and Overshadowing Assessment
  - 52 Outline: Reserved Matters Submission of Updated Ecological Appraisal, Mitigation Strategy and Biodiversity Enhancement Plan
  - 53 Outline: Reserved Matters Submission of Proposed Art Strategy
  - 54 Outline: Reserved Matters Submission of Largescale Details of Public Realm for relevant Block
-

- 
- 55 Outline: Reserved Matters Submission of Details of Upper Level Bridges
- 56 Outline: Reserved Matters Submission of Details of Canal Bridge
- 57 Outline: Reserved Matters Submission of Details of Bridge Across River Rea and Viewing Platform (between Barn Street and River Street)
- 58 Outline: Reserved Matters Submission of a structural survey for Development Plots near the River Rea
- 59 Outline: Reserved Matters Submission of details of foundation design of development adjacent to canal
- 60 Outline: Reserved Matters Submission of details of full 3D modelled shading study of canal and towpath
- 61 Outline: Reserved Matters Submission of Flood Risk Assessment and/or Flood/Surface Water Resilience strategy for Development Plots
- 62 Outline: Reserved Matters Submission of hydraulic modelling
- 63 Outline: Reserved Matters Submission of a scheme of maintenance access to the River Rea (Development Plots within 8m of River)
- 64 Outline: Reserved Matters Submission of Signage and Wayfinding Plan
- 65 Outline: Reserved Matters Submission of Sustainable Drainage Scheme
- 66 Outline: Reserved Matters Submission of Details of Viaduct Park
- 67 Outline: Reserved Matters Submission of Details of the Management of Public Access to Viaduct Park
- 68 Outline: Reserved Matters Submission (Development Plot V2A Multi Storey Car Park) of Parking Management Strategy and Details of Transport Hub
- 69 Outline: Reserved Matters Submission of details of how MSCP (Development Plot V2A Multi Storey Car Park) can be re-purposed and closure of MSCP
- 70 Outline: Reserved Matters Submission of Cycle Storage details
- 71 Outline: Reserved Matters Submission of Effect of Buildings Upon Wind speed on Bordesley Viaduct
- 72 Outline: Reserved Matters Submission of Effect of Reflections and glare from buildings on rail signal sighting
- 73 Outline: Reserved Matters Submission of Details of impact upon electronic communications infrastructure associated with the existing railway.
- 74 Outline: Prior to Demolition of a Development Plot Completion of a Supplemental Section 106 Agreement in respect of the associated block
- 75 Outline: Prior to Demolition of a Development Plot Submission of Demolition Method Statement
-

---

76	Outline: Prior to Demolition of a Development Plot Submission of Demolition Ecological Management Plan (DEcMP)
77	Outline: Prior to Demolition of a Development Plot Submission of Demolition Environmental Management Plan (DEMP)
78	Outline: Prior to Demolition with a Development Plot Submission of Demolition Traffic Management Plan (DTMP)
79	Outline: Prior to Commencement of a Development Plot Submission of Construction Ecology Management Plan (CEcMP)
80	Outline: Prior to Commencement of a Development Plot Submission of Construction Environmental Management Plan (CEMP)
81	Outline: Prior to Commencement of a Development Plot Submission of Construction Traffic Management Plan (CTMP)
82	Outline: Prior to Commencement of a Development Plot Submission of Ventilation and Flue Strategy for commercial uses
83	Outline: Prior to Commencement of a Development Plot Submission of a Contamination Remediation Scheme
84	Outline: Prior to the Commencement of Development Plot Submission of a Written Scheme of Investigation (WSI)
85	Outline: Prior to the Commencement of Development Plot Submission of Construction Employment Plan
86	Outline: Prior to the Commencement of Development Plot Submission of materials
87	Outline: Prior to Occupation Submission of a Contaminated Land Verification Report
88	Outline: Prior to Occupation Submission of CCTV Strategy to Public Realm Areas within that Block
89	Outline: Prior to Occupation Submission of Sustainable Drainage Operation and Maintenance Plan
90	Outline: Post Occupation Submission of BREEAM Certification
91	Outline: Prior to Occupation Submission of Landscape and Ecology Management Plan (LEMP)
92	Outline: Requires the submission of reserved matter details (access, appearance, landscaping, layout and scale)
93	Outline: Timing of Submission of Reserved Matters Applications and Implementation (12 years for submission of RM's & implementation before the expiration of two years from the final approval of the RMs)
94	Outline: In accordance with Approved Parameter Plans/Retention Plans/Design Code
95	Outline: In accordance with Floorspace Schedule indicating maximum floorspaces within each Use Class

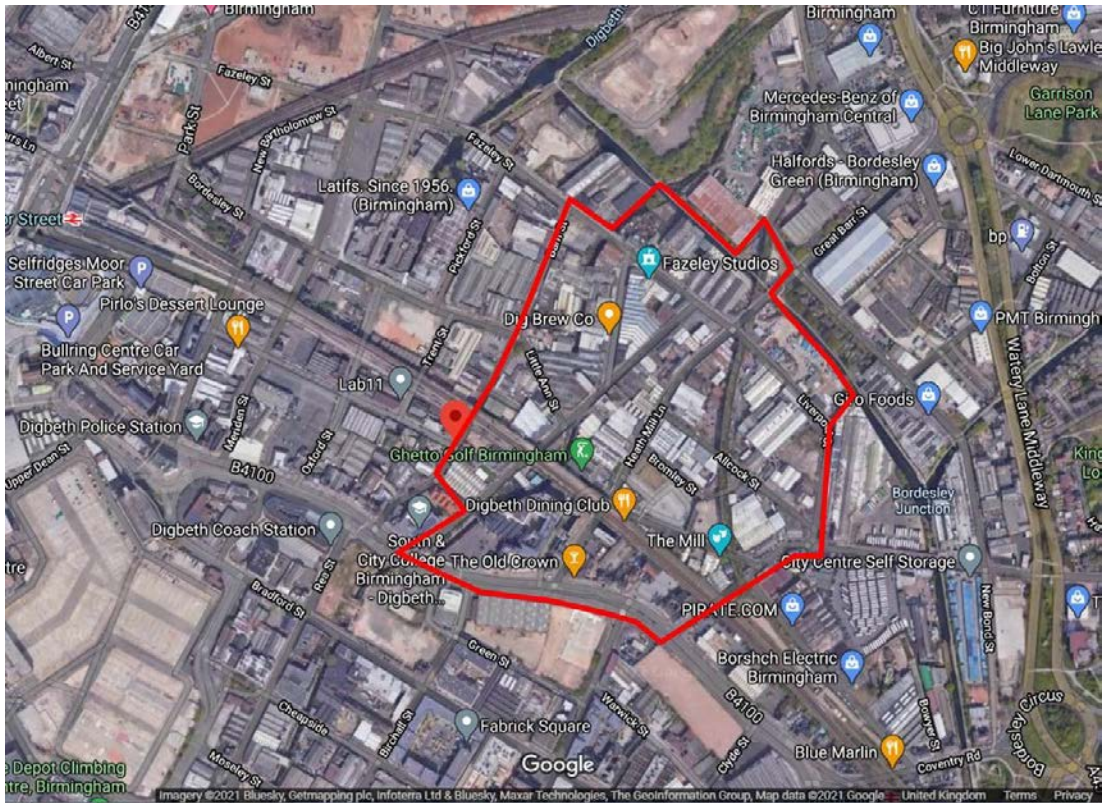
---

- 
- 96 Outline: Submission of Environmental Statement Phasing should there be Unassessed Environmental Effects
  - 97 Detailed and Outline: Limits the maximum gross floorspace within Retail Use Class A1 to maximum of 2,500sqm
  - 98 Outline: Limits the maximum gross floorspace of each single unit within Retail Use Classes A1 to A5 (inclusive) to maximum of 1,050sqm
  - 99 Outline: No demolition approved and no demolition undertaken prior to a redevelopment contract being entered into
- 

Case Officer: Julia Summerfield



## Photo(s)



Proposed Hybrid Application Site



Detailed Site – Wild Works Plot CF1 Floodgate Street with Grade II\* Former Floodgate School in Background



Detailed Site – Custard Factory



Detailed Site – Floodgate Street with Proposed Custard Factory Living (Plot CF2) to right hand side and Bordesley Viaduct in Background



Outline Site – Rea Studios (locally Listed), Floodgate Street/Little Ann Street



Outline Site - The Bond (Locally Listed) / Grand Union Canal



Outline Site – The Arch (Locally Listed), Floodgate Street



Outline Site – St. Basil's Church (Grade II Listed), Heath Mill Lane



Outline Site – Heath Mill Lane  
with Custard Factory in Background



Outline Site – No. 175 High Street Deritend  
With Former Grade II listed Church to right hand side



Outline Site – Liverpool Street  
looking towards junction with Heath Mill Lane

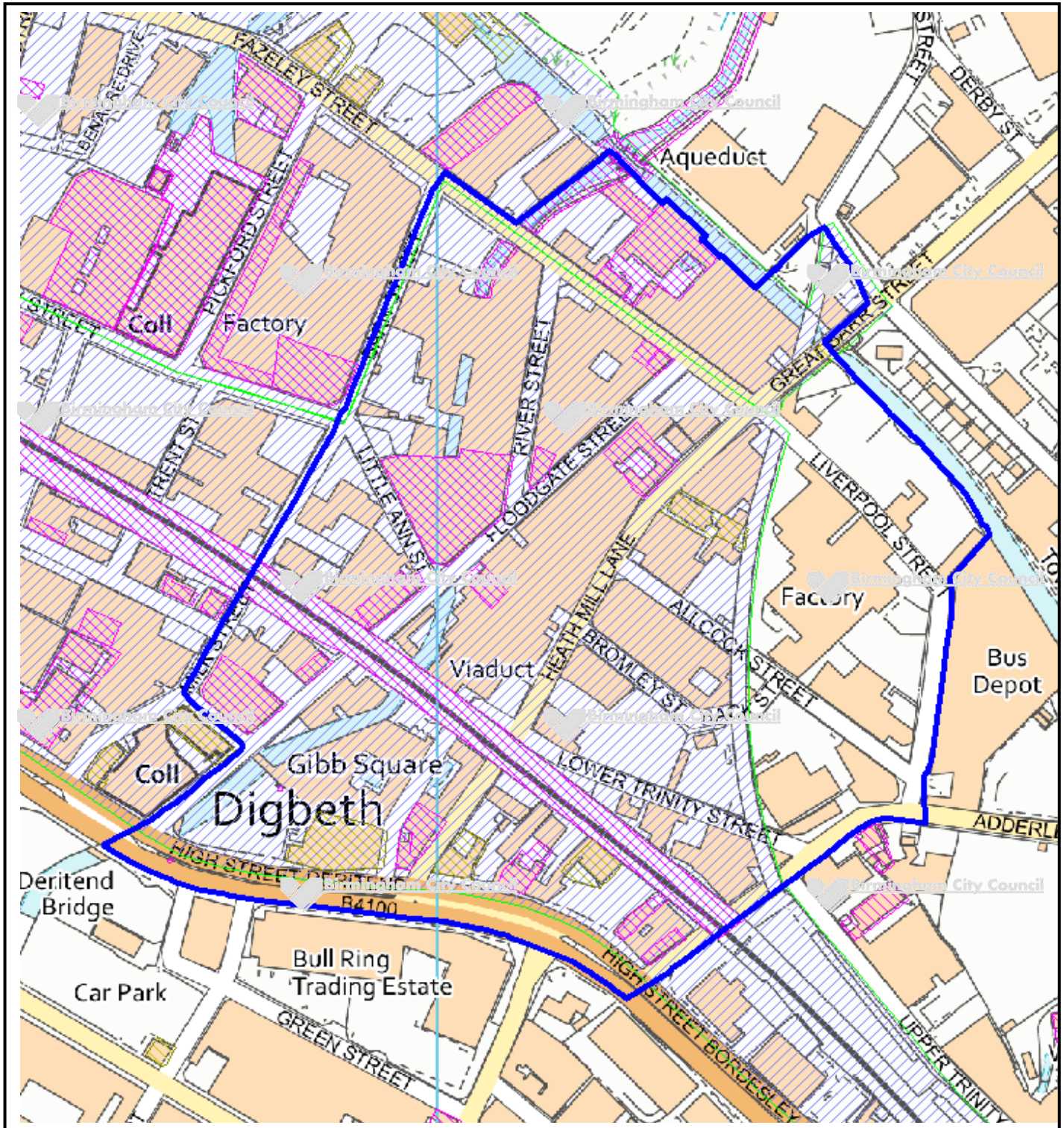


Outline Site – Looking Eastwards Along Lower Trinity Street towards Duddeston Viaduct



Outline Site – Former WJ Wild No.6 Works (Locally Listed),  
River Street/Floodgate Street

## Location Plan



This map is reproduced from the Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Birmingham City Council. Licence No.100021326, 2010