

Birmingham City Council

Planning Committee

22 July 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	6	<p>2020/02906/PA</p> <p>Land at Upper Trinity Street and Adderley Street Digbeth Birmingham</p> <p>Demolition of all existing buildings and structures (excluding the cottage, pump house, canal weir), and phased mixed use development in 9 Blocks ranging from 2 storeys to 32 storeys above ground level of up to 943 dwellings (Use Class C3) of which 13 units are provided for live/work (Use Class Sui Generis) 6,000 square meters gross internal floorspace comprising flexible commercial units covering retail, assembly and leisure, business and non-residential institutional uses (Use Classes A1/A2/A3/A4/A5/B1(a),(b),(c)/D1/D2 and hotel accommodation for up to 133 bedrooms 4,000 square meters gross internal floorspace (Use Class C1), car parking and vehicle access, landscaping and public realm (including public art), roof-top photovoltaic panels and residential amenity areas, drainage, underground services, ground works including changes to land levels, boundary treatment and associated works and development</p>
Approve – Subject to 106 Legal Agreement	7	<p>2021/03783/PA</p> <p>16 Kent Street Birmingham B5 6RD</p> <p>Demolition of existing buildings and redevelopment to provide 116 apartments with a ground floor of 2 commercial units to include Use Classes E(a), E(b), E(c), E(e), E(f) public houses, wine bars, and/or drinking establishments (sui generis) and E(g)(i)</p>

Approve – Temporary
until September 2022

8

2021/03712/PA

Smithfield Birmingham
Upper Dean Street
Birmingham
B5 4RB

The temporary change of use of land and erection of temporary overlay structures at Birmingham Smithfield for the purposes of hosting the 3x3 basketball, 3x3 wheelchair basketball and beach volleyball events for the Birmingham 2022 Commonwealth Games.

Committee Date:	22/07/2021	Application Number:	2020/02906/PA
Accepted:	30/11/2020	Application Type:	Full Planning
Target Date:	31/07/2021		
Ward:	Bordesley & Highgate		

Land at Upper Trinity Street and Adderley Street, Digbeth, Birmingham

Demolition of all existing buildings and structures (excluding the cottage, pump house, canal weir), and phased mixed use development in 9 Blocks ranging from 2 storeys to 32 storeys above ground level of up to 943 dwellings (Use Class C3) of which 13 units are provided for live/work (Use Class Sui Generis) 6,000 square meters gross internal floorspace comprising flexible commercial units covering retail, assembly and leisure, business and non-residential institutional uses (Use Classes A1/A2/A3/A4/A5/B1(a),(b),(c)/D1/D2 and hotel accommodation for up to 133 bedrooms 4,000 square meters gross internal floorspace (Use Class C1), car parking and vehicle access, landscaping and public realm (including public art), roof-top photovoltaic panels and residential amenity areas, drainage, underground services, ground works including changes to land levels, boundary treatment and associated works and development

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

1.1 The application seeks permission for the following mixed-use development

- 6,000 sqm (gross) internal floorspace comprising flexible commercial units covering retail, assembly and leisure, business and non-residential institutional uses (Use Classes A1/A2/A3/A4/A5/B1(a),(b),(c)/D1/D2).
- 4,000 sqm (gross) internal floorspace comprising Class C1 Hotel use that would accommodate 133 bedrooms; and
- 943 residential apartments, including 13 live work units.





- 1.2 The proposals would be accommodated in nine new buildings (A to J) ranging from 2 to 32 storeys in height. A basement below blocks A, B and C would provide 66 parking spaces accessed from Upper Trinity Street.

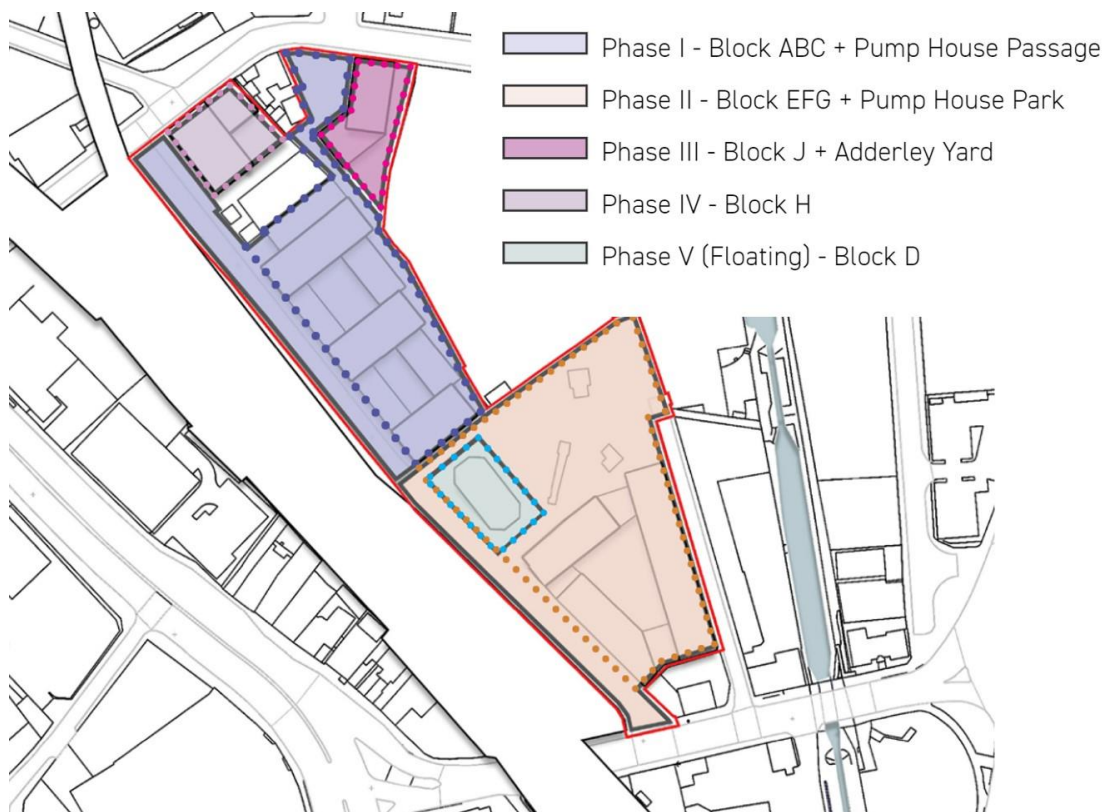


Proposed Site Layout with Blocks A to J and areas of Proposed Public and Private Open Space including the location of the Skypark (outside the application site)

Block	Storeys (including GF, plant & mezzanines)	No. of Apartments	Commercial Floorspace in sqm (GIA)
A	16	151	2,194
B	15	127	1,277
C	15	98	328
D	8	Up to 133 bedrooms	4,000
E	10	67	445
F	7	55	95
G	5-7	87	239
H	32	234	930
J	19	124	492
Total		943	6,000 (excluding hotel)

1.3 The proposed development would provide a series of new spaces including private yards and public thoroughfares plus a new park; Pump House Park. The application site includes the public highway along Upper Trinity Street to allow for environmental enhancements to make this street more pedestrian friendly.

1.4 The proposed phasing of the development is as follows:

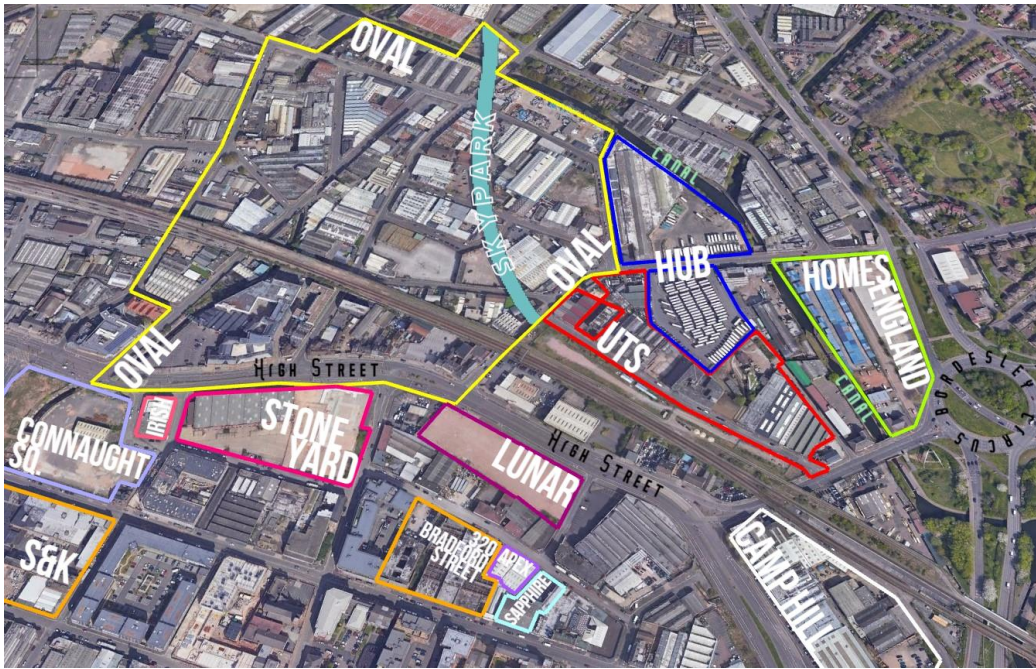


- 1.5 An Environmental Statement (ES) has been submitted pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 to assess the likely significant environmental impacts arising from the wider development during the construction and operational phases of the development. It also identifies any mitigation measures that are required to address these environmental effects.
- 1.6 The topics covered in the ES are Townscape and Views, Built Heritage, Archaeology, Transport and Access, Air Quality, Socio Economics, Wind Microclimate, Daylight, Sunlight and Overshadowing and noise together with the Cumulative Effects of this development plus other developments that have been approved or are being brought forward in close proximity to the site.
- 1.7 The application is accompanied by the following supporting documents:
- Planning Statement (and Addendum);
 - Design and Access Statement (incorporating Landscape and Art Strategy, Waste Strategy, Tall Buildings Report and Cultural Strategy);
 - Retail and Town Centre Uses Statement;
 - Sustainable Construction Statement;
 - Transport Assessment;
 - Draft Framework Travel Plan;
 - Statement of Community Involvement;
 - Energy Strategy;
 - Archaeological Assessment;
 - Surface Water Drainage Strategy;
 - Financial Viability Assessment;
 - Flood Risk Assessment;
 - Noise Assessment;
 - Preliminary Ecology Assessment and Black Redstart Survey;
 - Air Quality Assessment;
 - Ventilation and Pollution Statement;
 - Phase 1 Desk Study;
 - Hotel Demand Report;
 - Lighting Assessment;
 - Employment Land Statement; and
 - Financial Viability Report.

1.1. [Link to Documents](#)

2. Site & Surroundings

- 2.1 The site is approximately 2.07 hectares in area and linear in plan running north west to south east. It is bordered by Upper Trinity Street to the south west, Adderley Street and the National Express Bus park to the north and east and Bowyer Street to the south east. The adjoining surface level bus park forms part of the Bordesley Wharf development approved earlier this year (reference 2020/01796/PA). On the opposite side of Adderley Street is the Oval Estates application covering nearly 19 hectares that received delegated approval subject to a Section 106 Agreement on 27th May 2021 (reference 2020/03634/PA). There are also a number of significant development schemes coming forward within the wider Digbeth area including Connaught Square, the Stone Yard, the Irish Centre and Lunar Rise located on the other side of Digbeth/Deritend High Street.



Aerial Photograph showing location of Application Site (UTS) and surrounding Current Application Sites and Approved Developments

- 2.2 The irregular shape of the site can be attributed to three notable exceptions from the application site; firstly the locally listed Dead Wax pub that fronts Adderley Street, secondly the locally listed electricity substation that fronts Upper Trinity Street and thirdly the grade two listed Clements Arms. The proposed arrangement of Blocks A to J are positioned around these excluded buildings. In addition it is important to note that Duddeston Viaduct which is proposed to be upgraded to form a skypark and has the potential to be accessed from Upper Trinity Street does not form part of this application. The skypark, to be known as Viaduct Park, would be created under the Oval Estates development.
- 2.3 Along the frontage to Upper Trinity Street the site accommodates a number of post-war industrial buildings that range in height from between two to four storeys. The existing buildings provide a total floorspace of approximately 14,000sqm and the occupiers include Quantum Events Space, Mutt Motorcycles showroom, Pirate Recording Studios, Borshe Electrical Showroom, Crown Banqueting Events and UTS Autocentre. Within the site to the rear are several buildings and structures relating to the canal comprising:
- The former Lock Keeper's Cottage;
 - an operational pump house (locally listed);
 - a canal gauging weir;
 - a gas governor scheduled to be decommissioned and removed by 2022; and
 - the archaeological remains of an earlier pump house.



Above: Existing Street Scene to Northern Part of Upper Trinity Street



Above: Existing Street Scene to Southern Part of Upper Trinity Street

2.4 The opposite side of Upper Trinity Street also marks the boundary to the Digbeth, Deritend and Bordesley High Streets Conservation Area. Therefore the application site is adjacent to but outside of the Conservation Area. There are also several historic buildings that are adjacent to but are outside of the site boundary, comprising and as mentioned above:

- the Grade II listed (former) Clements Arms Public House, on the southern corner of Upper Trinity Street;
- the locally listed Dead Wax Public House on Adderley Street (formerly called the Waggon and Horses public house);
- the locally listed Electricity Substation on Upper Trinity Street;
- the locally listed No.97 Coventry Road (Bordesley House);
- the locally listed Coventry Road Canal Bridge; and
- the locally listed Bordesley Viaduct.



Junction of Upper Trinity Street and Coventry Road
with Clement Arms in Foreground

2.5 The Grand Union Canal is located approximately 40m to the east of the site. A new tram stop is proposed on Adderley Street that will form part of the East Birmingham to Solihull metro extension route.

3. Planning History (since 2000)

3.1 7 Upper Trinity Street: Demolition of Outbuilding and erection of fence and gates. Approved 26/05/2000;

- 3.2 77 Upper Trinity Street: 2005/00612/PA – Metal Platform to existing escape stairs Approved 24/03/2005;
- 3.3 Land Adjacent Bowyer Street Pumping Station – Brick telecommunications buildings Approved 22/09/2000
- 3.4 35 Adderley Street – Change of Use of GF (B8) to private hire taxi office (sui generis) and installation of new shopfront Approved 14/06/2018
- 3.5 Whole of Application site - Environmental Impact Assessment, Request for Scoping Opinion, under Part 4, Regulation 15(1) of the Town and Country Planning (Environmental Impact Assessment) Regulations of 2017 (EIA Regulations). Response dated 25/02/2020

Sites Located Nearby Referred to in Report

- 3.6 Bordesley Wharf – 2020/01976/PA - Full Application for the phased demolition of existing buildings and development of 214 no. residential apartments (Use Class C3) and retail (Use Classes A1/ A2), food and drink (Use Classes A3/A4/A5), office (Use Class B1), leisure (Use Class D2) and community and cultural uses (Use Class D1); Outline Application for the phased development of Plots 2 to 6 comprising up to a maximum of 1,250 residential homes (Use Class C3), up to 450 co-living homes (Sui Generis) and up to 950 student accommodation apartments (Sui Generis) with retail (Use Classes A1/A2) food and drink (Use Classes A3/A4/A5), office (Use Class B1), leisure (Use Class D2) and community and cultural (Use Class D1) uses; within buildings varying in heights up to 190.0m AOD; parking, public realm and ancillary facilitating associated works. Approved 24/03/2021
- 3.7 Oval Estates – 2020/03634/PA - 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 and construction of a mixed use development ranging from 1 to 9 storeys (Use Classes B1, A1 to A3) and associated public realm; 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). Received delegated authority to approve subject to signing a S106 Agreement 27/05/20217

- 3.8 Lunar Rise – 2017/07207/PA - Demolition of existing buildings and the development of 517 residential apartments (including a 25 storey tower) with commercial units (Class A1-A5 and Class D2) at ground floor level and parking. Approved 21/02/2018
- 3.9 Connaught Square - 2016/08273/PA - Clearance of site and the erection of new buildings ranging from 4 storeys to 28 storeys to provide 770 residential units and 3,529sqm of commercial/retail/leisure and community uses (Use Classes A1, A2, A3, A4, B1, D1 and D2) together with car parking, new public square and pedestrian bridges over the River Rea, landscaping, engineering operations and site clearance and associated works. Resolution 18 July 2019 to grant planning consent subject to a legal agreement.
- 3.10 Bull Ring Trading Estate / The Stone Yard - 2019/07805/PA - Full planning application for the demolition of all building and the erection of 7no. 6 - 30 storey buildings comprising 995 residential apartments (Use Class C3) and associated internal amenity space, flexible amenity and retail / leisure floorspace (Amenity / Use Class E, Use Class F1, Use Class F2 and Sui Generis Pub or drinking establishment, hot food take away and cinema), car parking, cycle parking, landscaping and access. Approved - 8/09/2020
- 3.11 Irish Club - Minstrel Music, 14-20 High Street, Digbeth - 2020/05247/PA - Full planning application for demolition of The Irish Centre at 14-20 High Street and the erection of 1no. 48 storey building providing 454 new residential apartments (Use Class C3), associated internal amenity space and ancillary cycle parking. Approved 01/03/2021
- 3.12 193 Camp Hill – 2018/09467/PA - Redevelopment to provide 480 homes, a hotel (Use Class C1), and flexible business/commercial units (Classes A1, A2, A3, B1, B2, B8 and D1), together with car parking, landscaping and associated works, including an energy centre to provide for combined heat and power and plant to serve the development. Appeal Allowed 08/03/2021

4 Consultation/PP Responses

- 4.1 BCC Transportation - No objection subject to conditions:
- submission and completion of works for the S278/TRO Agreement;
 - submission of details of a delivery vehicle management scheme;
 - submission of cycle storage details in a phased manner;
 - requires the parking area to be laid out prior to use ; and
 - submission of a Demolition and Construction Management Plan.
- 4.2 Local Lead Flood Authority - No objection subject to conditions:
- submission of a surface water drainage scheme for the site, based on sustainable drainage principles; and
 - submission of a Sustainable Drainage Operation and Maintenance Plan.
- 4.3 Regulatory Services – (latest comments) The colour coded façade drawings within the ES Addendum show that a significant number of dwellings would be affected to different degrees by audible music noise. The noise hierarchy has been considered by the applicant, and they have come to the conclusion options such as mitigation at

source are not viable for this scheme. The conclusion reached is music noise, particularly low frequency noise, will only be inaudible when windows are closed. Ventilation would be provided by MVHR. Regulatory Services are unable to support a development that would rely on windows of an appropriate glazing standard being closed or sealed. The development is to be phased. Whilst it is possible the sources of entertainment noise will change prior to the construction of later phases, Regulatory Services officers must make a recommendation based on the current situation. Whilst a certain standard of acoustic glazing and ventilation may address audible entertainment noise when closed, the future residents would be subject to audible entertainment noise with windows open. Unless the windows of habitable rooms affected by audible music noise are sealed future residents would be able to open the windows and would likely be subjected to a statutory noise nuisance. Regulatory Services find sealed windows to be unacceptable and as such we object to this application.

- 4.4 Metro Alliance - There are plans for a future extension of the West Midlands Metro network through East Birmingham to North Solihull (the EBS extension) that runs along Adderley Street with a tram stop proposed in the vicinity of this development. Therefore ask that the developers are asked to consult with West Midlands Metro to ensure that both schemes can be designed and constructed so as to achieve the maximum possible mutual benefit to both projects.
- 4.5 Severn Trent Water - No objection subject to conditions to require drainage plans for the disposal of foul and surface water flow and to require that the agreed scheme is implemented prior to occupation.
- 4.6 Victorian Society - The application site is close to a number of historic buildings which date or have significant work from our period of interest (1837-1915), particularly the former Clement Arms (grade II), Bordesley House (locally listed grade B), former Wagon and Horses Public House (locally listed grade A), and Bordesley Viaduct (locally listed grade B). Pleased to note the retention of the canal cottage, pump house, canal weir and gas governors. Would not object to the sensitive redevelopment of this site but consider that the proposed development of buildings of up to 32 storeys is of a large scale and massing that is inappropriate in this historic suburb, where currently most buildings are of less than 4 storeys. Believe that this proposed development will also have a negative impact on the setting, character and appearance of the retained historic buildings as well as the listed and locally listed buildings in the immediate vicinity, particularly the grade II listed former Clement Arms and the locally listed former Wagon and Horses public house. Also believe that these proposals, together with other similarly large scale developments proposed in the area will have a negative impact on the character and appearance of the two conservation areas, and indeed will have a dominating and negative impact on views of heritage assets in the conservation area, notably the grade II listed Devonshire Works and former Chapel building on Deritend. These proposals represent a substantial and inappropriate over-development of this site, and therefore object to this application as it is currently presented.
- 4.7 Fire Service – Need to adhere to requirements of Part B of Schedule 1 of the Building Regulations 2010.

- 4.8 Network Rail - Network Rail (NR) own freehold land on the opposite side of Upper Trinity Street. Whilst this lies outside of the planning application boundary, the proposed development proposals outlined in the application do affect NR's land. Notwithstanding this wider concern about the Skypark proposals, NR has no objection in principle to the current application, subject to a number of asset protection measures that will need to be adhered to through the Basic Asset Protection Agreement (BAPA) process. 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. The developer will be liable for all costs incurred by Network Rail in facilitating this proposal, including any railway site safety costs, possession costs, asset protection costs / presence, site visits, review and agreement of proposal documents and any buried services searches. The BAPA will be in addition to any planning consent.
- 4.9 West Midlands Rail Executive (WMRE) & Transport for West Midlands (TfWM) – (original Comments) Formal Objection. The application could have a detrimental impact on the delivery of the Midlands Rail Hub scheme. There are two elements of the Midlands Rail Hub which could potentially be adversely impacted by this proposed development. (1) the “Bordesley North East Chord”, which will connect the rail lines out of Birmingham Moor Street Station with the Camp Hill Line near St Andrews Junction. Bordesley North East Chord is a core element of the Midlands Rail Hub project, without which the scheme could not be delivered. Unfortunately, at the current time it is not possible to determine, with sufficient certainty, what the final alignment of the proposed “Bordesley North East” railway chord element of the Midlands Rail Hub scheme will be. (2) The widening of the existing Bordesley Viaduct between Moor Street and Bordesley stations to provide more railway tracks.
- 4.10 There is less certainty regarding the requirement for this potential element of the Midlands Rail Hub scheme, the need for which will hopefully be determined by the next phase of project development work. Given the close proximity of this proposed development to the existing rail alignment there is a reasonable probability that any development in this location could jeopardise the deliverability of the long-standing Midlands Rail Hub rail network enhancement proposals. WMRE and TfWM are therefore commissioning independent engineering advice on the potential impacts of this and any other potential development schemes in this area on the deliverability of the proposed railway chords at Bordesley.
- 4.11 In the interim, however, we would request that:
- (a) as a minimum, the council seeks Network Rail's view on the potential impact of this planning application on the delivery of the Bordesley North East Chord element of the Midlands Rail Hub scheme; and
 - (b) any decision to award planning permission to this development be deferred until after the final alignment for the North East Chord and any associated widening of the existing Bordesley Viaduct has been formally approved by Network Rail, the Planning Authority and the Department for Transport.

- 4.12 (Later Comments – pre submission of Bordesley North West Chord Study Summary Report by Arup on behalf of the applicants). Network Rail has indicated that whilst work on Midlands Rail Hub is ongoing, they are still a couple of years away from being in a position to provide more definitive information on the physical extent of the proposed Midlands Rail Hub works. Given the close proximity of this proposed development to the existing rail alignment there is some probability that this could jeopardise the deliverability of the long-standing Midlands Rail Hub rail network enhancement proposals. Note that in respect of this specific planning application, our principal concern relates to the proposed building in the extreme south east corner of the development site which would be closest to a potential Bordesley North West Chord alignment. This building would be a particular concern if the future North West Chord alignment needed to accommodate the retention of the existing Bordesley Station. The second issue of needing to potentially widen Bordesley Viaduct as part of the Midlands Rail Hub scheme would appear to be of lessor importance in respect of this specific planning application. This is due to the fact that the Bordesley Viaduct in this location is already significantly wider than other sections of the viaduct structure. (Officer Comment - No comments have been received post submission of Bordesley North West Chord Study Summary Report by Arup).
- 4.13 Cadent Gas - Best practice guidance states that no habitable buildings should be constructed within 3m of the Building Proximity Distance of our high and intermediate pressure pipelines. However, you should consult with the Health and Safety Executive (HSE), who may specify a greater distance for particular developments and will also be able to provide further general guidance. Due to the presence of cadent and/or national grid apparatus in proximity to the specified area, the contractor should contact plant protection before any works are carried out to ensure the apparatus is not affected by any of the proposed works. The apparatus comprises high or intermediate pressure (above 2 bar) gas pipelines and associated equipment; low or medium pressure (below 2 bar) gas pipes and associated equipment (as a result it is highly likely that there are gas services and associated apparatus in the vicinity).
- 4.14 HSE – this particular application does not fall within any HSE consultation zones. There is therefore no need to consult HSE on this planning application and HSE's Land Use Planning advice team has no comment to make
- 4.15 BCC Employment Team – Request to include requirement for submission of construction employment plan within the planning approval for this development. This could be achieved either by planning condition or within the S106 Agreement.
- 4.16 Police - Calls to the service are high. Within the area there have been 44 recorded crimes including 18 vehicle crimes, 5 burglaries, 5 robberies, 2 assaults and 2 drugs offences.
- 4.17 Block A - Ideally cycle storage and refuse collection points should not be shared as this can result in a lack of ownership. With outdoor amenity space on both level one and five attention is drawn to the document titled Preventing suicides in public places : A practice resource (2015).
- 4.18 Block C – How will access to the basement parking off Upper Trinity Street be controlled?

- 4.19 Block D and Pump House Park - Eastside Park established in 2016, is a similar site. The site has caused numerous problems for the Police since it was created, including gang related incidents, drugs offences and robberies. Eastside Park, was subject of a planning condition 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 and we do not want this to be replicated at this site. Ask that a management and maintenance plan for trees and shrubbery for this development, is subject of a planning condition. Seating and street furniture should be of a robust nature to prevent vandalism and being used in an anti-social manner. A substantial CCTV and lighting scheme should also be subject of a planning condition.
- 4.20 Block E - has vehicular access via Upper Trinity Street for refuse collection and hotel drop off only. How will this restricted access be 'policed' to prevent unauthorised vehicles?
- 4.21 Other Recommendations and Queries:
- How will post/deliveries be accepted into the various blocks within this site? Is there a post-room and/or a concierge service that will take delivery of letters/parcels?
 - A robust access control system should be fitted at the communal entrance of each block. This should also further restrict access within each Block and between Blocks;
 - Ask that a lighting scheme is subject of a planning condition.
 - Regulation 3 of the Building regulations 2010 (2015 edition) will place an obligation on the applicant to conform to the standards set out in Approved Document Q – Security –Dwellings.
 - What measures have been put in place to ensure there will be sufficient 4G coverage for emergency radio contact to be upheld?
 - 7% parking ratio does seem a little low. Will parking be allocated (presumably at a premium) or on an ad-hoc basis?
 - Ask that a suitable boundary treatment is installed around any accessible roof terrace area to adequately prevent accidental falls over the boundary or intentional attempts to self-harm. Any furniture that is installed on the roof should be suitably located so it cannot be used as a climbing aid to scale the boundary and be secured in such a way that it cannot be moved to a location where it could be used as a climbing aid. Recommend that all of the roof areas are covered by CCTV cameras and monitored. Suitable signage should be installed on the roof and on all of the approaches to it, offering advice support and signposting anyone considering self-harm.
- 4.22 Sport England - The occupiers of new development especially residential will generate demand for sporting provision. The existing provision within an area may not be able to accommodate this increased demand without exacerbating existing and/or predicted future deficiencies. Therefore, Sport England considers that new developments should contribute towards meeting the demand that they generate through the provision of on-site facilities and/or providing additional capacity off-site. The level and nature of any provision should be informed by a robust evidence base such as an up to date Sports Facilities Strategy, Playing Pitch Strategy or other relevant needs assessment.

- 4.23 The proposed development would generate a proposed population of approximately 1577 additional residents creating additional demand for sports facilities. If this demand is not adequately met then it may place additional pressure on existing sports facilities, thereby creating deficiencies in facility provision. In accordance with the NPPF Sport England seeks to ensure that the development meets any new sports facility needs arising as a result of the development.
- 4.24 The Sports Facilities Calculator (SFC) indicates that a population of 1577 in this local authority area will generate a demand for sports halls and swimming pools. The closest swimming pools are at Icknield Port Loop and Aston University. These pools are unlikely to be able to absorb additional demand generated by this development. The nearest sports hall is at Aston University, and is operating at 100% capacity and so this site is unlikely to be able to absorb the demand generated by the proposed development.
- 4.25 Sport England have developed a Playing Pitch Calculator which can be used to calculate projected demand for playing pitches. For the proposed development, this would potentially generate demand for 0.55 grass pitches at a capital cost of £77,985 together with an appropriate maintenance contribution (suggested to be £10,877 per annum for 15 years), and 0.76 changing rooms at a capital cost of £121,774 to provide a total playing pitch contribution of £362,914. There is unlikely to be capacity in existing provision to absorb the demand generated by the development. Sport England would therefore support the Council in investing a Section 106 contribution in a locally identified priority(s), in accordance with the Playing Pitch Strategy as this would help address such shortfalls of provision across the City along with identified issues of pitch quality and a need for better quality ancillary provision.
- 4.26 Sport England, in conjunction with Public Health England, has produced 'Active Design' (October 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 guidance sets out ten key principles for ensuring new developments incorporate opportunities for people to take part in sport and physical activity. The Active Design principles are aimed at contributing towards the Government's desire for the planning system to promote healthy communities through good urban design. Sport England would commend the use of the guidance in the master planning process for new residential developments. Sport England has assessed the proposed development in accordance with 'Active Design'.
- 4.27 The site offers several opportunities for the provision of outside space for physical activity which are welcomed, notably Pump House Park and Adderley Yard. These spaces should be large enough to cater for pop-up exercise activities such as outdoor yoga and Tai-Chi. Choice of materials, lighting, street furniture etc will be important to accommodate as broad a range of activities as possible. Nonetheless, being high density development in the City Centre, residents will also need to access facilities off-site for sport and recreation activities. The development should be provided with high quality cycle facilities including secure cycle storage and cycle parking in accordance with the City's parking guidelines to maximise the benefits of the City Centre location, and in particular connectivity to bus and rail services, including HS2. There may be opportunities to enhance accessibility to existing open space via improvements to wayfinding and other public realm enhancements. In

particular, given the proximity to the canal the proposal would provide a significant opportunity to secure investment to improve the quality of this network for walking and cycling.

- 4.28 Civic Society – (previous comments) We have recently seen a number of proposals made for Digbeth, some of which (such as that by Oval Real Estates and to a slightly lesser extent, Digbeth Bus Station) have very successfully captured and expressed the essence of Digbeth in new buildings. The scheme has undergone development since submission, and perhaps with the benefit of a presentation to us, its qualities and response to context, particularly to the Viaduct are more apparent. The applicants explained in greater detail the process that had been undertaken, working with adjacent landowners to target areas which might have greater capacity for change, with the overall aim of reducing impacts on those parts of Digbeth which are within conservation areas. We agreed this was a laudable approach, although it is difficult to understand how this could be formally tested, but if this is the case, certainly something the LPA's officers are better placed to assess, we agree it does offer a mitigation for the scale and density of this application.
- 4.29 We discussed the prevalence of new tall buildings along Digbeth High Street which have been recently proposed. Overall, we do not agree that buildings of such heights are appropriate, and do not consider that this future context offers sufficient mitigation for height here. The massing has been reduced during the pre-application consultation and looks less packed; the effort to produce buildings with differing colours, splayed reveals and differing heights is welcome. The effort to enhance the public realm and retain locally listed properties is also welcome. The site is however extremely dense with limited amenities, particularly green spaces for residents, which will be necessary in this presently inhospitable area of the city.
- 4.30 We feel that the scale of the buildings proposed may create a rather anonymous feel to the area with the creation of a community spirit difficult. More effort to retain and repurpose existing buildings may alleviate this. We discussed and were pleased to hear proposals for the Victorian coal fired pumphouse and chimney. We note the introduction of higher quality landscaping, and refinement of detailing to new buildings. The view from Digbeth High Street, encompassing the Custard Factory demonstrates the impact of this development in terms of its height; reinforcing the negative precedent for tall buildings to advance along the railway line, out of scale with their surroundings.
- 4.31 Providing 66 parking spaces is inadequate.
- 4.32 There is a significant lack of infrastructure including shops, schools and health services in this area at present and difficult to see where they can be built if/once funds are allocated.
- 4.33 Can any more information be provided on the potential re-purposing of the Lock Keeper's Cottage for community use, or is this heritage asset at risk of demolition?
- 4.34 (Most recent comments) The lack of any affordable provision, especially in this part of the city risks a very clear process of gentrification. It is believed there needs to be a clear commitment to providing affordable commercial spaces as suggested in the viability assessment, not just exploration of the option. A better commitment needs to

be prepared. BCC does not have affordable commercial space policy, so the development could lead on that and earn some good faith with the community that Digbeth supports precisely for that purpose.

- 4.35 Canal and Rivers Trust (CRT) – (original comments) Continued Operation of Canal Network and retention of its structural integrity - Advise conditions and a legal agreement. The Bowyer Street pumping station is a working part of the canal network. It is therefore imperative that these operational assets remain protected, accessible and operational at all times. The principles should be captured through the planning process, in order that the wider canal network is not prejudiced by this development. The pumping station may need to be included within a CEMP condition to protect the feeder channel and its inspection/construction shafts from being damaged.
- 4.36 Heritage — The pumping station site includes a number of non-designated heritage assets and a quantity of historic fabric that deserves protection and the retention and celebration of the social and industrial heritage of this part of the City shown in the public realm proposals for this development are welcomed in principle.
- 4.37 Drainage and Water quality – The drainage strategy should protect the canal water environment. It should be designed so that there are no concerns of pollution or accidental discharge to the canal or the feeder channel. Ask that details be required by condition. Note a phase 1 contamination survey has been undertaken and request a phase 2 investigation by condition.
- 4.38 Biodiversity – The proposed planting is resilient and diverse and is welcomed along with the inclusion of orchard trees. The design should incorporate opportunities for nesting places for Black Redstarts which should be secured via a condition. External light spill should not affect the canal corridor to protect its use by nocturnal species.
- 4.39 Impact on canal users – The development is at a sufficient distance not to have an overbearing visual impact or have any detrimental shading effect on the canal. The visual, social and historic links between the site, especially Pump House Park and the canal network is welcomed.
- 4.40 Phasing – Welcome delivery of Pump House Park in phase 2 and not towards the end of the development. Also note that the hotel development phasing is unclear. Therefore ask that sufficient controls are put in place via a condition to ensure that the boundary of the park/Block D is suitably treated and secured and allows for access of the park. It would be unfortunate if the park became landlocked.
- 4.41 Connectivity – The canal provides an ideal off road sustainable travel route for commuting as well as for city workers. Secure cycle parking should be provided. The benefits of the canal network should be publicised, and details should be included in travel plans. This should be secured via a travel plan condition. It is important that wayfinding and signage is provided within the public realm and request a condition to require a wayfinding and signage strategy.
- 4.42 Planning Obligations – Policies TP7, TP8, TP9 and TP45 of the BDP seek to ensure that all residents have access to and use of open space and amenity provision and the canal provides this. The benefits of the canal network are hugely significant, and

it is important that access to the towpath is provided. Consider that the development warrants a requirement to investigate and provide, or at least contribute towards, a new access point onto the towpath at Adderley Street. This meets the requirements of the CIL tests. This could be linked to Phase 1 that contains residences nearest to Adderley Street. The wayfinding strategy should also include some improvements to the access off Coventry Road. It is likely that clauses in the planning obligation would be required to achieve and deliver these works.

- 4.43 (later comments) Drainage - Concerns that surface water drainage into a culvert that later fed into the canal network could result in untraceable pollution reaching the canal. We also note that some of the arrangements are close to existing recording/monitoring equipment installed and maintained by the Trust for water management purposes, and it is important that these are protected and remain fit for purpose. Request drainage condition.
- 4.44 Biodiversity - The Black Redstart survey makes recommendations such as for the provision of bird boxes, and we ask that these recommendations be requirements of any permission.
- 4.45 Connectivity - We wish to ensure that our requests relating to connectivity and sustainable travel made in our previous response are fully considered and pursued and consider that they fit with both the existing Development Plan Documents for the city, and also emerging guidance such as the Birmingham Design Guide and the Future City Plan. Whilst these are yet to be fully approved, their vision and direction indicates that this is an important matter for the city and should be a significant consideration when determining planning applications.
- 4.46 Birmingham Airport Limited - Use of Cranes. The proposals have been examined with respect to aerodrome safeguarding and have been found to be acceptable in physical safeguarding terms however the proposed development may require the use of cranes during construction which could result in infringements of the obstacle limitation surfaces (OLS) established for Birmingham Airport or published Instrument Flight Procedures (IFPs). This is due to the height of the proposed development and the ground levels at the site. The developer should be aware of the crane approval process when operating in the vicinity of the airport. Bird Hazard. Internationally accepted safeguarding area with reference to bird hazards is defined by ICAO as a 13km radius around the aerodrome. The proposed development falls within this area. With the introduction of new buildings this has the potential to provide additional habitat for high-risk species such as gulls. It is necessary to manage the development's roofs in order to minimise its attractiveness to birds which could endanger the safe movement of aircraft and the operation of Birmingham Airport. This can be achieved by producing a Bird Hazard Management Plan. The Bird Hazard Management Plan must ensure that flat/shallow pitched roofs be constructed to allow access to all areas by foot using permanent fixed access stairs ladders or similar. The owner/occupier must not allow gulls, to nest, roost or loaf on the building. Gull activity must be monitored, and the roof checked regularly to ensure that gulls do not utilise the roof. Any gulls found nesting, roosting or loafing must be dispersed by the owner/occupier when detected or when requested by Birmingham Airport staff. In some instances, it may be necessary to contact Birmingham Airport Airfield Duty Manager before bird dispersal takes place. The owner/occupier must

remove any nests or eggs found on the roof. The breeding season for gulls typically runs from March to June. The owner/occupier must obtain the appropriate licences where applicable from Natural England before the removal of nests and eggs. Therefore, Birmingham Airport requests that a Bird Hazard Management Plan be agreed by the developer with Birmingham Airport prior to the commencement of construction.

- 4.47 Environment Agency – No objections. The site is located on solid geology of the Sidmouth Mudstone Formation, which is a Secondary B Aquifer. Superficial Glaciofluvial deposits are also indicated for part of the site, designated a Secondary A Aquifer. The nearest watercourse is the Grand Union Canal. This site has an extensive industrial history which includes metal works, an electricity substation, a garage and the presence of tanks. These former land uses may have given rise to the potential presence of contamination and the conceptual model identifies these to represent a potentially low to moderate risk of contamination to the underlying Secondary A and B Aquifers. The report recommends a Phase 2 intrusive ground investigation. Request submission of remediation strategy to deal with risks associated with the contamination of the site.
- 4.48 Historic England - Concerns regarding the impact of this large scale development and resulting high level of harm caused to the significance of two conservation areas, multiple listed buildings and locally listed buildings through development in their settings. The development exacerbates the cumulative impact of a growing number of out-of-scale buildings within the setting of two conservation areas.
- 4.49 The application site lies within close proximity to the Warwick and Birmingham Canal occupying a large area south east of the Digbeth, Deritend and Bordesley High Street Conservation Area and the Warwick Bar Conservation Area. The site developed substantially from the late 18th century and was typically characterised by number of successive industries relating to the metalwork trades. This continued into the 19th century where Upper Trinity Street appears to have contained a large number of back-to-back workers' housing, and a Bedstead Works adjacent to the Birmingham Corporation Gas Works. The site itself contains surviving historic structures that emphasise the canal's vital role in enabling the growth of industry in this area, notably the former water pumping station (locally listed) and Lock Keeper's Cottage at the end of Bowyer Street. Immediately adjacent to the application site are a number of designated and non-designated heritage assets, including: the locally listed Moor Street viaduct and the incomplete Duddeston viaduct, the Grade II listed Clements Arms, locally listed Bordesley House (46 Coventry Road), Locally Listed Wagon & Horses, (28 Adderley Street), and the locally listed Birmingham Electricity Supply Station.
- 4.50 These multiple heritage assets within and around the site provides a varied townscape that contributes to the wider understanding of Digbeth and its growth from the medieval period, through the industrial revolution, and into the 20th century. The site provides the immediate backdrop to the two conservation areas, to multiple listed buildings, and to one of Birmingham's oldest principal routes into the settlement. 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).

- 4.51 With the site's large area, its varied industrial history and relationship to neighbouring heritage assets in mind, we would draw your attention to the statutory duties of the local authority set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and the requirements of sections 12 and 16 of the NPPF. The NPPF calls for local authorities to look for opportunities for new development within the setting of heritage assets to enhance or better reveal their significance it also calls for achieving well-designed places, ensuring that developments are sympathetic to local character and history.
- 4.52 The retention of the Lock Keeper's Cottage, the weir, and the locally listed Pump House is welcomed. The creation of Pump House Park does present a positive opportunity to better reveal the significance of the area and the role of its former canal structures, with links made to with Birmingham's Boulton and Watt engines. However, for this to successfully achieve heritage benefits it needs to be based on a thorough understanding of the structures that stood here in order to be a meaningful and accurate representation of the area's past, rather than a loose interpretation of a former industrial building. We would strongly advocate links being made with Birmingham's Archive and Museum Services in the development and realisation of this part of the application, and consultation with your expert archaeological adviser.
- 4.53 HE has no objection to the principle of redevelopment here which offers a welcome opportunity to enhance the area's relationship to the canal and celebrate the area's industrial heritage in the setting of the Digbeth and Warwick Bar Conservation Areas. Unfortunately the present scheme appears far from achieving this however. The application seeks multiple excessively tall buildings of up to 32 storeys. We feel that this will exacerbate the cumulative impact of a growing number of out-of-scale buildings within the setting of the Digbeth and Warwick Bar Conservation Areas, introducing a colossal scale more suited to the city centre far out into what is a low-scale industrial suburb.
- 4.54 This impact is thrown into sharp relief in views provided from High Street Deritend which shows the development standing over and dominating the historic street frontages along this historic principal route into the city. Images presented show just how overwhelming the development would be, causing harm to multiple listed buildings including: the Grade II listed Devonshire Works (former Birds Custard Factory), diminishing the architectural presence of the Grade II listed former church's decorative campanile, and to the Grade II* Old Crown, hailed as Birmingham's only complete surviving medieval building. Given the development's height and proximity we fear that a similar impact will be experienced from a number of additional places within the two conservation areas.
- 4.55 In addition, the development will have a considerable impact on the immediate setting of those historic buildings which are adjacent to or surrounded by the development site: notably the Grade II listed Clements Arms, locally listed Wagon & Horses (Dead Wax), locally listed Electricity Supply Station, and locally listed Bordesley House. All of these heritage assets contribute to the streetscene and the wider understanding of the area's history and development, its industry, its working communities and civic infrastructure. We do not feel that introducing tower blocks of such height and design adjacent to these historic buildings is a welcome juxtaposition but rather an unsuitable and inappropriate approach to developing the site.

- 4.56 Digbeth's unique character and appearance is well-regarded and celebrated. The area has received a great deal of attention in the past few years for its close proximity to the new HS2 Curzon Station and for fears of the potential loss of character as a result of high development pressures. These issues were examined by Historic England's Urban Panel (now Historic Places Panel) during their visit to Digbeth in 2016. The panel's recommendations highlighted the importance of safeguarding Digbeth's unique qualities in all future planning decisions, calling for a strategic approach to development through specific planning policies rather than by developer-led proposals. We fear that this current application may present a missed opportunity to achieve this in the wider Digbeth area and setting of the conservation areas.
- 4.57 The proposals will cause a high level of harm to the significance of two conservation areas, multiple listed buildings and multiple locally listed buildings through development in their settings. We would categorise this as being at the upper end of less-than-substantial, as referred to in the NPPF. We urge the City Council and the applicants to explore ways of developing this site without causing such irreparable harm to the area's heritage. We feel that the scheme would need to be significantly reduced in height and scale to address the impact on the historic environment.
- 4.58 Historic England has concerns regarding the application on heritage grounds. The Local Planning Authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice.
- 4.59 BCC Leisure Services - No objections. In accordance with BDP policy, the residential parts of this development should be liable for an off-site Public Open Space (POS) and play area contribution and will be based on the requirement to provide 2 hectares per thousand of population generated. Rather than S106 contributions being directed towards public realm or other sources we would argue that given the significant number of people generated by this and other developments within Southside a share of the contributions should be allocated off site towards provision, improvement and or maintenance of POS within the Bordesley and Highgate Ward which has an under provision against the 2ha per thousand population target in the BDP. We do not accept that any of the internal public realm spaces to be created as part of the scheme would not be suitable for siting of any meaningful POS and play elements and therefore should not be taken into account in any off site contribution. The total contribution would be £1,900,575. This would be spent on the provision, improvement and/or biodiversity enhancement of public open space and play, and the maintenance thereof at the adjacent Garrison Lane and Kingston Hill Parks within the Bordesley and Highgate Ward or other wider priorities identified within the Bordesley Open Space Strategy.
- 4.60 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 to be Nursery £46,195.09, Primary £1,188,453.43, Secondary £863,499.63 = Total £2,098,148.14
- 4.60 Design Review Panel – (summary of minutes of meeting on 5th February 2020). Demonstrates a clear understanding of the aspirations of the Curzon Masterplan addressing matters of block formation, building retention, connectivity and placemaking. General understanding that the setting of listed buildings and views

towards and out of the conservation area would not be harmed. General consensus that the scale could be tolerated considering the changing scale of development along the High Street (as supported by the Rea Valley SPD), although a lighter touch to plot formation needs to be secured. In particular concerns regarding the phase containing Blocks A, B and C; it should be better broken down as the plot was too large to provide further connections to Pump House Passage.

- 4.61 The proposed tram stop offers up an important connection back through to Digbeth and the City Centre. The proposed Pump House Park could be a real asset particularly if the connection across Bowyer Street to the canal is delivered. The connection to the proposed Sky Park must be delivered as part of the proposals. The relationship with the Oval Estates application is sound. These proposals and the HUB (also known as Bordesley Wharf) must deliver the full length of Bowyer Street from Adderley Street to Coventry Road and Pump House Passage. The design, lighting and management public realm will be critical and it should be activated with family focussed areas learning from European examples. An emerging arts strategy was welcomed. Bold art interventions should be taken that embrace modern technology whilst also allowing for a changing program of artists to engage with the wider community.
- 4.62 The panel were excited by the opportunities that this scheme will bring to this part of Digbeth. Improved connections and vibrant new architecture should support the existing artistic community and should help grow a new creative neighbourhood. Whilst significant changes in scale are proposed these respond to the emerging taller buildings at the far end of Digbeth and the area as a destination in Digbeth at the end of the Sky Park.
- 4.63 The application and the ES have been advertised in the press and on site via site notices. Letters have also been sent to neighbours. A total of 12 objections have been received, 5 from one neighbour and another sent on behalf of a coalition of objectors, representing leisure, art and hospitality businesses in Digbeth. There follows a summary of concerns raised:

Impact of noise on existing businesses

- What the Planning Authority must take into account is that the application is coming to an environment that already represents a “24/7 Digbeth” with businesses and enterprises that will be potentially stifled and negatively affected by an influx of residential development;
- The objectors are aware of other development in other parts of the City that have not been sufficiently carefully designed or consented to protect against impacts on businesses in line with the Agent of Change principle and are determined to act now to ensure that this one is;
- The proposed development directly jeopardises the future of The Mill and Digbeth Arena and may put it at risk of closure. They provide a significant local boost to Birmingham’s local economy benefiting many hotels, restaurants, taxi drivers, public transport, shops and other businesses in the area. The businesses also employ around 100 people a week working at the events. Furthermore on top of this, the companies also provide security, cleaners, booking agents, printers, drinks companies providing jobs to over 300 people.

The current plans put these jobs at risk and a great deal more locally considering the economy around the venue;

- The objectors do not accept that the applicant has conducted an adequate Noise Assessment and the premises referenced in the Noise Report are a limited reflection of the businesses engaged;
- acoustic sound tests proposed in support of the development have not been carried out when The Mill and Digbeth Arena have been trading nor has the planning application taken either into consideration;
- Creative Alliance are based in Zellig and have a number of apprentices with employers around the Digbeth area. These include apprentices with a number of the entertainment venues. If these venues are unable to trade due to restrictions placed on them then that will have a secondary impact on the employment opportunities of young people;
- Friction Arts occupies a building in Cheapside, Deritend. Any impact of the new development upon this company would be damaging to arts and culture in Birmingham but also nationally. Restrictions placed upon activities operated by First Friday in Digbeth, which often take place in the open air and outside of any acoustic protection, as a result of complaints of new residential influx would be devastating to this enterprise;
- The Digbeth Business Forum, the Music Venue Trust and Culture Central have also expressed concern, and support for the businesses in this area;
- The Appellant has insufficiently analysed paragraphs 180 and 182 of the NPPF in the specific context of the artistic, music and business culture of Digbeth, and has significantly underplayed the importance of the Agent of Change principle;
- the Applicant has not recognised the potential impact of environmental protection legislation (specifically Environmental Protection Act 1990) or the law of Nuisance, under the EPA 1990 or the Licensing Act 2003, and the potential for Noise Abatement Notices (which represent a duty, not a discretion, in the local authority, or the potential for reviews of premises licences in these situations);
- The proposal currently represents an unacceptable impact on the viability of these businesses, since the impact would probably come sometime after the grant of permission, and after the influx of new residents, and would be dealt with by a different department of the Council than planning, under a different regulatory regime by Officers who may have no knowledge of the planning background or controversy, and who would be purely obeying noise control legislation. This would either be in the form of the Environmental Protection Act 1990, and noise nuisance, resulting in a duty to serve a Noise Abatement Notice, or in the form of the objective of the prevention of public nuisance under the Licensing Act 2003 regime;
- In such cases, the Council would be under a statutory duty to investigate noise complaints, even in a situation where planning permission had been granted on the basis that residents could keep their windows closed, and where their expectation should have been for “vibrant, city centre living”. EHO’s repeatedly confirm that any noise test in a future nuisance complaint case could still be required to be conducted with windows open, and that action would have to be taken if a noise nuisance was observed, as it certainly would be in this situation. Nothing can preclude this;

- potential for considerable noise from congregation of people outside premises and in the area generally. Digbeth is subject to a Cumulative Impact Policy within the Council's Statement of Licensing Policy for these very reasons;
- It is notable that the Applicant has not referenced licensing or the licensing regime under the Licensing Act 2003 in any way. This is highly deficient;
- businesses rely upon the use of Temporary Events Notices which are more likely to be declined in a significantly changed environment such as the development proposed;
- previous resident complaints have affected a significant number of central Birmingham night time economy licensees to date, including a number of iconic music and cultural venues. These are from residents who were "aware of the nature and vibrancy of the area" before they moved in;
- Any additional burdens placed on these local businesses at this very delicate time of attempted recovery from the COVID 19 lockdown could prove devastating and all decisions must be taken in this very particular crisis-led context. This is a weighty consideration;
- A proposal of this sort, with inadequate mitigation and consideration for local hospitality businesses will have a catastrophic impact. The risks are immense, disastrous to business and entirely irreversible. Worse still, they are impacts that can manifest themselves one week, one month, one year or ten years after the development has been introduced, and there is no way of predicting when, or precluding it;
- Question the placement of living accommodation in such close proximity to such places as Dead Wax, The Mill, Night owl, The Monastery, Digbeth Dinning Club and Digbeth Arena as this will affect their ability to operate and they in turn will affect the residents due to the noise levels;
- We have enough shops and cafes, the culture needs to be preserved and the music venues supported;
- Our client's public house, Dead Wax Digbeth, Adderley Street 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.
- Our clients query the rationale behind proposing so many potentially sensitive receptors in such proximity to an existing noise sources, and other entertainment venues to the north west of the site;
- Our clients emphasise that it is for the developer to mitigate against any potential noise impacts from the public house upon future residents. Suitable safeguards, by way of planning conditions requiring the developer to mitigate against existing noise sources, must be included in any grant of planning permission;
- the Noise Impact Assessment does not appear to sufficiently assess noise levels generated by the Dead Wax. Its exclusion from observations and lack of direct analysis of mitigation in relation to the public house points to worrying flaws in the developer's mitigation approach. Music and general pub activity from the garden will clearly be the dominant source of potential noise to these windows, rather than background road noise as alleged by the Assessment;
- request that additional noise impact assessments are carried out, clearly

identifying and calculating the potential impact of Dead Wax upon future residents;

- Whilst our clients would be willing to engage with the Developer regarding off site mitigation, the onus is firmly upon the Developer to include and pay for any mitigation measures required. Our client's public house operates within licensing requirements as specified by Birmingham City Council and within acceptable noise limits. It is not for our clients to alter their operations to ensure future residents of the development site are safeguarded from existing noise sources;

Impact Upon Heritage

- There are inaccuracies in the documents submitted that highlight a negative view of the listed Clements Arms and show the proposed development next to it as not just improving the area but also the listed building? I have a different opinion. There is no reference or regard to the agreed approval for the refurbishment of the listed building itself;
- The main external boundary wall of the listed building have original white tiles where the outside toilets were once situated at ground floor level but the plans appear to show demolition of this area;
- cannot see how the amended plans address the negative impact of the proposed Block F at five storeys upon the Clements Arms?;
- Cannot support the large scale design and size of buildings Blocks F and G. It will cause significant harm to the heritage of Clements Arms, and the view to visitors would be that of a heritage site being out of place, offering limited regard and value to the area.
- The proposed Blocks F and G should be sufficiently away from The Clements Arms and start at three storey level;
- If the intention is to support the removal of the status of the Grade 2 listed building in favour of the overall Upper Trinity Street proposals for the good of the area than there cannot be any objections to the colour scheme and height being now brought to your attention. The planning department made it clear that any brickwork and height adjacent to the listed building should complement it and not have a negative impact;
- It appears Dead Wax Digbeth has not been sufficiently accounted for; the proximity of the two tallest proposed residential blocks (Block H and Block J) would be immediately adjacent to and tower over the Dead Wax Digbeth;
- The scheme does not show due regard to an existing Locally Listed Heritage Asset and valuable community facility;

Other

- Our community centre operates in the area identified as Block H on the plans submitted. We have received no consultation from either applicant or our landlord regarding the sale of the property or any planning applications. This application has thrown us into a period of uncertainty to the future for our charity, service and vulnerable service users. Will the development start while we are still within the property? How will this affect our services users as most suffer from mental health and anxiety issues?
- As a mental health charity we are aware of the connection between

environmental factors such as noise pollution and the impact on residences in close proximity;

- It will ruin the culture and gentrify the area;
- Protect our local businesses and allow them to thrive rather than building apartments that will likely be purchased by investors (not owner-occupiers) and re-let for ridiculous prices;
- Will the existing access to Bowyer Street be closed for vehicular access by reducing the pavement area and pedestrianising Bowyer Road leading to the new Canal walkways and Pump House Park ?
- Does the Council support residential flats at ground floor level as per Blocks F and G?;
- Blocks F and G would hinder the opportunity to enhance future access and connectivity to the local listed building Bordesley House and to the waterways and Camphill side of the Grand Union Canal;
- There should be a walkway established in between Blocks F and G at the Clements Arms side so that visitors can appreciate the heritage building from all sides; and
- I was not aware of the development until the full planning application was submitted to the Council.

4.64 The objector has also raised concerns regarding the transparency virtual planning meetings. This has not been summarised as the application will not be determined via virtual meeting now that public meetings have resumed.

5 Policy Context

5.1 Birmingham Unitary Development Plan (Saved Policies) 2005; Birmingham Development Plan 2017; Development Management DPD (Draft 2020); Places for All SPG; Places for Living SPG; High Places SPG; Car Parking Guidelines SPD; Car Parking Guidelines – Supplementary Planning Document' (Consultation Draft, November 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), Curzon HS2 Masterplan for Growth, Digbeth, Deritend and Bordesley High Streets Conservation Area – Character Appraisal and Supplementary Planning Policies (2009), Warwick Bar Conservation Area - Character Appraisal and Supplementary Planning Policies (2008), Bordesley Park Area Action Plan (2020), and the revised National Planning Policy Framework.

6 Planning Considerations

Principle of Proposed Uses

- 6.1 The proposed development comprises the following range of uses:
- a) Retail Use Classes - A1, A2, A3, (new Use Class E*) A4 and A5 (new Use Class sui generis*) – these use classes encompass shops, professional services, food and drink outlets;
 - b) Office, research and light industrial Use Class B1a, b, and c (new Use Class Eg i ii, iii*)
 - c) A Hotel Use Class C1

- d) 943 Residential apartments Use Class C3, including 13 Live work units (sui generis)
 - e) Community and Cultural Use Class D1 – the use class encompasses clinics, health centres, crèches, day nurseries, day centres (new Use Class E*), schools, art galleries, museums, libraries, halls, places of worship, church halls, law courts, non-residential education and training centres (new Use Class F.1*); and
 - f) Leisure Use Class D2 – the use class encompasses cinemas, music and concert halls, bingo and dance halls (but not night clubs) (new Use Class sui generis), gyms, indoor or outdoor sports and recreation (new Use Class E*) (* refers to the changes made to the use classes order in September 2020)
- 6.2 The floorspace of the commercial use, except for the hotel would total 6,000sqm (GIA). There is no quantified floorspace for each use class, as it would be flexible, with overall total restriction of 6,000sqm.
- 6.3 In principle the proposed uses are acceptable in this location. Policy GA1.1 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. Furthermore, the application site lies within the Digbeth Quarter under Policy GA1.3 where new development should 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.
- 6.4 Policy TP24 promotes a diverse range of facilities and uses within centres to include leisure uses, offices, restaurants and takeaways, community uses, cultural facilities, tourist-related uses and residential on upper floors where it provides good quality, well designed living environments.
- 6.5 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.
- 6.6 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 Floorspace

- 6.7 Whilst the BDP and Curzon Masterplan support commercial 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 site also has an out of centre location in respect of the following neighbourhood and district centres:
- Sparkbrook neighbourhood centre;
 - Highgate neighbourhood centre;
 - Coventry Road district centre;
 - Bordesley Green neighbourhood centre; and
 - Green Lane neighbourhood centre.

- 6.8 It is the applicant's intention for the retail floorspace to serve the population within the application site and the wider Curzon Masterplan area. Therefore, there is agreement, via a planning condition to restrict the amount of A1 retail to 2,500sqm gross floorspace.
- 6.9 The NPPF advises that new retail floorspace uses should be located in town centres, then in edge of centre locations, and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered. In this case a conventional search for sequentially preferable alternatives has not been undertaken as the applicants consider that there is a clear locational requirement for the proposals in support of the new residential development on the application site and coming forward within the Digbeth area. Therefore, the retail floorspace would provide an ancillary function. With the planning condition to restrict retail floorspace it is considered that the part of the proposals would be at an appropriate scale to accord with Policies GA1.1, TP21, TP22 and TP24 of the BDP as well as national policy requirements set by the NPPF.

Proposed Office, Leisure and Community/Cultural Uses

- 6.10 In contrast to the BDP the NPPF allows more flexibility when considering the location of these other main town centre uses, with the NPPF 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 purposes of these uses the town centre is defined as the City Centre Growth Area, and as such the application site is located within the most sequentially preferable location.
- 6.11 Furthermore, it is considered that the introduction of these uses would support the growth of a thriving community within this site and wider Digbeth, where residents' day-to-day potential leisure 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 BDP gives to the location of these particular main town centre uses.
- 6.12 Whilst the site accommodates a number of premises, it is considered that with minimal exception they do not operate as B1, B2 or B8 employment uses, nor is the land protected in the BDP for employment purposes. Therefore, the proposed redevelopment of the site would not conflict with Policy TP20 which seeks to protect employment land, and greater weight is given to Policy GA1.1 that seeks to encourage a range of commercial and residential uses at this location. Furthermore in this case the applicants predict that the development would create up to 377 FTE net additional jobs. Meanwhile, paragraph 121 of the NPPF states local authorities should take a positive approach to applications for the alternative use of land which is currently developed, but not allocated for specific purposes in plans, where this would help to meet identified development needs.

Proposed Hotel

- 6.13 The standalone Block D is proposed to accommodate a 133 bed hotel. 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.

- 6.14 With these policies in mind the submitted Hotel Demand Report indicates that the proposed hotel at the proposed size with 133 beds would appeal to the market. This prediction is based upon initial soft market testing, with the Repot suggesting that a budget or three star offering is likely to be most applicable.
- 6.15 It is considered that the demand for hotels in this location is likely to remain strong in the coming years and there is sufficient support from Policies GA1.1, GA1.3, TP26 and save Policy 8.19 to support a hotel at this out of centre location.

Proposed Residential Uses

- 6.16 The current scheme would provide 943 residential units within Blocks A to J (excluding block D:Hotel).

BLOCK SUMMARY	
BLOCK	UNIT Nos.
A	151
B	127
C	98
E	67
F	55
G	87
H	234
J	124
TOTAL	943

- 6.17 Policies TP27 and TP28 support 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.

- 6.18 The proposals would offer a range of units from 1 bed 1 person units, to 1 bed duplexes, to 2 beds and 20 3 bed units. Whilst 1 beds would form the largest proportion of units at 51% it is considered that the mix of units is commensurate with other consents in the City Centre. It is considered that the residential units at this location would accord with the principles of Policies GA1.1, TP28, TP30 and the HS2 Curzon Masterplan.

Proposed Layout and Design

Proposed Site Layout

- 6.19 Blocks A to J are arranged in a linear form running north west to south east and are positioned around the three buildings that are excluded from the application site; the locally listed Dead Wax pub that fronts Adderley Street, the locally listed electricity sub station that fronts Upper Trinity Street and the grade two listed Clements Arms pub that faces Coventry Road.



- 6.20 The Bordesley Viaduct dominates the opposite side of Upper Trinity Street providing a strong sense of enclosure and an industrial character to the site. The proposals seek to upgrade Upper Trinity Street to create a pedestrian friendly environment by re-surfacing and increasing the width of the footway to between approximately 3.5 to

5m, and by providing two crossing points, integrated loading bays, trees and street furniture.



(above) Aerial Photograph of Upper Trinity Street with Bordesley Viaduct to lhs and application site to rhs



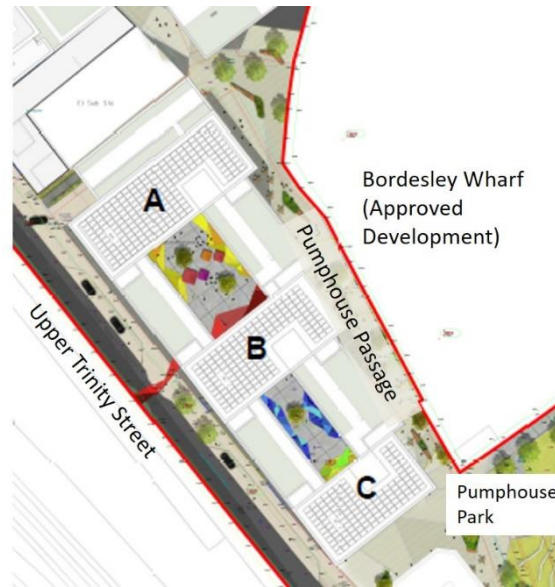
(above) CGI of Upgraded Upper Trinity Street with Blocks H, A, B, and C to lhs, Bordesley Viaduct to rhs

- 6.20 The arrangement provides new areas of public realm in the form of Adderley Yard, Makers' Yards, Pumphouse Passage and Pump House Park. In addition each of the blocks, with the exception of the hotel Block D, would offer roof terraces to be used as private amenity spaces.



Blocks A, B and C (376 apartments / 3,799sqm commercial floorspace GIA)

- 6.21 The orientation of the site favours blocks set perpendicular to the street to maximise views for occupiers and to limit overshadowing of the adjoining site. The Blocks comprise 3 linear buildings with the same overall height, varying from 15 to 16 levels in total due to the topography of the site. They are connected by 2 and 3 storey shoulder elements to the Upper Trinity Street frontage that would align with the height of the Viaduct opposite and shoulder blocks of 6 and 7 storeys to the rear facing the proposed Pumphouse Passage. Block A is positioned next to an existing electricity sub station that lies outside of the application site.



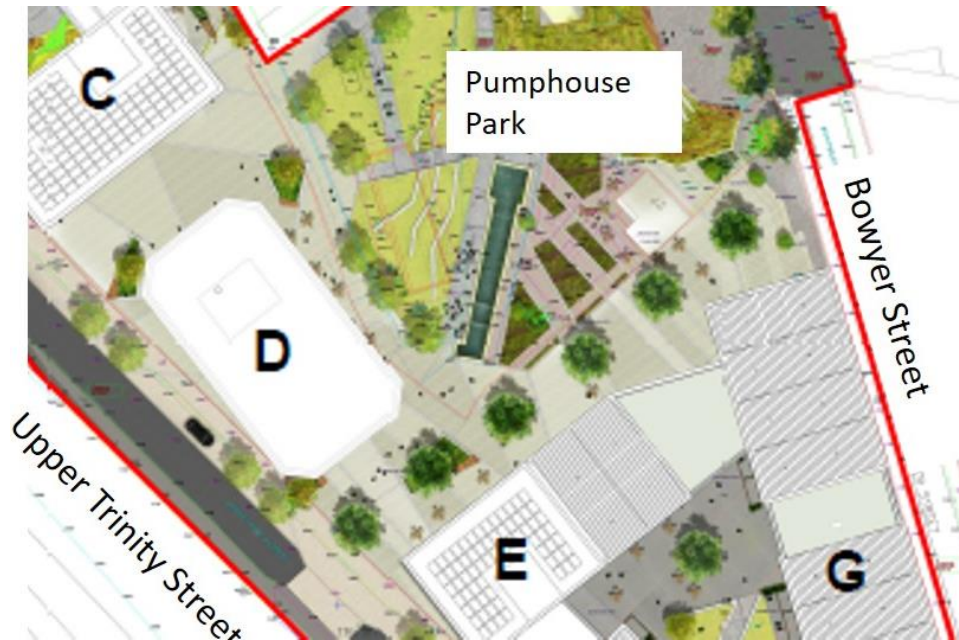
Site Layout - Blocks A, B and C

- 6.22 There would be two internal courtyards called the Makers' Yards that would be both public and private spaces to be used by residential occupiers, pedestrians passing through the site and as working spaces serving the surrounding flexible employment space. The proposed layout would allow permeability through the site from Upper Trinity Street to Pumphouse Passage and beyond.



CGI of one of the Proposed Makers' Yards within the Courtyards

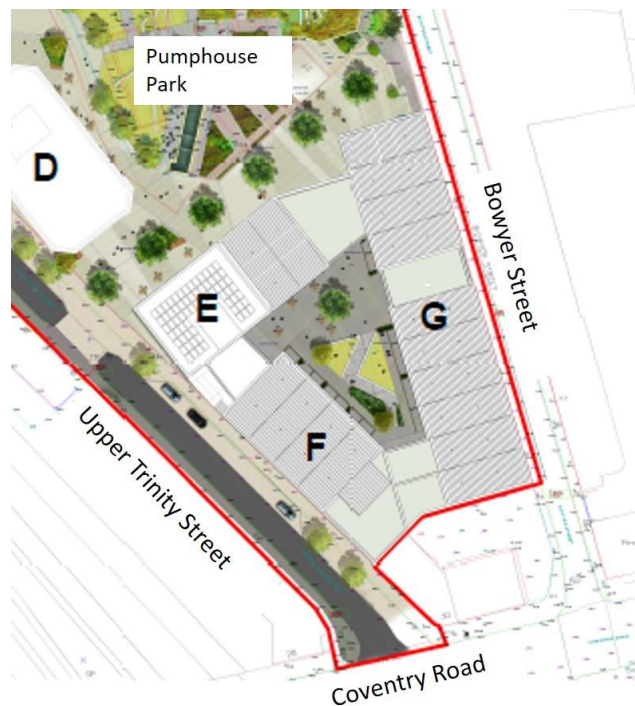
Block D (Hotel of 133 bedrooms)



Site Plan – Block D

- 6.23 At 8 storeys Block D would be the smallest Block and a stand-alone building. The proposed hotel would be sited at a key location overlooking Duddeston Viaduct to the west and the proposed Pump House Park to the east. Again its position within the site would allow good permeability through the site promoting a good connection between Upper Trinity Street and Pumphouse Passage and Pumphouse Park. Landscaping would be incorporated at each corner of the ground floor level to provide wind mitigation.

Blocks E, F & G (209 Apartments, including 13 live work units/ 779sqm commercial floorspace GIA)



Proposed Site Plan – Blocks E, F & G

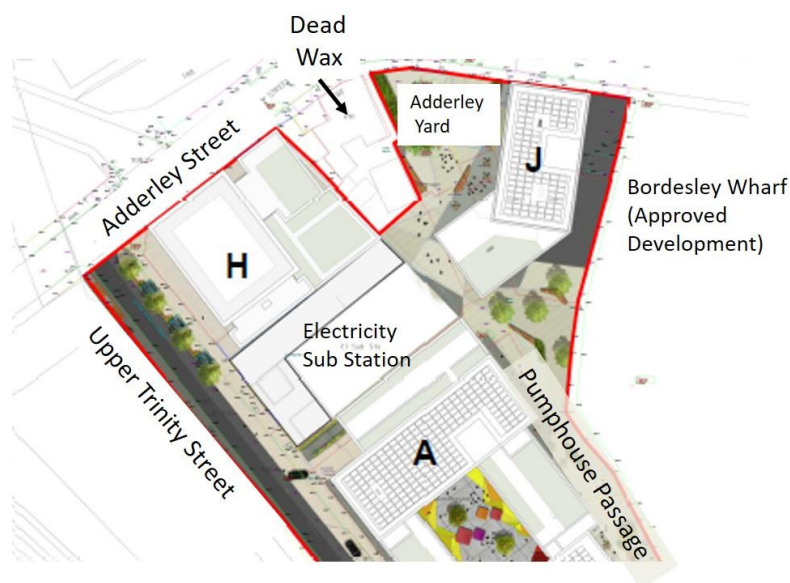
- 6.24 Blocks E, F and G would align with Upper Trinity Street and Bowyer Street generating a triangular form. As a group they range from 5 to 10 storeys. Block F would be sited adjacent to the listed Clements Arms public house. The perimeter block arrangement would allow for a central area of private space named Bowyer Yard.



Proposed Private Courtyard - Bowyer Yard

- 6.25 The layout also proposes commercial units within Blocks E and G to overlook Pumphouse Park

Blocks H & J (358 Apartments / 1,422sqm commercial floorspace)



Proposed Site Plan – Blocks H & J

- 6.26 These final two blocks are positioned at the northern end of the site; both have frontages to Adderley Street and would form the tallest elements of the development comprising of 32 storeys (Block H) and 19 storeys (Block J). Between the two blocks

is area of proposed open space named Adderley Yard and the locally listed Dead Wax pub that is excluded from the application site. To the south of the tower at Block H is an existing locally listed electricity substation that again sits outside of the application site.



Proposed Adderley Yard with Dead Wax pub to rhs

- 6.27 The 8 storey angled shoulder to Block J serves the purpose of enclosing the rear side of Adderley Yard and directing the flow of people into Pump House Passage. Adderley Yard is conceived as a key gateway space into the site, that the applicants have described as a venue for leisure and impromptu cultural events, eating and drinking.

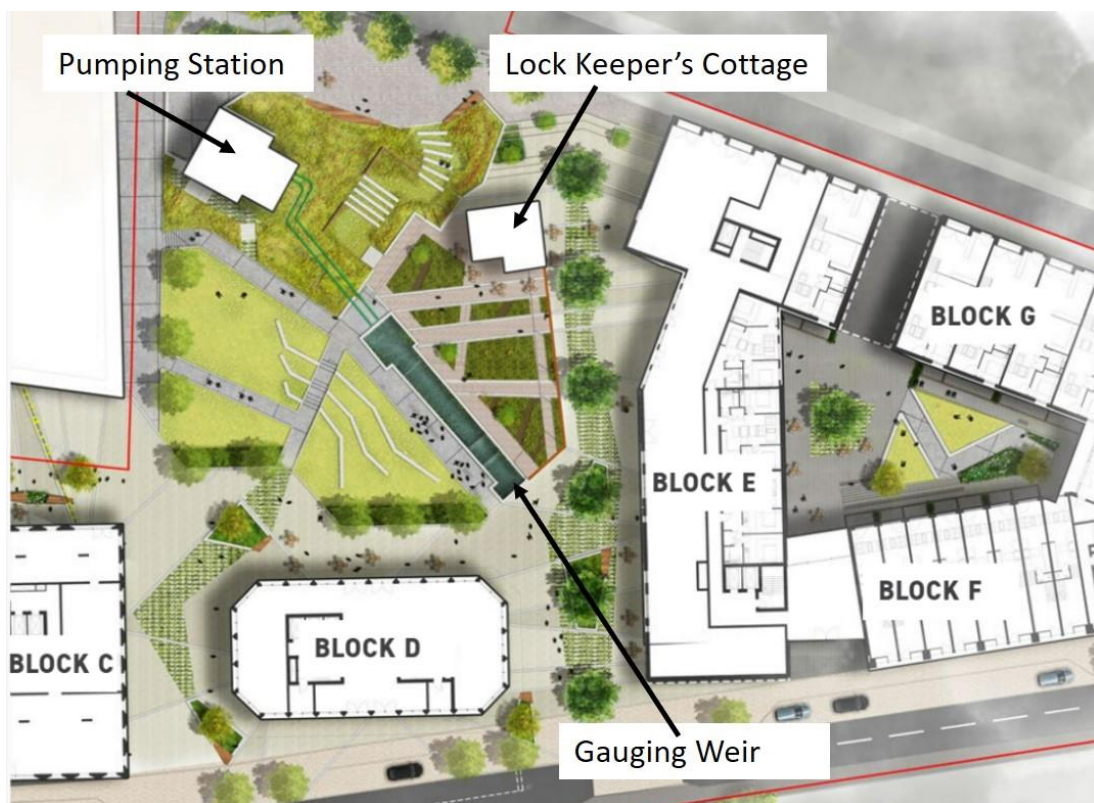
Pumphouse Passage

- 6.28 Named after the former Victorian pump house Pump House Passage would provide one of the key pedestrian north-south routes through the site. The Passage would connect the proposed Adderley Yard and proposed Pump House Park that thereafter would connect to Bowyer Street and the Grand Union Canal beyond. It could also be accessed through the site from Upper Trinity Street via the Makers' Yards. In addition to providing a central spine through the site the Passage is also proposed to be a space to dwell, overlooked by commercial uses within Blocks J, A, B, and C that could spill out over the space. The applicants have worked with the developers of the adjoining approved Bordesley Wharf scheme so that both developments would overlook the Passage and there is the potential for it to provide a link of approximately 14m according to current plans. Without the redevelopment of the adjoining site the Passage measures a minimum of approximately 5m to in excess of 8m.

- 6.29 The ES chapter on Wind Microclimate predicts an exceedance of conditions suitable for strolling along Pump House Passage and therefore a 50% porous screen at the northern corner of Block ABC, in the Passage between Blocks ABC and J is proposed. The detail would be secured via a condition.

Pump House Park

- 6.30 The focus of the design of Pump House Park is its unique heritage and topography, and it would deliver approximately 4,000 sqm of public realm. The proposed neighbourhood park would become a centrepiece for the scheme overlooked by Blocks D, E and G plus Plot 6 of the approved Bordesley Wharf development. It is hoped that it would become a visitor destination in its own right, and although it would be surrounded by development its siting would have the benefit of creating good links for pedestrians. A new route extending from the northern end of Bowyer Street up to Adderley Street would connect through the application site then through the adjacent site known as Bordesley Wharf (2020/01796/PA) thereafter linking to Liverpool Street at its far end, making an important connection between the Park, the proposed Blocks, Digbeth with the City Centre beyond. The City Design Manager comments that the Park promotes the vitality of Bowyer Street and would help to stimulate footfall towards the new metro stop on Adderley Street.
- 6.31 The park would comprise of a mix of hard and soft landscaping also aspiring to provide an ecological stepping stone between the Grand Union Canal and the Duddeston Viaduct.



Proposed Pump House Park Illustrative Layout

- 6.32 There are existing buildings and a gauging weir within the proposed Pump House Park; a former Lock Keeper's Cottage, the locally listed 18th Century Bowyer Street

Pumping Station and existing gas regulators that are due to be de-commissioned next year. Whilst the latter would not feature in the finished park the Lock Keeper's Cottage and the locally listed Pumping Station would be retained with the possibility that the Cottage could be re-purposed for community or commercial use.



Former Lock Keepers Cottage, Located within the Proposed Pump House Park

- 6.33 Importantly the current area is used for operational purposes by the Canals and Rivers Trust (CRT) who also own a significant proportion of the proposed park. The locally listed Pumping Station is still operational as is the gauging weir and there is an HV transformer. The impact of changing the character of this area from a private area to a public park has been considered not only in terms of its use and appearance but also in terms of its practicality with CRT access and the security of its equipment of great importance. The applicants have been in contact with CRT and discussions are ongoing regarding their potential involvement in the proposed S106 agreement. This would ensure that the park is delivered whilst also retaining CRT's access requirements in order to maintain its equipment. At present the proposed layout plan and planting is in a masterplan format with further details to be secured by condition. In response to comments received from Cadent regarding the existing gas infrastructure the applicants have confirmed that the proposed development would be clear of the required easement.

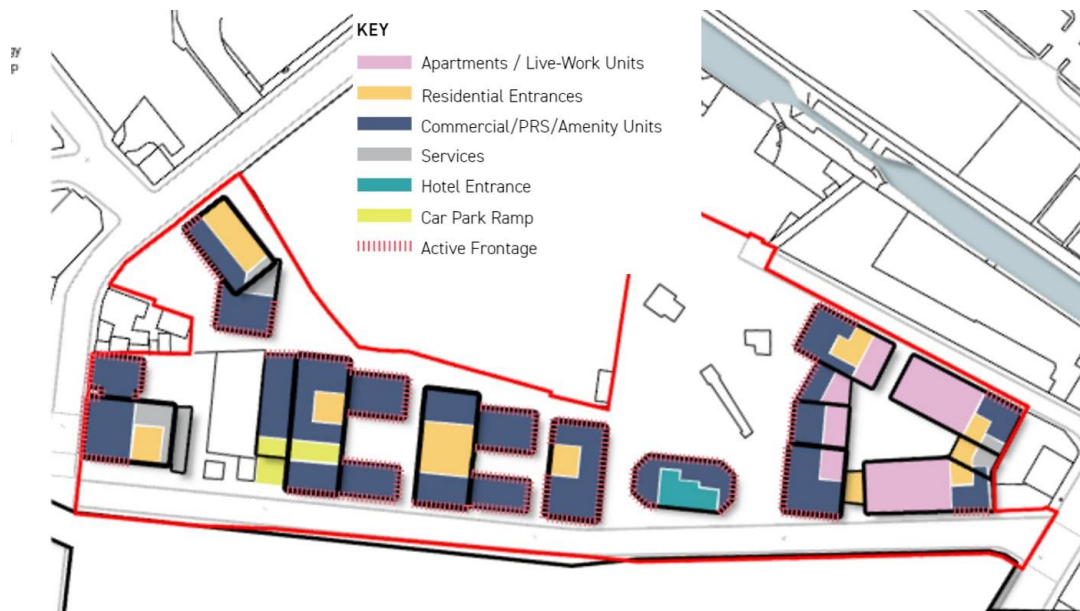


Proposed Pump House Park with retained Lock Keepers Cottage
and Pumping Station surrounded by Blocks C, D, E & G

- 6.34 The proposed layout would provide good permeability through the site and well considered connections to the wider area. It would create a place, supported by active uses at ground floor to enliven the key routes and would provide spacious public realm to serve the future occupiers of the site itself, people passing through the site and a destination for visitors. In addition an overshadowing assessment has been submitted to appraise how much sunlight would be received by the public and private amenity areas. The BRE guide states that 50% of an amenity area should receive at least 2 hours of direct sunlight on the spring equinox (21 March). It concludes that all residents would have access to at least 2 amenity spaces that fully satisfy this assessment.



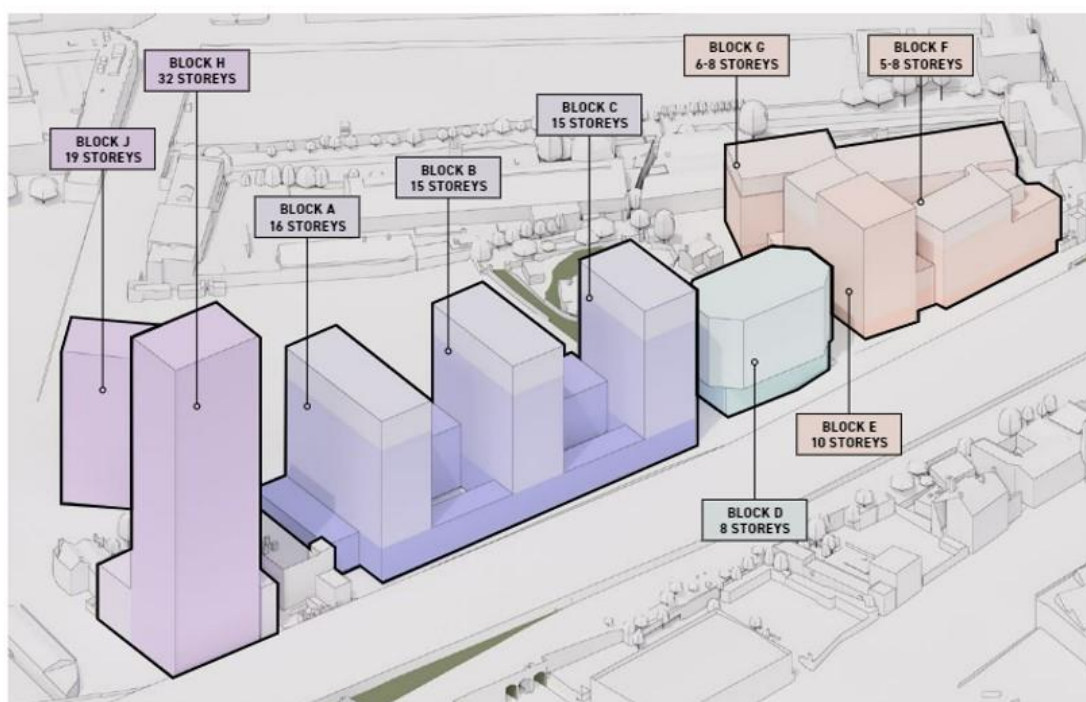
Proposed Routes Through and Around the Site



Proposed Layout showing Ground Floor Uses

Scale and Massing

- 6.35 The proposed massing strategy responds to the existing and emerging context. The proposed metro tram stop on Adderley Street and the approved and current proposals to redevelop plots either side of this street makes this a focus for the taller buildings, with the scale reducing towards the south end of the site.



Illustrative Massing Plan

- 6.36 Blocks A, B and C (15 & 16 storeys) - The 3 linear blocks would all reach the same overall height due to the topography of the site. Bordesley Viaduct, located directly opposite the site creates a strong horizontal datum and this is reflected in the scale of the 2 and 3 storey shoulder elements providing a sense of enclosure to Upper Trinity

Street. Currently the street presents a low rise frontage with an occasional 3 or 4 storey block punctuating the skyline. Therefore the addition of 15/16 storey buildings would dramatically affect the character of this street and the wider area. It is however considered that the proposed scale would be acceptable at this location, outside of the Conservation Area overlooking the Viaduct, a route into the City Centre by train. Furthermore the scale is broken down by the shoulder elements to avoid a continuous tall frontage.

- 6.37 Block D (8 storeys) - A pavilion block with a backdrop to the proposed Pump House Park. A standalone building with a different use the proposed massing is appropriate for its strong individual identity and as a backdrop from Pump House Park and from Bordesley Viaduct.
- 6.38 Blocks E, F and G (5 to 10 storeys) - Facing Upper Trinity Street, the massing begins to reduce to 5 storeys adjacent to the listed Clements Arms, with a varied articulated roofscape to provide variety and separation to the historic former pub building. The Bowyer Street façade would be the lowest to reduce overshadowing to the existing buildings on the opposite side. The impact upon the heritage asset is discussed later in the report.
- 6.39 Blocks H and J (32 & 19 storeys) - It is acknowledged that Block A together with Blocks H and J would be identified as tall buildings according to the High Places SPD and therefore, in accordance with policy, a case for exceptional circumstances must be demonstrated. Whilst not located within any of the recognised suitable places for such tall buildings as defined in the SPG their siting is near to a key gateway as identified in the recently adopted Bordesley Park Area Action Plan (2020) at Bordesley Circus. Furthermore they would help to define and reinforce this entrance point into the City via Digbeth and provide a clear urban marker signifying the beginning of the proposed Sky park when viewed from the City Centre. Plus the proposed tall buildings should not be viewed in isolation, but rather as part of an emerging cluster of proposed and consented buildings aligning Adderley Street. Buildings of 12, 15 and up to 25 storeys have been approved as part of the Bordesley Wharf development. Blocks H and J would form the final construction phase of the project and by this time it is anticipated that the immediate context will have changed. Acknowledging that the SPG is a material consideration there is sufficient justification for these tall buildings at this location.
- 6.40 At street level Block H has two shoulder blocks of 8 storeys to Adderley Street and 8 storeys to Upper Trinity Street, Block J has an 8 storey shoulder and Block A has a 3 storey shoulder. These shoulder elements would help to ease the transition between the taller blocks and the adjoining include low scale buildings outside the application site (Dead Wax and the Electricity Substation). Notably there was general consensus from the Council's Design Review Panel that the proposed scale could be tolerated considering the changing scale of development along the Digbeth High Street frontage, as supported by the Rea Valley SPD (comments made January 2020).



Proposed Elevation to Adderley Street Proposed Block J (lhs) and Block H (rhs)

- 6.41 The City Design Manager acknowledges the scale of the development noting that the Rea Valley Urban Quarter SPD seeks to increase scale towards Digbeth High Street and it is possible to see this continuing into this southern end of Digbeth, moving towards the ring road. This would allow for a central bowl within Digbeth where the two the conservation areas are locate to form a lower area before increasing scale outwards. There is also support for the emergence of a taller group of buildings around the future metro stop on Adderley Street.
- 6.42 The Townscape and Visual Impact Assessment (TVIA) within the ES identifies a Zone of Theoretical Visibility that extends up to 1.5km from the centre of the site. Within and beyond this zone views from 21 locations have been considered. These viewpoints include the 5 that are highlighted within the High Places SPD. Whilst changes to 10 of the 21 viewpoints are concluded to be major adverse it is considered that the scale could be accepted for the reasons given above, plus there would be mitigation in the form of the detailed design, materials and landscaping.
- 6.43 As part of the ES a computer modelling exercise has been undertaken to understand the effects of daylight, sunlight and overshadowing. Based on the sensitivity of the surrounding receptors located in the High Street, Liverpool Street, Bowyer Street, Coventry Road the effects are considered to be negligible and non-significant.



Illustration of Proposed Massing on Application Site and Surrounding Sites

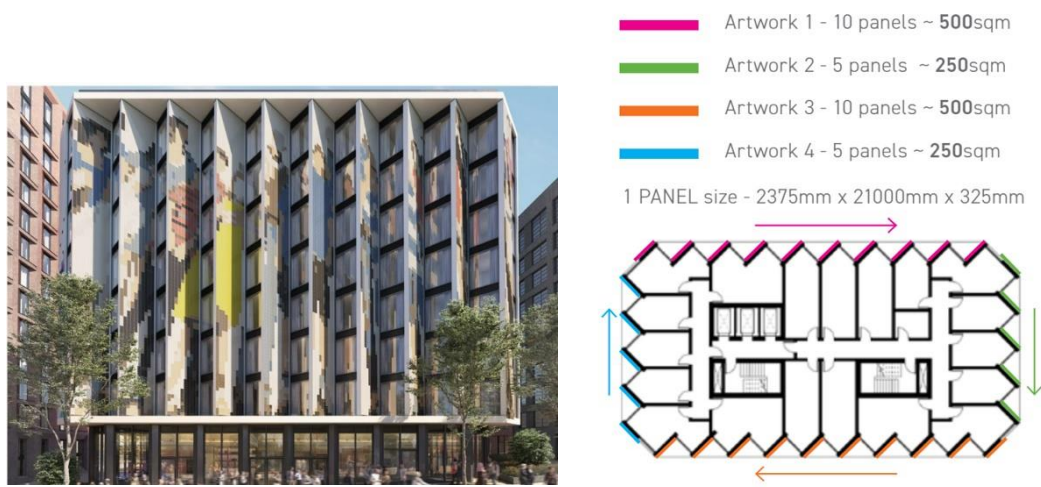
Materials and Appearance

- 6.44 Red brick is well represented in the City's buildings and proposed for use throughout the development, providing an overall consistency for the development.
- 6.45 Blocks A, B & C – the 3 linear blocks provide a group identity. To be constructed in brick the massing of the blocks would be broken down into the crown, the middle and the base or shoulder elements by different bricks that provide a gradient in colour down the building. Blue brick would be used for the base/ plinth, red brick for the crown and a mixed brick of red stretchers and blue headers for the middle.



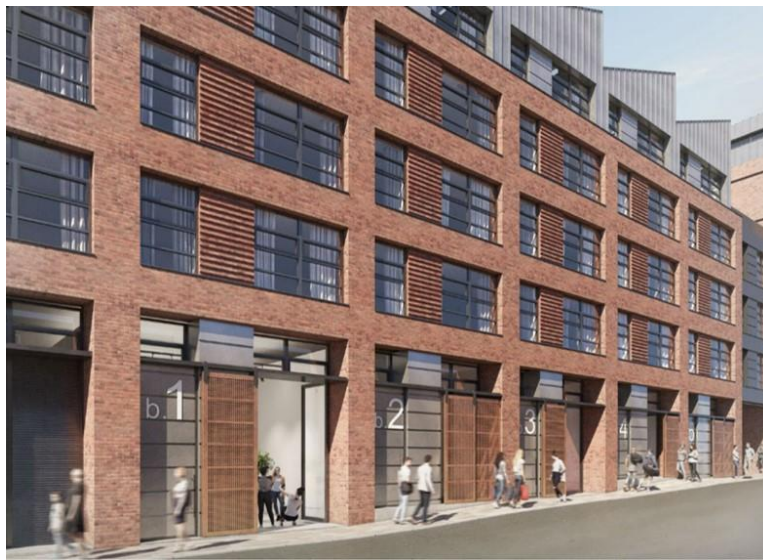
Blocks A & B Facing Upper Trinity Street

- 6.46 Block D – Perhaps the most exciting and unique building within the development due to its proposed 'lenticular' glazed brick mosaic façades that gradually reveal their picture to the approaching viewer. The intention is for the facades of the hotel block to be commissioned pieces of permanent public art comprised of large scale mosaic murals of glazed bricks.



Block D – Proposed Elevation Facing Upper Trinity Street
and Proposed Upper Floor Plan (Murals to Elevation shown is Illustrative)

- 6.47 At ground floor the plinth would be largely glazed to enhance the visual link between Upper Trinity Street and Pump House Park.
- 6.48 A unique building with a strong identity, with its proximity to the railway it would hopefully become well known locally and beyond to commuters and visitors to the City.
- 6.49 Blocks E, F & G – These blocks would be constructed primarily in brick; blue brick to Block E, red to Blocks F and G. A lighter standing seam zinc metal cladding is proposed to the saw toothed roofs of the blocks where there is accommodation in the form of duplex loft apartments. The proposed metal roofspace is in reference to the historic use of the area for metal production and fabrication and it would provide the blocks with a distinct design feature. The proposed live work units offer a different type of accommodation and therefore at ground floor would have large opening glazed doors recessed behind sliding perforated metal shutters and metal entry doors. During the daytime the glazing would bring animation to this quieter end of the site and offer glimpses into the workspaces beyond. Further to comments received during the neighbour notification process the applicants have demonstrated how the existing historic glazed bricks on the common boundary between Block F and the Clements Arms would be retained. It is understood that this wall lies outside of the application site and the applicants ownership.



Block G - Proposed Elevation to Bowyer Street

- 6.50 Blocks H & J - The proposed 32 storey tower at Block H would again be built in red brick with a contrasting charcoal palette proposed for the 19 storey Block J. A horizontal break or covered terrace is introduced at level 7 of both blocks providing a visual break and matching the height of their adjoining shoulder blocks to provide a link to their associated roof terraces.
- 6.51 Noting the importance of the design of the tower at Block H there has been attention to detail with regards to the proposed fenestration. Each window would be full height framed by red stack bonded glazed brickwork and aluminium fins to the full height opening light with a pale grey concrete lintel. The windows would be set back by approximately 2 bricks from stretcher bond red brick piers. The piers that form the crown to the top of the Block H would also be extended beyond the roof to conceal the rooftop plant.
- 6.52 The use of charcoal bricks and dark grey concrete lintels for Block H responds in some way to the materiality of Digbeth where blue brick is used in the railway and canal infrastructure as well as a number of buildings. A canopy with a depth of 4m is proposed to the elevation facing Upper Trinity Street reaching a height of 6m. Together with four trees this would provide mitigation for wind at street level.

Design Conclusions

- 6.53 The layout, massing and detailed architecture of the scheme has evolved through a series of iterations. All elements have significantly improved although, as with any large scheme such as this, the scale is dramatic and there are concerns about the delivery of the public realm in the later phases. The application does however present positive regeneration to this part of the City Centre and creates a place with a destination in the form of a neighbourhood park with good links to the wider area. Furthermore the proposed residential blocks would have a common identity due to the use of predominantly brick but would have sufficient variety in terms of scale, detailed architecture and roofscape to provide an attractive location for residing, passing through or visiting.

Impact Upon Heritage Assets

- 6.54 Whilst there are no statutorily listed buildings within the site and it is not located within a conservation area there is the locally listed Pumping Station that would be retained within the proposed Pump House Park. With the exception of the Pumping Station and former Lock Keepers Cottage, considered to be a non-designated heritage asset the remaining buildings would be demolished. These largely comprise late twentieth century semi-industrial and are considered to be of negligible heritage significance.
- 6.55 There are several heritage assets that have a common boundary to but are located outside of the site boundary, these comprise the:
- Grade II listed (former) Clements Arms Public House, on the southern corner of Upper Trinity Street;
 - locally listed Dead Wax public House, Adderley Street (formerly known as the Waggon and Horses pub);and
 - locally listed Electricity Substation, Upper Trinity Street.
- 6.56 The site also lies just outside the south and south eastern boundary of the Digbeth, Deritend and Bordesley High Street Conservation Area; the boundary to which is formed by the Bordesley and Duddeston Viaducts.
- 6.57 The assessment of the impact upon the heritage assets forms part of the ES that contains Built Heritage and Townscape and Views chapters. Plus there is a separate Heritage Impact assessment (HIA). Within the wider setting the Built Heritage section of the ES identifies a study area for individual built heritage assets of 500m, with 1km for the conservation areas. Within this study area, and in addition to the Digbeth Conservation Area, are the following heritage assets:
- Grade II* listed Crown Public House, Digbeth High Street;
 - Grade II listed Devonshire House, Digbeth High Street;
 - Grade II listed Holy Trinity Church, Camp Hill;
 - Grade II listed Canal Roving Bridge at Bordesley Junction;
 - Locally listed the Bordesley House, 46 Coventry Road;
 - Locally listed Bordesley Railway Viaduct;
 - Locally listed Canal Bridge 93, Coventry Road;
 - Warwick Bar Conservation Area; and
 - Grand Union Canal.
- 6.58 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. 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. Section 16 of the NPPF calls for local authorities to look for opportunities for new development within the setting of heritage assets to enhance or

better reveal their significance whilst Section 12 calls for achieving well-designed places, ensuring that developments are sympathetic to local character and history.

- 6.59 Pumping Station (locally listed) and former Lock Keeper's Cottage (non-designated) - The retention of these heritage assets is wholly supported by the Council's Conservation Officer. Whilst it is acknowledged in the HIA that their setting would be affected by the surrounding blocks of development it is considered that by opening up the proposed Pump House Park area to create space and views of these assets it would offer a minor enhancement to their setting. However contrary to the HIA the Conservation Officer considers that changing from an established, low-scale industrial setting to a large-scale predominantly residential setting, which would largely surround and dominates the assets the development would cause a degree of harm.
- 6.60 Next there are those heritage assets that have a common boundary to the site: the Grade II listed (former) Clements Arms Public House, the locally listed Dead Wax public House and the locally listed MEB Electricity Substation. The Conservation Officer considers that the introduction of a new form, scale and massing of development, including a 32 storey tower, would have a significant impact on these heritage assets.
- 6.61 Clements Arms (Grade II listed) - The HIA considers that the amended plans that introduce a reduced step in building height between the asset and Block F (5 rising to 8 storeys) would create a gradual transition. It also comments that the sawtooth attic level of Block F would provide a visual transition between F and the taller adjacent blocks E and G. Plus the proposed elevational treatment and fenestration introducing a horizontality to these blocks reflecting the industrial character of the area would help to reduce the impression of height adjacent to the Clements Arms. The HIA considers that the proposals would not affect its significance and would enhance its setting as a result of the high-quality and contextual new development that would improve views of the asset and knit it into a cohesive townscape. However whilst the amendments to the design of Blocks E, F and G are welcomed by the Conservation Officer, in contrast it is maintained that the proposed scale and massing would still dominate over this modest historic pub and diminish the ability to appreciate its Georgian architectural form and domestic scale. Therefore it would cause less than substantial harm to this listed building.
- 6.62 Dead Wax (locally listed) - The HIA explains that the existing setting of the pub does not contribute to an ability to appreciate or understand its significance other than by providing views of the building from the street, and that the proposal would, by way of contrast, make the pub more legible and result in a dynamic juxtaposition between old and new. The Assessment notes that whilst there would be a significant change to its setting, the change would be an enhancement in terms of appearance and the building's significance would be preserved. The Conservation Officer acknowledges that there would be improvements to the public realm by creating Adderley Yard that would enhance the visual setting of the pub. Other benefits would include the re-activation of this part of Adderley Street and re-integrating the pub into the streetscape reducing its isolated feel. The building would continue to be a local landmark in views west along Adderley Street. However it is maintained by the Conservation Officer that these benefits would not override the immense impact of

the tower at Block H and the scale of Block J that would surround the two-storey Victorian pub, thus diminishing the ability to appreciate the building and its domestic scale in its existing low-scale setting. This is evidenced within the Townscape and Views Impact Assessment (TVIA) and as such the development would cause a degree of harm to its setting.

- 6.63 Electricity Substation (locally listed) - The HIA notes the replacement of existing dilapidated warehouses with high-quality buildings incorporating industrial references and this would result in townscape improvements that would enhance the quality of the substation's setting on Upper Trinity Street. Whilst the Assessment acknowledges that the proposed taller buildings would significantly change the setting of the substation it reports that opening up short-distance views would allow a better appreciation of the retained building, and that the new development would create a dynamic juxtaposition between new and old, improving its setting and overall improving its significance. In contrast the Conservation Officer acknowledges that the shoulder block to the tower at Block H has been reduced from 20 to 8 storeys, however the significant impact of introducing a tower alongside the other tall blocks into the immediate setting of the substation would remain. Again the ability to appreciate the building and its domestic scale in its existing low-scale setting would be diminished causing a degree of harm to its setting.
- 6.64 Next are those heritage assets that lie within close proximity of the site; the locally listed Bordesley House, the locally listed Bordesley Viaduct, the locally listed Canal Bridge 93, the two conservation areas and the heritage assets that lie therein.
- 6.65 Bordesley House (locally listed) - The HIA comments that townscape improvements associated with the introducing new high-quality buildings, regenerating the area and the design and materials of Blocks E, F and G that reflect the former industrial character of the area would preserve its significance and enhance its setting. For the reasons given in respect of Clements Arms, supported by views within the TVIA the Conservation Officer disagrees and considers there would be a degree of harm to this heritage assets.
- 6.66 Bordesley Viaduct (locally listed) – The HIA considers that the effect of removing buildings on the site would have a minimal effect on understanding the evolution of the area's industrial character following the arrival of the railway. Furthermore this effect would be balanced by the re-introduction of a mixed-use redevelopment reflective of the Victorian mixed residential and light-industrial character of the area. Plus the evolution of the area is clearly illustrated by the two nearby conservation areas that lie within the setting of the Viaduct, and as such its significance would be preserved. Whilst in agreement with respect to this particular matter the Conservation Officer considers that the proposed impact of the proposed scale of development cannot be overlooked. Blocks A, B C and the tower at Block H would have some impact on the ability to appreciate the monumental scale of the existing Viaduct and the prominence of this piece of industrial infrastructure. On this point a degree of harm should be acknowledged.
- 6.67 Old Crown pH (Grade II* listed) - The HIA identifies that the proposed development would introduce tall buildings into the setting of the Old Crown, where taller blocks would appear on the skyline. It comments that the prominence of the proposed blocks would result in less than substantial harm to the ability to appreciate the

existing pub as a 16th century building forming part of the remaining fragments of a medieval high street. The Conservation Officer agrees.

- 6.68 Devonshire House (Grade II listed) – As above the proposed development would adversely affect the ability to appreciate the building as part of the historic High Street and evolution of Victorian and Edwardian industrial and commercial development, causing less than substantial harm to its setting. The Conservation Officer agrees.
- 6.69 Former Church (173 & 174 Digbeth High Street) (Grade II Listed) – The HIA concludes that there would be limited harm caused to the significance of the Church as a result of the scale of the development that would be prominent in mid-range background views. However, the existing Church tower would remain visible as a local landmark and the harm caused would be less than substantial. The Conservation Officer agrees.
- 6.70 Digbeth, Deritend and Bordesley High Streets Conservation Area - The HIA assesses the impact identifying that Blocks A, B and C would, in particular, be visible from parts of the Conservation Area, forming a new feature in views facing south west along the High Street. The introduction of a modern feature into this view would cause harm to how the historic character of the High Street is appreciated, with no tall buildings currently present. The design amendments are cited in the HIA as reducing the perceived massing of the taller buildings through the articulation of the proposed facades, however the Conservation Officer maintains that they would be perceived as visible modern structures in the background of the Conservation Area, introducing an urban, high-rise context to an otherwise low-rise, largely industrial suburb. This change would affect an understanding of the relationship between the suburban historic High Street as part of the route to the City Centre. The Assessment concludes that there would be less than substantial harm to the Conservation Area. The Conservation Officer agrees but considers the impact on the Conservation Area to be wider reaching than from just the High Street area. It is likely that the proposed taller elements would be visible from a number of important historic streets within the Conservation Area and appear incongruous in views into and out of it. It is quite apparent that the scale of this development would have a significant impact on the visual setting of the Conservation Area and the ability to appreciate its outer-suburban, industrial character although the overall conclusion is that the development would cause less than substantial harm.
- 6.71 Warwick Bar Conservation Area – The HIA notes that the proposed taller buildings would appear in the wider visual setting of the Conservation Area, including the view along Fazeley Street, which is an identified important view in the Character Appraisal (CAAMP). The Conservation Officer considers that there would be some harm caused to the visual setting of the Conservation Area although the level of harm would be less than substantial.
- 6.72 Canal Roving Bridge (Grade II listed) - The HIA identifies that the development would be visible from the Canal Roving Bridge and acknowledges that whilst the character of view would be altered it would not affect how the historic function and significance of the bridge and wider canal network is appreciated. The bridge's significance and elements of setting that contribute to an understanding of its role within the canal network would be preserved. The Conservation Officer agrees.

- 6.73 Holy Trinity Church Camp Hill (Grade II listed) - At present views of the church are noted in the HIA as being screened and their contribution to the significance of the church is limited, however the Assessment concludes that the setting of the Church would be altered as a result of taller buildings in middle ground of views. As such the development would cause less than substantial harm; the Conservation Officer concurs.
- 6.74 Canal Bridge 93 (locally listed) – No harm
- 6.75 Grand Union Canal (non designated) – No harm
- 6.76 With reference to Archaeology a separate Assessment has been submitted as part of the ES with a study area covering a 500m radius from the site's centre point. It refers to a historic chronology of the site back to the prehistoric period and notes that the first development within the site was a pumping engine, later Bowyer Street Pumping Engine, built in 1795 in the south-eastern part of the site. No buried heritage assets of high or very high significance are anticipated to be present which would merit a mitigation strategy of permanent preservation in situ. A condition to require a written Scheme of Investigation is suggested and attached.

Name of Asset	Status	HIA Conclusion	Conservation Conclusion
Assets Within the Site			
Pumping Station	Locally Listed	No harm	Degree of harm
Former Lock Keeper's Cottage	Non designated	No harm	Degree of harm
Assets with a Common Boundary to the Site			
Clements Arms Public House	Grade II listed	No harm	Less than substantial harm
Dead Wax Public House	Locally Listed	No harm	Degree of harm
Electricity sub station	Locally Listed	No harm	Degree of harm
Assets within the Wider Area			
Bordesley House	Locally Listed	No harm	Degree of harm
Canal Bridge 93	Locally Listed	No assessment	No harm
Bordesley Viaduct	Locally Listed	No harm	Degree of harm
Old Crown Public House	Grade II* Listed	Less than substantial harm	Less than substantial harm
Devonshire House	Grade II Listed	Less than substantial harm	Less than substantial harm
Former Church (Digbeth High Street)	Grade II Listed	Less than substantial harm	Less than substantial harm
Digbeth, Deritend and Bordesley High Streets	Conservation Area	Less than substantial harm	Less than substantial harm
Warwick Bar	Conservation Area	Less than substantial harm	Less than substantial harm
Canal Roving Bridge	Grade II listed	No harm	No harm
Holy Trinity Church	Grade II listed	Less than substantial harm	Less than substantial harm
Grand Union Canal	Non designated	Not assessed	No harm

6.77 The table above summarises the conclusions of the HIA and those of the Conservation Officer. There are also the concerns raised by Historic England and the Victorian Society to consider. To note is that less than substantial harm would be caused to a number of individual listed buildings and structures. It is also considered that the level of cumulative harm caused to these heritage assets would be less than substantial. In respect of the individual locally listed buildings and structures there would be a degree of harm and again cumulatively this would amount to the same level of harm.

6.78 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 locally listed and other non-designated heritage assets and a balanced judgement is required having regard to the scale of any harm or loss of the significance. 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.

Transportation

- 6.79 A Transport Assessment (TA) with an associated Travel Plan Statement (TPS) have been submitted and there is the relevant chapter within the ES. The TA advises that the site is extremely well served by public transport and is located within a short walk of a range of local amenities and services as listed below:
- Bus stops - nearest at Coventry Road approximately 140m to the south of the site with 14 bus services within walking distance;
 - Moor Street and Birmingham New Street train stations - approximately 1km and 1.3km to the north west respectively;
 - Bordesley train station - approximately 100m to the south of the site;
 - Digbeth Coach Station – approximately 800m to the west on High Street;
 - Grand Union Canal - approximately 40m to the east of the site, Canal includes a Public Right of Way; and
 - Upper Trinity Street and Adderley Street - both on road cycle routes.
- 6.80 There are also significant planned improvements to the local public transport, walking and cycling network across the City and specifically within Digbeth and Eastside:
- Curzon Street HS2 – planned to open in 2026;
 - Eastside Midland Metro extension – to be completed in time for the opening of HS2;
 - Future planned East Birmingham to Solihull Metro extension with stop on Adderley Street;
 - Sprint – planned to be operational in 2022;
 - Cycling and walking routes – routes 18, 19 and 32 from the City Centre Cycling Infrastructure Plan are located within close proximity of the site;
 - Duddeston Viaduct Skypark – proposed to be brought forward as part of the Oval Estates masterplan; and
 - Clean Air Zone (CAZ) – came into force last month.
- 6.81 As part of the scheme, permeability through the site for pedestrians and cyclists would be improved. The creation of routes via Pump House Passage and Pump House Park would link into adjacent schemes coming forward on adjacent sites. Upper Trinity Street would also be more pedestrian friendly by increasing the width of the footpath closest to the proposed buildings, reducing the carriageway and providing two pedestrian crossings. One of the crossings would be sited between the proposed hotel (Block D) and a potential entrance to the proposed sky park providing a desire line between Pump House Park and the sky park. Unfortunately the sky park plus the proposed entrance from Upper Trinity Street are not within the application site and lie outside land within the applicant's control. Dedicated laybys

serving the commercial units are also proposed along Upper Trinity Street in preference to such vehicles entering the heart of the site.

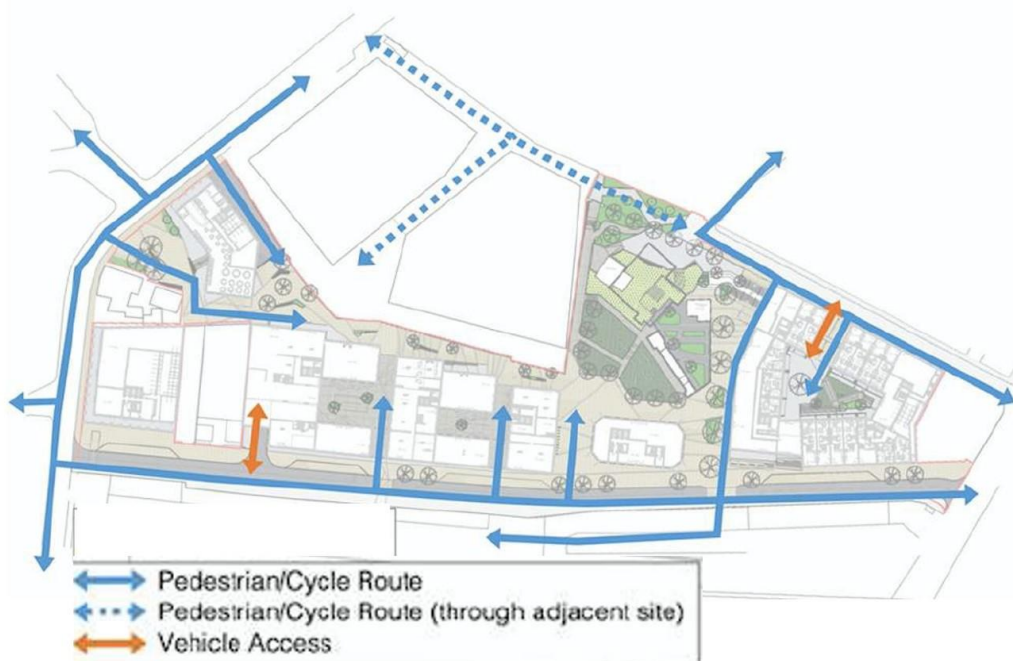


Illustration of Proposed Access Points

- 6.82 The number of parking spaces proposed is a balance between the two sets of standards, i.e. the approved SPD and the draft parking standards SPD. Sixty six spaces are proposed within the lower ground car park to blocks A, B and C. Cycle parking is proposed at a 1:1 ratio for residents with 94 additional spaces throughout the site including the public realm areas.
- 6.83 Given the current uses on site, a nett traffic assessment has been undertaken that reviews the consented position against the proposed scheme. The results forecast a nett increase of 5 two-way trips in the AM peak and a reduction of 140 two-way trips in the PM peak. A study of accident data has also demonstrated that there are no particular safety concerns on the highway network surrounding the site that would warrant mitigation as part of the proposed scheme

Midlands Rail Hub

- 6.84 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 to passengers, 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.

- 6.85 In order to provide the two Chords it may be necessary to provide additional tracks on top of the existing Bordesley Viaduct, which may require the Viaduct to be widened to the north. It is 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 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.
- 6.86 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.
- 6.87 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. As such the potential prejudice to the provision of the Chords is a material consideration.
- 6.88 With respect to the current application an objection was received in June 2020 from WMRE/TfWM and Midlands Connect that highlighted two elements of the MRH that could potentially be adversely impacted by the proposals;
- a) the Bordesley North West Chord, a future connection of the rail lines out of Birmingham Moor St Station with the Camp Hill Line near St Andrews Junction; and
 - b) the widening of the existing Bordesley Viaduct between Moor St and Bordesley stations to provide up to six operational railway tracks.
- 6.89 Following this objection the applicant then submitted a Bordesley North West Chord Study Summary Report (now referred to as the Arup report). Part of this Report considers the options for the proposed MRH track layout considering a 'likely route' and a 'worst case' scenario. These scenarios then illustrate whether either option could potentially require land take from the application site to accommodate the North West Chord railway lines and associated supporting structures plus the temporary construction space required to build them.
- 6.90 Unlike other recent application sites at 193 Camp Hill and Oval Estates the existing Bordesley Viaduct significantly is wider opposite the current application site; it is understood to have accommodated the abandoned Bordesley Cattle station and is

now described as historic railway land.



Illustrative Aerial view showing proposed layout adjacent to Upper Trinity Street Carriageway and Historic Railway Land that forms part of Bordesley Viaduct (Not to Scale)

- 6.91 The potential Arup Report track alignments utilise a conceptual 2D track alignment study based on aerial photos and an available layout description of the proposed Chords within the public domain (i.e. the Network Rail West Midlands & Chilterns Route Study Technical Appendices published in August 2017). The 'likely route' scenario indicates that the railway tracks adjacent to Upper Trinity Street would be located within the footprint of the existing Network Rail structures. The Arup Report also estimates a minimum separation distance between the proposed tracks and the closest proposed building (Block C) of approximately 30m. In the 'worst case' scenario the potential alignment requires the construction of a new elevated supporting structure to carry the proposed Bordesley North West Chord over the Chiltern Mainlines and the Coventry Road towards the existing Camp Hill lines. However the additional tracks would still be located within the footprint of the existing Network Rail structures. This scenario estimates a minimum separation distance between the proposed tracks and the closest proposed building (Block C) of approximately 20m.
- 6.92 Further discussions with Network Rail took place in Autumn 2020 regarding a potential 6 track alignment option. In contrast to the 2017 Study referred to above this potential arrangement would be provided via a flat junction (i.e. without grade separation) with the two new tracks proposed using the existing formation on the Bordesley Viaduct into Moor Street. Based on this additional scenario however the Arup Report still shows that they would be located within the footprint of the existing Network Rail structures with an estimated minimum separation distance between the proposed tracks and the closest proposed building (Block D hotel) of approximately 18m.
- 6.93 The Arup Report concludes that the scenarios have identified that a permanent land take to accommodate a future North West Chord from the Upper Trinity Street application site would not be required. As such, no negative impact from the development footprint has been identified that would have the potential to obstruct the future delivery of the MRH at this location. Neither Network Rail, Midlands Connect or WMRE/TfWM have submitted any comments or an objection in response to the Arup Report.

- 6.94 Therefore whilst the potential prejudice to the provision of the Chords is considered to be a material consideration in this case it is considered that it has been demonstrated that there would be no potential prejudice and therefore no conflict with Policies TP38 and TP41 of the BDP. Importantly the potential route of the chords has not been safeguarded in development plan policy.
- 6.95 The site has a sustainable location with good opportunities to use public transport. The proposed layout would also promote walking and cycling, and it is considered that it has been sufficiently demonstrated that there would be no prejudice to the delivery of the MRH. The development would not have a significant adverse impact on the operation or safety of the surrounding highway and transportation network. Therefore it is considered to accord with Policies GA1.4, TP27, TP39, TP40 and TP44 of the BDP, Policy DM15 of the Draft Development Management DPD and the NPPF.

Noise and Vibration

- 6.96 The site lies in the City Centre Growth Area where according to Policy GA1.1 it will be the focus for all different types of development including leisure uses. In addition Policy GA1.3 encourages a thriving and cultural Hub within Digbeth, whilst this part of the City Centre is well known for its entertainment uses and late night venues.
- 6.97 As with other applications that have recently been reported to committee the implications of introducing residential uses within an area where there are existing late night premises is challenging. Paragraph 182 of the NPPF states, *“Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs).”* It goes on to say that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Policy DM2 of the Draft Development Management DPD advises that development needs to be appropriate to its location and not result in unacceptable adverse impacts on the amenity of occupiers and neighbours.
- 6.98 The matter of noise is considered within the ES and clarified further by a Noise Technical Note submitted by the applicants. The ES also refers to guidance in Noise Policy Statement for England (2010), the Professional Practice Guidance on Planning & Noise’ (ProPG) (2017) and the Council’s Planning Consultation Note No. 1 Noise & Vibration (PCN1) (2020).
- 6.99 The applicants have considered the impacts of noise and vibration during the construction and operational phases. With respect to the latter the ES includes reference to internal noise levels within the dwellings, noise levels in external amenity areas and noise generated by the proposed commercial units.
- 6.100 The applicants undertook a series of attended and unattended noise monitoring before the national lockdown of March 2020 within a study area of 300m from the site. A manned vibration survey was also undertaken in June 2019 with particular reference to train movements. This monitoring was undertaken at two locations approximately 40m and 55m from the existing railway line.

Noise and Vibration during the Construction Phase

- 6.101 In order to minimise the risk of an adverse impact to existing and future receptors it is proposed to submit a Construction Environmental Management Plan (CEMP) that would be secured by an appropriate planning condition. The CEMP would provide details of vehicle and mechanical operations and maintenance, noise barriers, delivery times and the proposed means of contacting occupiers who may be affected by noise and vibration. No significant increases in road traffic noise are predicted as a result of the development proposals, thus no mitigation would be required.

Noise During the Operational Phase

- 6.102 During the manned night-time measurements, the dominant noise sources were noted to be music noise from surrounding music/entertainment premises, as well as patron noise associated with the use of the surrounding premises. Specific reference is made to The Mill, The Night Owl, Mama Roux, Spotlight and Digbeth Arena on Lower Trinity Street and to the adjoining Dead Wax on Adderley Street.
- 6.103 The ES concludes that based on the results of the noise surveys, and with consideration given to the embedded mitigation within the proposed residential blocks afforded by preliminary façade/glazing specifications and mechanical ventilation, the risk of adverse impact from noise sources to the proposed dwellings would be negligible or, if taking Digbeth Arena separately, minor adverse. These comments are made by the applicants in reference to when windows are closed but not sealed, in order to allow windows to be open for purge conditions, i.e. expelling of odour/fumes. This approach of achieving “inaudibility” within habitable rooms with windows closed at all times except during purge conditions is considered, by the applicants, to be a common approach for City Centre schemes nationwide.
- 6.104 In contrast Regulatory Services consider that noise from identifiable external noise sources should be inaudible at all times. Opening windows to allow purge ventilation cannot be controlled by the applicant or the Council and therefore, following this approach inaudibility could only be secured by the use of sealed windows. Regulatory Services however also object to the reliance upon sealed units, as they do not promote high quality living conditions, a consideration that is supported by Policy GA1.1 that requires high quality living environments.
- 6.105 As per the NPPF and the Council’s guidance contained in PCN1 the applicants have considered and then discounted the agent of change process. This is when noise mitigation is provided at source and has been discounted due to the number of outdoor venues that would require noise mitigation measures.
- 6.106 Acknowledging the potential conflict between securing a good living environment of the future residential occupiers whilst protecting local entertainment venues that are already established it is considered appropriate in this instance to seal units where necessary. Based on current noise data this would require the following units within Blocks A to H to be sealed:

Block	No. of Units Proposed	No. of Proposed Sealed Units
Block A	151	98
Block B	127	30
Block C	98	19
Block J	124	78
Block H	234	234

6.107 However this is the worst case scenario, and it is important to consider that the proposed development would be constructed in phases.

Block	No. of Units Proposed	No. of Proposed Sealed Units	Expected dtae of Commencement / Completion
Block A	151	98	February 2022 / April 2024
Block B	127	30	February 2022 / April 2024
Block C	98	19	February 2022 / April 2024
Block J	124	78	April 2025 / March 2027
Block H	234	234	September 2026 / April 2029

6.108 Notably the tower at Block H, which lies closest to the late night uses within Lower Trinity Street and next to Dead Wax would not commence until September 2026 by which time the evening economy could have changed. It is therefore considered that a fresh noise assessment should be undertaken prior to the commencement of each phase of development to provide up to date noise data and necessary mitigation. Such up to date noise data may also take account of noise from additional trains or trains running closer to the site as a result of the MRH, should there be further information regarding the defined route in the public domain at that point in time.

Noise from Proposed Commercial Operators

6.109 At this stage the prospective tenants of the proposed commercial units are unknown, however Class A1, A2, A3, A4 and A5 business uses are proposed. These are therefore expected to accommodate retail outlets, professional services, restaurant premises, drinking establishments, and/or takeaway premises. The ES concludes that it is expected that that noise transfer to adjacent residential dwellings on upper levels of the scheme should be suitably controlled in accordance with the requirements of BCC by the internal building fabric design.

Vibration

6.110 No significant effects were noted from the vibration monitoring during the operational phase.

6.111 In conclusion the potential conflict between siting new residential development in an area that is known for its established late noise venues and associated patron noise is acknowledged. However in order to ensure that existing premises would not have unreasonable restrictions placed on them it is proposed to attach a planning condition

to require a fresh noise assessment with suggested noise mitigation measures is submitted prior to the commencement of each phase of the development. The mitigation would then be based on the most up to date noise monitoring data. It does however need to be recognised that should the future noise assessments produce the same results as the existing data a significant proportion of the proposed residential units would rely upon sealed units. Whilst such units would not accord with Policy GA1.1 and the provision of a high quality environment it would ensure that the development would be compatible with adjacent uses as recognised in Policy DM2 of the Development Management DPD and secure the redevelopment of this brownfield site for a mixed but primarily residential led scheme. The planning balance is discussed at the end of the report.

Air Quality

- 6.112 The site is located within the Birmingham AQMA. The Air Quality Chapter of the ES acknowledges this and provides an assessment of the impacts upon air quality during the construction and operational phases.
- 6.113 The construction phase considers proposed demolition, earthworks, construction and trackout (the movement of dust and dirt from a construction site onto the public road network). The significance of the impact is then considered in the light of the distance from the nearest sensitive receptor. The main emissions during construction are likely to be dust and particulate matter generated during earth moving, particularly during dry months, or from construction materials. However, following the implementation of a Construction Environment Management Plan (CEMP) the effect of the impact during the construction phase is considered not to be significant.
- 6.114 The operational phase assessment consists of the quantified predictions of the change in nitrogen dioxide (NO₂) and other particulate matter due to changes in traffic movements. It is based on an operational opening year of 2022 and the concentration levels are predicted to be below the relevant Air Quality Objectives for the protection of human health.
- 6.115 The assessment also considers cumulative effects that would arise from the proposed development in combination with other committed developments plus reasonably foreseeable development. In this instance there are considered to be no cumulative effects during either the construction or operational phases. Subject to mitigation as set out in paragraph 6.145 it is considered that the proposals accord with BDP Policy TP37 and the NPPF.

Flood Risk and Drainage

- 6.116 A Flood Risk Assessment (FRA) and Drainage Strategy have been submitted in support of the application. The FRA identifies that the site lies in flood zone 1 and the risk of flooding from pluvial, surface water, groundwater, sewers and reservoirs are all considered to be low.
- 6.117 The Drainage Strategy provides the overarching principles for the site. However as each phase of the development comes forward for detailed design and construction, it will be developed in more detail. It is anticipated that surface water flows will be

collected via a dedicated gravity system before discharging to the public combined sewer at Adderley Street. A total storage capacity of approximately 473 sqm would be provided and the system would have a flow control device installed to limit surface water discharge, equivalent to the minimum practicable discharge rate. This would represent a 50% betterment from the existing brownfield run-off.

- 6.118 Foul water flows would be collected by a dedicated gravity network before discharging to the existing foul sewer on Upper Trinity Street.
- 6.119 Both Severn Trent Water and the Local Lead Flood Authority have raised no objections to this approach subject to conditions to require detailed drainage and maintenance plans. It is therefore considered to accord with BDP Policy TP6.

Biodiversity

- 6.120 A Preliminary Ecological Assessment (PEA) was undertaken following a site survey in 2019. However, as the site area was subsequently expanded to include additional land under the ownership of the Canal and River Trust, an amended PEA was undertaken in the following year recognising these additional areas.
- 6.121 There are no designated protected sites within 2 km of the site. There is one Potential Site of Interest adjacent to the southern side of the site. This is Snow Hill & Solihull Railway and is of value as a green corridor.
- 6.122 There are limited habitats on the site given its existing use and there are no protected or priority habitats on site. The buildings and hardstanding areas are identified as potential habitats for some protected species, but this is limited. The site is identified as having low ecological value overall.
- 6.123 The original 2019 survey work found that there is low potential for badgers, great crested newts, reptiles and other protected species to be present on site. No Japanese knotweed or other invasive species were present on site. It is however recommended that in respect to the additional areas further survey work be carried out in respect of badgers, great crested newts, reptiles and other protected species.
- 6.124 In relation to bats, there is a low potential for bats to roost on site. The original PEA recommended that further surveying be undertaken to determine likely absence or presence. An emergence/re-entry survey was therefore undertaken in August 2019 to cover all building areas where bats might emerge at dusk or re-enter at dawn.
- 6.125 Overall, the bat survey of the 2019 identified the following:
- The likely absence of roosting bats from all buildings has been established;
 - No habitats of value for foraging were identified; and
 - No features of value for commuting were identified.
- 6.126 The amended PEA comments that the potential for roosting bats in the areas added to the site boundary since 2019 is currently unknown. However based on the potential from surveying other buildings on site it seems likely to be low or negligible. Further survey work is recommended.

- 6.127 In relation to nesting birds, the original PEA identified there is high potential for nesting on site, mainly during the peak nesting season (1st May to 31st August) including nesting of Black Redstarts, a Schedule 1 Breeding Bird. Subsequently 5 black redstart surveys were carried out between June and July 2020. However the survey found no evidence of onsite black redstart breeding, nor of any black redstart breeding activity within earshot.
- 6.128 The Arboricultural Assessment concludes that there are 6 individual and 1 group of trees. Using the BS 5837 categorisation method, all of these trees are of C (low) value and all are to be removed.
- 6.129 Whilst the additional survey work has been welcomed by the Council's Ecologist, due to the date of original surveys a precautionary approach is recommended via the submission of a construction ecological management plan (CEcMP) prior to each phase of the development. The content of a CEcMP includes details regarding practical measures to avoid or reduce impacts during construction and the location and timing of sensitive works to avoid harm to biodiversity features. The current ecological value of the site is low overall and the Council's Ecologist has commented that the proposed landscaping seems to include a good range of species that would offer a good level of biodiversity enhancement although further detailed planting plans are required. Additional conditions are attached to require details of ecological biodiversity enhancement measures including bird and bat boxes and biodiversity roofs. As the proposed development would provide a betterment it is considered to accord with BDP Policy TP8 and paragraph 175 of the NPPF.

Sustainability

- 6.130 A Sustainability Statement has been submitted in reference to Policies TP1, TP2, TP3 and TP4 of the BDP that has adopted the ethos of be lean, be green, be clean.
- 6.131 The overall strategy for the development has been formed with a BREEAM target of Excellent, ensuring that the development uses highly efficient materials, is botenergy and water efficient and addresses thermal comfort.
- 6.132 With respect to the commercial floorspace the Statement recommends using highly efficient materials to improve thermal values and combine this with Photovoltaic cells (PV), electric air source heat pumps, MVHR and gas fired boilers. This approach would help the overall site achieve a 19% carbon dioxide reduction over and above the requirements of Part L of the Building Regulations.
- 6.133 With regard to the residential units the Statement recommends use of 100% efficient direct electric heating across all blocks in combination with an electric immersion hot water system and MVHR. It reports that highly efficient materials would also be used in conjunction with Photo Voltaics (PV's) in order to achieve the required 19% carbon dioxide reduction over and above the requirements of Part L of the Building Regulations. The proposed use of PV's would comprise 350W panels on all available roof space on Blocks A, B, C and J totalling an area of 2,882sqm with the benefit of the PV's distributed across all blocks.
- 6.134 The applicants have submitted a Pre Assessment BREEAM report which indicates how the proposed commercial floorspace would meet BREEAM Very Good with

aspirations to meet Excellent. It is therefore considered to accord with Policies TP3 and TP4 of the BDP and the NPPF. Conditions are proposed in order to secure these environmental benefits in line with the policies.

Environmental Statement (ES)

- 6.135 Environmental Impact Assessment (EIA) is the process undertaken in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (SI2017/571) (the 'EIA Regulations'). The EIA process is where development proposals deemed likely to have significant environmental effects are appraised. EIA establishes the nature of a development and the environment in which it is likely to take place, during both the construction and operational phases. The Environmental Statement (ES) is the document that reports the assessment process and is submitted with the planning application. It has the status of a material consideration during the determining of the application.
- 6.136 An ES should focus on the likely significant effects of the proposed development. The subject areas have been identified via a scoping opinion that was submitted to the Council following which the scope of the ES was agreed. As such the following topics were scoped into the original ES:
- Townscape & Views
 - Built Heritage
 - Archaeology
 - Transport & Access
 - Air Quality
 - Socio Economics
 - Wind Microclimate
 - Daylight, Sunlight & Overshadowing
- 6.137 Meanwhile it is considered that the proposals would not give rise to likely significant effects on the environment with respect to biodiversity, land contamination, drainage, agriculture, lighting, waste, climate change and greenhouse gases and accidents and disasters. Therefore these topics have been scoped out.
- 6.138 An ES Addendum was subsequently submitted to reflect some design changes with updates to the chapters on Townscape & Views, Built Heritage, Wind Microclimate and Daylight, Sunlight & Overshadowing. An additional chapter on noise was also scoped in.
- 6.139 The ES predicts what the significance of each environmental effect would be, which is determined by two factors:
- The sensitivity, importance or value of the environment (such as people or wildlife); and
 - The actual change taking place to the environment (i.e. the size or severity of change taking place).
- 6.140 Most environmental disciplines classify effects as negligible, adverse or beneficial, where effects are minor, moderate or major.
- 6.141 During the assessment of likely significant effects, the EIA (in line with requirements of the EIA Regulations) has considered measures to avoid, prevent, reduce or, if

possible offset any identified significant adverse effects. This is commonly termed as 'mitigation'. Finally, each chapter determines whether the level of effect reported is 'significant' or not. This determination is based on professional judgement

- 6.142 Taking each of the chapters separately there follows a summary of the predicted significant effects:
- 6.143 Townscape & Views – general, full or partial viability is anticipated within a 750m radius of the site. Of 21 identified viewpoints, there would be a significant visual impact from 10 viewpoint locations at year 15 post construction. Pedestrians moving through the two nearby conservation areas are considered to be high sensitivity receptors from these viewpoints. Of these 10 significant visual impacts 6 would be adverse whilst the remaining 4 would be significant but neutral. There would be a major adverse townscape effect on the Digbeth, Deritend and Bordesley High Streets Conservation Area, however it is within a limited portion of the Area that a major effect is anticipated. In townscape terms there would be a significant impact upon the Grade II listed Clements Arms however this effect is neutral. A significant impact is anticipated on the townscape character of the area at a local level, however the change from industrial commercial to mixed use residential is considered to be beneficial.
- 6.144 Built Heritage – overall the ES reports that the effects on heritage assets are unlikely to be significant during the construction phase. Moreover during the operational phase the reported effects on the heritage assets located immediately adjacent, within the Conservation Areas or within the wider context range from minor adverse to neutral to minor beneficial. Acknowledging that there have been some differences of opinion between the Heritage Impact Assessment and the opinions of the Conservation Officer the predicted minor adverse is considered to be under cautious. The impact upon the setting of some of the assets, as explained earlier in the committee report, is considered to cause substantial harm and this is translated, by officers, in terms of the ES to be a significant effect that would be adverse.
- 6.145 Archaeology - No below-ground archaeology of high or very high significance is anticipated to be present that would merit a mitigation strategy of permanent preservation within the ground. Appropriate mitigation is therefore proposed to comprise archaeological trial trenching, with results to inform a possible archaeological excavation for remains of higher significance, and a watching brief for remains of lesser significance, to achieve preservation by record as necessary. This would result in a minor adverse to negligible effect.
- 6.146 Transport & Access - The impact from construction traffic would only be a temporary impact on the highway network, and as such, the impact is therefore considered to be negligible. However, best practice mitigation measures will be adopted through the implementation of the CEMP. There may be an increase in traffic flows on the highways network in the operational phase. Mitigation is proposed via the uptake of sustainable modes of transport and pedestrian and cycle routes through the site. Combined measures are predicted would result in a negligible residual effect.
- 6.147 Air Quality - Best practice mitigation measures would be adopted through the implementation of a CEMP, which would be secured by an appropriate planning condition. Following the implementation of mitigation, the risk of adverse effects due

to emissions from the construction phase are predicted not to be significant. The effects of emissions impact during the operational phase are considered to be not significant.

- 6.148 Socio Economics – the ES provides an assessment of the impacts upon the construction phase employment generation; the measure of the value of goods and services produced in an area, industry or sector of an economy (termed as Gross Value Added or GVA), operational phase employment generation, GVA generated from commercial floorspace once operational, commercial expenditure from new residents and GVA creation from new residents. All of the impacts are predicted to be beneficial but not of a scale that would be termed as significant.
- 6.149 Wind Microclimate - During the construction phase hoarding would be used to reduce the effects. Thereafter mitigation is proposed in the form landscaping and a physical porous screen at ground level, recreational terrace level landscaping and a canopy and amenity terrace mitigation to Block H. These would be secured via a condition. Following these measures the impact during the operational phase would be less than significant.
- 6.150 Daylight, Sunlight and Overshadowing - The impact upon The Rainbow Inn, 160 High Street, 104 Liverpool Street, 2 Bowyer Street, 27 Bowyer Street and the Clements Arms as sensitive receptors has been assessed. The effects during the construction and operational phases are predicted to be negligible.
- 6.151 Noise and Vibration - The implementation of best practice mitigation measures through the CEMP, to be secured by a planning condition, would ensure that there would be no significant effects on noise or vibration during construction. During the operational phase the effect upon noise levels within dwellings from frequently operating entertainment premises would not be significantly adverse. This comment is made on the basis that the new dwellings would have in built noise mitigation measures in terms of the façade and glazing. It is noted that the mitigation suggested by the ES is different to the mitigation that may be considered necessary by the Local Planning Authority in the form of sealed units, however it is considered that the use of the sealed units would not increase the effects of noise to significant in ES terms. Noise from road traffic would not be significant whilst noise from commercial units from on site and fixed plant would not be significant subject to mitigation secured by planning conditions.
- 6.152 Cumulative Effects - It is a requirement of the EIA Regulations for the ES to assess the cumulative effects arising from the proposed scheme. It is common for cumulative effects to be broken down into two types of effect:
- Effect Interactions - the interaction of environmental effects of the proposed scheme affecting the same receptor, either within the site or in the local area; and
 - In-combination Effects: the combination of environmental effects of the proposed scheme with approved projects.
- 6.153 The assessment of effect interactions identified that interactions would be limited to the local population and users of the local road network during both the construction and operational phases due to views of the development and from pollution from road and plant emissions.

- 6.154 With respect to the in-combination effects the original ES included two scenarios in its cumulative assessment. Scenario one comprised all approved development, which is in accordance with the EIA Regulations and Planning Practice Guidance (PPG). Scenario two comprised approved development plus reasonably foreseeable development. The original ES included an assessment of the cumulative effects with 19 identified schemes (16 approved and three reasonably foreseeable). This was then added to earlier this year following the appeal allowed at 193 Camp Hill.
- 6.155 In-combination effects have been found in respect of the following topics:
- 6.156 Townscape and Visual - an increased cumulative visual effect is anticipated from 2 of the 21 viewpoints when considering the scenario one developments. The magnitude of change increased from moderate (neutral) to major (neutral) and from moderate (adverse) to major (adverse). A further 4 viewpoints saw an increase in the cumulative effect when the scenario 2 developments were considered. The magnitude of change saw increases to major (neutral), to major (adverse) and to minor (adverse).
- 6.157 Built Heritage - The cumulative assessment has identified that there would not be cumulative effects upon built heritage during the demolition and construction phases. However during the operational phase there would be two significant effects, both at the level of moderate adverse. The first is upon the Grade II listed Holy Trinity Church and the other upon the Digbeth, Deritend and Bordesley High Streets Conservation Area.
- 6.158 Socio Economics – There would be a temporary major-moderate beneficial cumulative effect on construction employment. The construction of a minimum of 7,150 new dwellings and a minimum of 222,150sqm of commercial floorspace would generate a significant quantum of GVA. It is considered therefore that the cumulative schemes would collectively have a major-moderate effect on GVA. During the operational phase the employment associated with the cumulative schemes, the effect of GVA from the commercial and residential floorspace and commercial expenditure would have a permanent, major-moderate beneficial effect.
- 6.159 According to the EIA Regs the local planning authority should reach a reasoned conclusion on the individual and cumulative significant effects and this conclusion should be integrated into the decision as to whether planning permission should be granted. If it is to be granted, the local planning authority should consider whether it is appropriate to impose monitoring measures. These significant effects are therefore considered in the planning balance at the end of the report.

Planning Obligations

- 6.160 Policy TP31 of the BDP requires 35% of the total number of dwellings to be affordable on sites of 15 dwellings or more and TP9 seeks either on site public open space at 2ha per 1000 population or a contribution towards off site provision for developments of 20 or more dwellings. In addition obligations have also been requested from the following consultees:
- Leisure Services - £1,900,575;
 - Education – £2,098,148.14;
 - Sport England - £362,914; and

- Canals and Rivers Trust – requirement to investigate and provide, or at least contribute towards a new access point onto the towpath at Adderley Street.
- 6.161 The applicants contend that should the development comply with Policy TP31, excluding the other requests, it would not deliver a sufficient developer's return for risk. Therefore a Financial Viability Appraisal (FVA) has been submitted and independently assessed. This details the expenditure estimated to be spent on improving the public realm to Upper Trinity Street and providing the public amenity areas. There are however other matters that need to be addressed via the Section 106 Agreement.
- 6.162 With respect to Pump House Park firstly this is an existing operational site with the existing Pumping Station and gauging weir in use by the Canals and Rivers Trust (CRT). Furthermore as indicated previously the CRT own a significant proportion of the proposed park area. Therefore it is anticipated that CRT would need to be a signatory to the S106 Agreement. CRT have acknowledged to officers that discussions with the applicants have taken place and are satisfied that their operational requirements can be accommodated. Secondly the proposed park area also accommodates the former Lock Keepers Cottage. The applicants anticipate that it will be occupied by a commercial or community use, however there is no guarantee at this moment in time. Therefore it is considered necessary to ensure that if the Cottage is not occupied by the time Pump House Park is open to the public and, acknowledging that it is a non designated heritage asset, it should be made secure until such time as it brought into use. Finally Bowyer Street is currently a vehicular carriageway that would provide access to Pump House Park. This is necessary for CRT operational requirements. However it ends abruptly at an existing wall. The proposed plans for the park indicate the provision of a walkway beyond this wall that would eventually lead to Adderley Street. Although requiring third party land it would allow a continuous walkway leading from the towpath serving the Grand Union Canal onto Bowyer Street to Adderley Street where a metro stop is proposed. The third party land shown as part of this thoroughfare is named Lower Bowyer Street in the approved outline plans for the adjoining site known as Bordesley Wharf (2020/01796/PA). Facilitating convenient links and supporting the walking and cycling environment is encouraged by Policies TP27, TP39, TP40 and the Curzon HS2 Masterplan.
- 6.163 The applicants are also cognisant of the diminishing supply of affordable commercial premises in Digbeth to accommodate indigenous small business growth, due to the regeneration and re-development of sites in this part of the City. Therefore a proportion of the proposed commercial floorspace would be secured as affordable floorspace. Heads of term leasehold agreements have been secured with Pat Benson Community Sport Foundation, the Museum of Youth Culture and Birmingham Music Archive to ensure that these occupiers (and any future occupiers of the defined floorspace) would rent approximately 1,285sqm floorspace at a reduced rate in perpetuity.
- 6.164 Therefore the S106 obligations comprise the following:
- i. Highway improvements to upgrade Upper Trinity Street including reducing the carriageway from 8m to 5m, providing street furniture, laybys for servicing and

parking, two pedestrian crossings and the planting and retention of trees within the publicly maintained highway for the purposes of wind mitigation - estimated to be £1,280,000. Northern end of Upper Trinity Street to be implemented prior to first occupation of Blocks A, B or C, southern end of to be implemented prior to first occupation of Blocks E, F or G ;

- ii. Public realm improvements, including the delivery of Pump House Park, Pump House Passage and Adderley Yard – estimated to cost £3,481,000. Improvements to be implemented prior to first occupation of Blocks E, F or G;
- iii. If necessary, submission of details to be agreed and thereafter implemented prior to the first opening of Pump House Park to physically secure the retained Lock Keepers Cottage (a fallback position if a use for the Cottage has not been found and implemented);
- iv. Ensuring that the end of Bowyer Street is open to pedestrians to allow a through route to Adderley Street to the north (timing to be agreed);
- v. Securing Pat Benson Community Sport Foundation as a tenant within Unit 1 Block A, with a total floorspace of 7,293sqft at GF and FF to be used as a boxing gym. Rent at 75% discount to agreed market rent in perpetuity; and
- vi. Securing Museum of Youth Culture and Birmingham Music Archive as a tenant within Unit 1 Block E with a floorspace of 1,744sqft at LGF and 4,790sq.ft at GF. Rent at 50% discount to agreed market rent in perpetuity;

6.165 In addition the proposed hotel at Block D is CIL liable and would be subject to a payment of approximately £108,000.

6.166 The FVA has been assessed by the Council's Consultants and found to be sound. Taking account of the provision of affordable workspace the proposed scheme would generate a developer's return for risk or profit of approximately 11.16%. This is below the level of return confirmed in the NPPG as acceptable in order to establish the viability of a scheme. The NPPG advises that 15 to 20% is considered a suitable return for risk to a developer.

6.167 The NPPG confirms that in decision making viability helps to strike a balance between the aspirations of developer and landowners with regard to returns against risk, and the aims of the planning system to secure maximum benefits in the public interest through granting planning permission. It is acknowledged that the scheme would not deliver any affordable housing. The provision of the discounted workspace however is estimated to correlate to the provision of 4.1% affordable housing provision or 39 residential units at discount to market value. In this case officer's preference is for the delivery of the affordable commercial floorspace as firstly tenants have been found and the heads of terms for the leasehold agreements agreed. Secondly the proposed leases would ensure that an existing longstanding community use would be retained in the area in the form of the Pat Benson boxing gym. Thirdly the proposed museum and music archive would provide community facilities and a destination for visitors to Digbeth, akin to its cultural hub as supported by the Policy GA1.3 and Curzon HS2 Masterplan.

- 6.168 Acknowledging the other requested obligations 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 including the provision of a public park would allow some capacity for outdoor recreation. It is also considered that this would mitigate for an off site contribution towards open space.

The Planning Balance and Conclusions

- 6.169 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.'*
- 6.170 The development plan is the starting point and it is considered that the proposed redevelopment would provide economic regeneration in this part of the City Centre, where growth is promoted by Policy GA1.1 and the Curzon HS2 Masterplan. The provision of 943 residential apartments is also supported by Policy PG1, at a sustainable location on a brownfield site in accordance with Policy TP28. The existing and proposed good transport links plus opportunities for cycling and walking are supported by Policies TP27, TP39 and TP40. Plus the provision of a mix of uses, open space and an improved public realm would promote a sustainable neighbourhood in accordance with Policies PG3 and TP27.
- 6.171 The scheme has much merit however there is conflict with Policy TP12 due to the harm to heritage assets and, according to this Policy and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 considerable importance and weight should be attached to this harm. In summary there is the following harm:

Name of Asset	Status	Conservation Conclusion
Assets Within the Site		
Pumping Station	Locally Listed	Degree of harm
Former Lock Keeper's Cottage	Non designated	Degree of harm
Assets with a Common Boundary to the Site		
Clements Arms Public House	Grade II listed	Less than substantial harm
Dead Wax Public House	Locally Listed	Degree of harm
Electricity sub station	Locally Listed	Degree of harm
Assets within the Wider Area		
Bordesley House	Locally Listed	Degree of harm
Bordesley Viaduct	Locally Listed	Degree of harm
Old Crown Public House	Grade II* Listed	Less than substantial harm
Devonshire House	Grade II Listed	Less than substantial harm
Former Church (Digbeth High Street)	Grade II Listed	Less than substantial harm
Digbeth, Deritend and Bordesley High Streets	Conservation Area	Less than substantial harm
Warwick Bar	Conservation Area	Less than substantial harm
Holy Trinity Church	Grade II listed	Less than substantial harm

6.172 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.

6.173 In addition to this harm is the individual and cumulative significant adverse effect on the existing townscape and visual impact of the proposals, as concluded in the ES. This impact upon townscape brings the development into conflict with Policy PG3 and saved Policy 3.14 of the UDP. However the proposed development would deliver 943 residential units, making efficient use of a brownfield site and would provide the additional public benefits:

Economic Benefits

- Creating up to 304 direct construction jobs with an indirect positive effect on industries within the construction supply chain resulting in around a further 2958 indirect jobs;
- generating supply chain expenditure from the purchase of building supplies to local provision of meals, refreshments, fuel and potential temporary accommodation (e.g. bed & breakfast) for the construction workforce;
- generating around £17.5m per annum commercial expenditure from future residents within the scheme;
- Creating a net gain of up to 377 jobs on site depending on the potential development mix;
- Contributing to the growth of creative and tourism industries;
- Creating 13 live work units;

Social Benefits

- Creating a neighbourhood via a mix of uses;
- Creating a visitor destination and reinforcing the wider destination vision for Digbeth;
- Providing new urban open spaces giving rise to health benefits;
- Facilitating new cultural and creative enterprise through the commercial floorspace;
- Providing community facilities via Pat Benson boxing academy, Museum of Youth Culture and Birmingham Music Archive;

Environmental Benefits

- Creating new walking and cycling routes encouraging less reliance on the private car;
- Redeveloping a sustainable location that is close to key services and sustainable transport options;
- Replacing derelict and unkempt buildings of poor townscape quality with new high quality designed development;
- Responding to climate change via sustainable construction;
- Providing renewable energy to serve the proposed occupiers; and
- Creating biodiversity net gain via the provision of new landscaping and habitat creation.

6.174 In my view, applying the relevant statutory tests as set out in Section 66 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. It is also considered that there are material considerations to outweigh the significant effect as outlined in the ES upon the townscape and views of the site. Planning conditions listed at the end of the report and a Section 106 agreement as described earlier are necessary to secure the weighting afforded to these benefits.

7.0 Conclusions

7.1 The redevelopment of Upper Trinity Street is a key part of the continued evolution and growth of Digbeth as a distinctive quarter within Birmingham in accordance with

Policy GA1.3. Through the provision of cultural and commercial floorspace at ground floor, a significant number of residential units, a network of public spaces and new walking and cycling links the proposed development would create a unique and vibrant destination in accordance with Policies TP27, TP28, TP39 and TP40. The proposed high quality design proposals make an efficient use of previously developed land at a sustainable location meeting the growth objectives within Policies GA1.1, PG2 and PG3 of the BDP and Curzon HS2 Masterplan.

- 7.2 Consideration has been given to biodiversity, flooding, drainage, energy, sustainability, contamination, noise, amenity and transportation and it is considered that, subject to conditions, the proposals comply with Policies PG3, TP3, TP4, TP6, TP7, TP8, TP44 and TP45, of the BDP and emerging Policy DM2 and DM3 of the Development Management DPD and the NPPF.
- 7.3 The proposals would cause harm to heritage assets and have a significant effect upon the townscape however it is considered that there are sufficient material considerations to outweigh this harm and that the proposed design would result in an attractive place to work, live and visit.
8. Recommendation
- 8.1 That application 2020/02906/PA be APPROVED subject to conditions and the prior suitable Legal Agreement to secure the following:
- a) Implementation of highway improvements to upgrade Upper Trinity Street including reducing the carriageway from 8m to 5m, providing street furniture, laybys for servicing and parking, two pedestrian crossings and the planting and retention of trees within the publicly maintained highway for the purposes of wind mitigation - estimated to be £1,280,000. Northern end of Upper Trinity Street to be implemented prior to first occupation of Blocks A, B or C, southern end of to be implemented prior to first occupation of Blocks E, F or G;
 - b) Implementation of public realm improvements and timing of the delivery of Pump House Park, Pump House Passage and Adderley Yard – estimated to cost £3,481,000. Routes through the site to be retained and available for public use at all times. Improvements to be implemented prior to first occupation of Blocks E, F or G;
 - c) If necessary, submission of details to be agreed and thereafter implemented prior to the first opening of Pump House Park to repair, physically secure the retained Lock Keepers Cottage (a fallback position if a use for the Cottage has not been found and implemented);
 - d) Ensuring that the end of Bowyer Street is open to pedestrians to allow a through route to Adderley Street to the north (timing to be agreed);
 - e) Securing Pat Benson Community Sport Foundation as a tenant within Unit 1 Block A (or another tenant to be agreed by the Local Planning Authority), with a total floorspace of 7,293sqft at GF and FF to be used as a boxing gym. Rent at 75% discount to agreed market rent in perpetuity;

- f) Securing Museum of Youth Culture and Birmingham Music Archive as a tenant within Unit 1 Block E (or another tenant to be agreed by the Local Planning Authority), with a floorspace of 1,744sqft at LGF and 4,790sq.ft at GF. Rent at 50% discount to agreed market rent in perpetuity; and
 - g) 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 1st October 2021 or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reasons:
- 8.3 In the absence of any legal agreement to secure the additions and improvements to the public realm as described in points (a) to (d) 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
- 8.4 The lack of affordable commercial floorspace is contrary to one of the Vision, Objectives and Strategy of the BDP which seeks to create a prosperous, successful and enterprising economy with benefits felt by all, Policies PG1, GA1.1, GA1.3 the Birmingham Curzon HS2 Masterplan for Growth and its accompanying Curzon Investment Plan.
- 8.5 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.
- 8.6 That in the event of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority on or before 1st October 2021, or such later date as may be authorised by officers under delegated powers, planning permission for application 2020/02906/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	Pre - Demolition: Submission of Demolition Management Plan
2	Pre Demolition: Submission of a Further Bat Survey
3	Pre Demolition: Submission of Construction Environmental Management Plan (CEMP)
4	Pre - Demolition: Submission of Construction Ecological Management Plan (CEcMP)
5	Pre - Demolition: Submission of a Programme of Archaeological Work
6	Prior to Commencement of Development (excluding demolition) within each Phase: Submission of Construction Environmental Management Plan (CEMP)
7	Prior to Commencement of Development (excluding demolition) within each Phase: Submission of Construction Ecological Management Plan (CEcMP)

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- 8 Prior to Commencement of Development (excluding demolition) within each Phase: Submission of a Contamination Remediation Scheme
 - 9 Prior to Commencement of Development (excluding demolition) within each Phase: Submission of Sustainable Drainage Scheme
 - 10 Prior to Commencement of Development (excluding demolition) within each Phase: Submission of a Construction Employment Plan.
 - 11 Prior to Above Ground Works Within ANY Phase: Submission of Materials Palette - Public Realm
 - 12 Prior to Above Ground Works Within Each Phase: Submission of Materials - Buildings
 - 13 Prior to Above Ground Works Within Each Phase: Submission of Soft Landscaping and other Street Furniture (including areas of public realm)
 - 14 Prior to Above Ground Works Within Each Phase: Submission of Biodiversity Enhancement Details
 - 15 Prior to Above Ground Works Within Each Phase: Submission of Art Strategy
 - 16 Prior to Above Ground Works Within Phases 1, 3 and 4: Submission of Noise Mitigation Scheme
 - 17 Prior to Above Ground Works Within Each Phase: Submission of MVHR ventilation scheme
 - 18 Prior to Above Ground Works Within Each Phase: Submission of Proposed Low and Zero Energy Generation
 - 19 Prior to Above Ground Works Within Phases 1, 3 and 4: Submission of Bird Hazard Management Plan for High-Risk Bird Species
 - 20 Prior to Occupation of each Phase: Submission of a Contaminated Land Verification Report
 - 21 Prior to Occupation of each Phase: Submission of Extraction and Odour Control Details
 - 22 Prior to Occupation of each Phase: Submission of Noise Insulation
 - 23 Prior to Occupation of each Phase: Submission of a Sustainable Drainage Operation and Maintenance Plan
 - 24 Prior to Occupation of each Phase: Submission of a Delivery Vehicle Management Scheme
 - 25 Prior to Occupation of each Phase: Submission of Cycle Parking details
 - 26 Prior to Occupation of Blocks A, B or C: Implementation of Approved Car Parking with Electric Vehicle Charging
 - 27 Prior to Occupation of each Phase: Provision of Relevant Wind Microclimate Mitigation
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| 28 | Prior to Occupation of each Phase: Provision of CCTV scheme - Buildings and Public Realm Areas |
| 29 | Prior to Occupation of each Phase: Submission of an Internal Noise Validation Report Methodology |
| 30 | Prior to Occupation of each Phase: Submission of Signage and Wayfinding Plan |
| 31 | Prior to Occupation of each Phase: Submission of results from testing of the internal and external noise levels following agreed Internal Noise Validation Report Methodology |
| 32 | Prior to Use or Occupation Details of Former Lock Keepers Cottage Within Phase 2 |
| 33 | Post Occupation of Each Block: Submission of BREEAM Final Certificate |
| 34 | Rating Levels for cumulative noise from all plant and machinery |
| 35 | Implementation within 3 years (Full) |
| 36 | Implementation in accordance with Approved Plans |
| 37 | Demolition Only in accordance with Demolition Plan |
| 38 | Limits the maximum gross floorspace within Use Class A1 Retail |
| 39 | Provision and Retention of Sealed Windows within Blocks A, B, C, H & J |
| 40 | Provision and Retention of live work units in Blocks E, F and G |
-

Case Officer: Julia Summerfield

Photo(s)



Upper Trinity Street – Bordesley Viaduct to rhs, application site to lhs



Upper Trinity Street – Bordesley Viaduct to lhs, application site to rhs



Dead Wax – locally listed building on adjoining site



Bowyer Street – application site to lhs

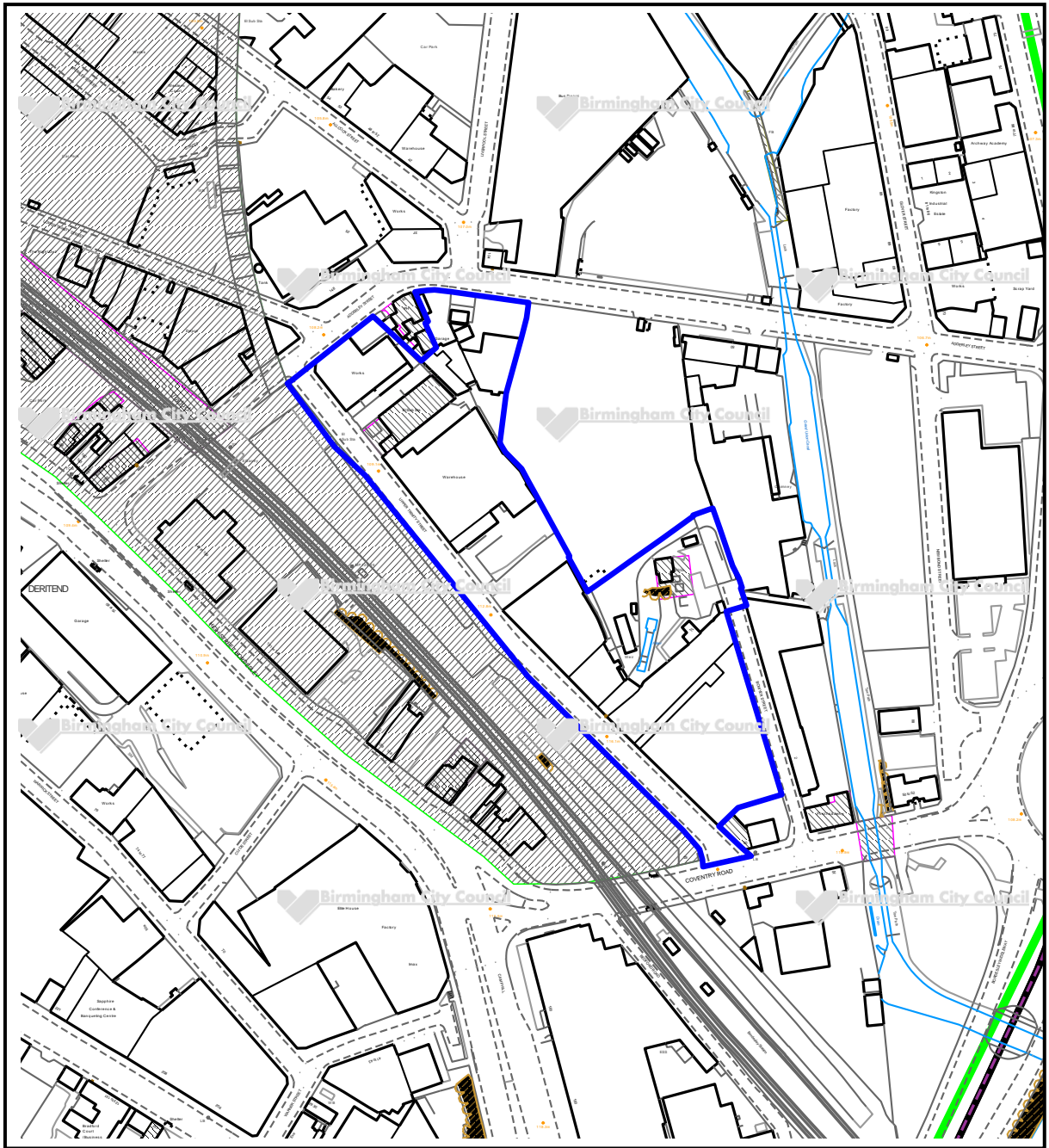


Junction of Coventry Road & Upper Trinity Street – Grade II listed Clements Arms in foreground with locally listed Bordesley House to rhs



Upper Trinity Street – locally listed Electricity Substation on adjoining site

Location Plan



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Committee Date: 22/07/2021 Application Number: 2021/03783/PA
 Accepted: 28/05/2021 Application Type: Full Planning
 Target Date: 27/08/2021
 Ward: Bordesley & Highgate

16 Kent Street, Birmingham, B5 6RD

Demolition of existing buildings and redevelopment to provide 116 apartments with a ground floor of 2 commercial units to include Use Classes E(a), E(b), E(c), E(e), E(f) public houses, wine bars, and/or drinking establishments (sui generis) and E(g)(i)

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

- 1.1. This application is a resubmission of a previous scheme (application 2018/03004/PA) for demolition of existing buildings and the redevelopment of the site to create a building of between 9 and 12 storeys, comprising 116 apartments and two ground floor commercial units of 268sqm and 479sqm, respectively.
- 1.2. The residential element comprises 64 x 2-bed (55%) and 52 x 1 bed (45%) apartments as follows:-
- 9 x Type A - 2 Bed @ 73.4sqm
 - 9 x Type B - 2 Bed @ 74.7sqm
 - 26 x Type C - 2 Bed @ 73.5sqm
 - 8 x Type D - 2 Bed @ 71.8sqm
 - 17 x Type E - 1 Bed @ 55.7sqm
 - 8 x Type F - 1 Bed @ 54.9sqm
 - 8 x Type G - 1 Bed @ 54.1sqm
 - 8 x Type H - 1 Bed @ 50.6sqm
 - 8 x Type I - 1 Bed @ 51.7sqm
 - 3 x Type J - 2 Bed @ 70.9sqm
 - 3 x Type K - 2 Bed @ 70 0sqm
 - 3 x Type L - 1 Bed @ 50.9sqm
 - 2 x Type M - 2 Bed @ 72.3sqm
 - 2 x Type N - 2 Bed @ 75.8sqm
 - 2 x Type O - 2 Bed @ 70sqm
- 1.3. The proposed building would comprise of three blocks: 9 storeys to Lower Essex Street, 10 storeys to Kent Street, and 12 storeys to the corner. The two main facade elements would be constructed with buff brick, with the corner piece constructed with a contrasting black/blue brick. Three different types of brick bond - dog-tooth, extruded Flemish and recessed brickwork – would be used to add interest. Regular window opening groups set up horizontal movements in what are otherwise vertically stacked elevations. Window openings would be full height with some having an aluminium surround reveals and Juliet balconies.



View along Kent Street

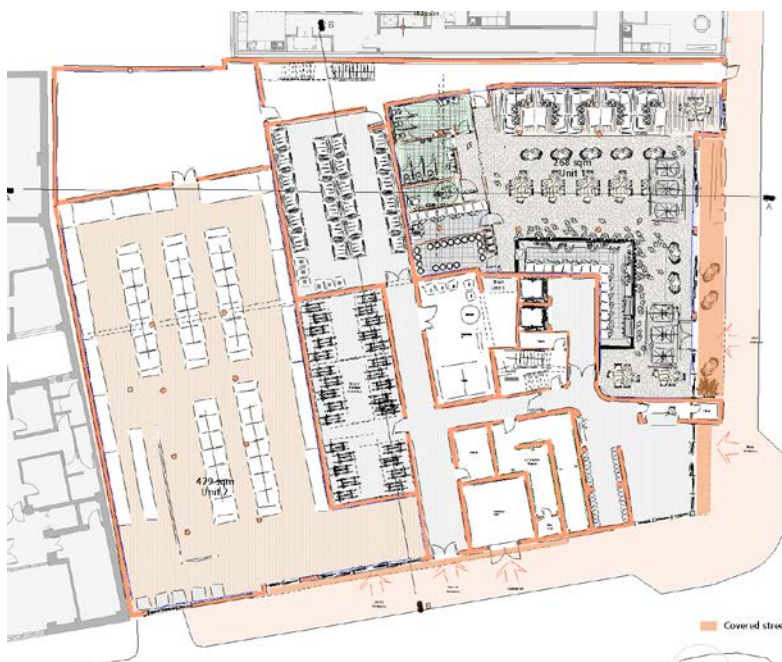
- 1.4. The ground floor is set up against the site boundary apart from the ground floor of commercial unit 1, which is set back from Lower Essex Street to create space for potential outdoor seating. Above ground floor level the building is “L” shaped with wings along both street frontages. At first floor level is a landscaped courtyard garden of 341sqm for prospective residents.
- 1.5. Pedestrian access to the apartments is via the corner of Kent Street and Lower Essex Street. Whilst there is a central courtyard/garden, this is exclusively for residents of the scheme, accessed via the 1st floor. Pedestrian access to commercial unit 1 is provided along Lower Essex Street and unit 2 along Kent Street.



View along Lower Essex Street

- 1.6. The development proposals do not incorporate onsite vehicle parking. Within the centre of the scheme on the ground floor, a space is allocated for 116 bicycles on a two-tiered rack system, allowing for 1 space per residential unit.
- 1.7. An 83sqm space has been allocated for bin storage in the centre of the site. The storage is accessed through a service corridor from Kent Street. Collection vehicles

would stop for a short duration along Kent Street or Lower Essex Street as per the existing waste collection arrangements for the site and adjacent properties.



Ground Floor Plan

1.8. In support of the current application the following updated documents have been submitted:-

- Planning Statement
- Ecology
- Noise
- Energy

1.9. A Viability Statement was submitted with the previous application, which demonstrated that with a policy compliant contribution, the scheme would not be financially viable. The report has been assessed by independent consultants who consider that the scheme can sustain a contribution of circa £750,000.

1.10. [Link to Documents](#)

2. Site & Surroundings

2.1. The application site is located on the south side of the City Centre in the Chinese Quarter, at the junction of Kent Street and Lower Essex Street. It is within close proximity to major attractions; the Hippodrome Theatre, Birmingham Royal Ballet and China Town. The site is also within easy walking distance to the central retail and commercial districts of Birmingham, with a 10 minute walk to Birmingham New Street Station and the Bullring Shopping Centre.

2.1. The site is 0.129 hectares and comprises a 3 storey former office building. The office use has been vacated but the lower floor of the building is in use as an occasional nightclub and entertainment premises.

2.2. The northern site boundary is formed by the Unity & Armouries site which has planning consent for residential development. The scheme is currently under construction. The western site boundary is formed by existing office buildings formerly occupied by Peter's Books, a supplier of educational books and furniture. Planning consent has recently been granted for conversion of this building into

residential. On the opposite side of Lower Essex Street to the east is the Nightingale Club and a further phase of the Unity & Armouries development site. Further to the east on Kent Street is Medusa Bar and Sidewalk Bar. These bars / clubs operate each day of the week and open into the early hours of the morning. Surrounding uses include offices, leisure and residential.

2.3. Direct distances from the application site to the nearby late night entertainment venues are as follows:-

- Nightingale Club, Kent Street – 12m
- Medusa Lodge 139-147 Hurst Street – 45m
- The Fox, Lower Essex Street – 45m
- The Loft, 143 Bromsgrove Street – 62m
- Sidewalk, 125-131 Hurst Street – 66m
- Equator Bar, 123 Hurst Street – 78m
- The Village Inn, 152 Hurst Street – 115m
- Missing, 48 Bromsgrove Street – 116m



Aerial view of the proposed development site

3. Planning History

3.1. The original application was reported to Committee on the 20th December 2018, when it was deferred for a site visit, further consideration of additional information submitted and the specialist character of the area. Following the Committee site visits, negotiations took place with the applicant and Nightingale to find a way to address the concerns. However, it was not possible to reach agreement and in December 2020 the applicant appealed against non-determination. A decision on the appeal is pending.

3.2. In March 2021 a report was considered by your Committee at the meeting on the 4th March 2021, to seek endorsement of the reasons for refusal if the Local Planning Authority had been in a position to determine the application. Three reasons for refusal were agreed:-

- I. The applicant has not demonstrated to the satisfaction of the Local Planning Authority that the proposed glazing / wall specification would when the windows are closed adequately mitigate noise from the Nightingale. This would result in a poor quality living environment for prospective residents and complaints against the Nightingale, which could affect the Nightingale and hence the Gay Village. As such the

proposal would be contrary to Policies GA1, TP24, TP25, TP28 of the Birmingham Development Plan, the Revised National Planning Policy Framework and Public Sector Equality Duty.

II. In the absence of an agreement to secure satisfactory noise mitigation measures at the Nightingale through application of the agent of change principle, the proposal would result in a poor quality living environment for prospective residents and complaints against the Nightingale, which could affect the Nightingale and hence the Gay Village. This would be contrary to Policies GA1, TP24, TP25, TP28 of the Birmingham Development Plan, the Revised National Planning Policy Framework and Public Sector Equality Duty.

III. In the absence of a suitable legal agreement to secure affordable dwellings the proposal would be contrary to TP31 of the Birmingham Development Plan and Revised National Planning Policy Framework.

3.3. On the 29th April 2021, Committee authorised the City Council to enter into a legal agreement to secure¹¹ (9.5% provision) affordable low cost housing units to enable the third reason for refusal to fall away.

4. Consultation/PP Responses

4.1. Adjoining occupiers, residents associations, Southside BID, local ward councillors, and M.P. notified. Site and press notices displayed. No comments received.

4.2. Regulatory Services - following extended monitoring and assessments carried out by all parties a hybrid noise mitigation scheme incorporating facade treatment and treatment at source is the only solution that they will accept. The noise mitigation proposal and supporting documents have been reviewed and they are content that these measures in conjunction with the façade treatment of the development will provide a level of mitigation to address their concerns. The proposal includes: -

- A redesigned and acoustically treated smoking area on the ground floor.
- Replacement of existing ground floor fires doors with acoustically rated fire escape doors.
- Incorporation of additional noise mitigation to the walls on the corner of Lower Essex St and Kent St.
- The creation of a new first floor and second floor open smoking area to the side and rear of the building mitigated with acoustic barriers.
- Closure of the first and second floor balconies.
- Incorporation of additional noise mitigation to the windows on the first and second floors.
- Incorporation of noise mitigation measures to the existing extraction outlets on the roof.
- Provision of new general building extraction to account for the fact that all current external openings will be sealed shut and this plant will be suitably acoustically mitigated and located on the roof.

Recommend an “agent of change” condition to secure the noise mitigation works at the Nightingale and other conditions to secure:-

- Contamination Remediation Scheme and Verification Report
- Limiting the operation hours / hours of delivery
- Fume extraction details
- Demolition / Construction Method Statement

- Limiting noise from plant and machinery
 - Noise Mitigation Scheme
 - Noise Commissioning Testing
 - Noise Insulation Scheme
- 4.3. Transportation Development – no objections subject to conditions to secure cycle parking and redundant footway crossings on both frontages reinstated. There are two taxi bay areas provided in front of the site on both Kent Street and Lower Essex Street that are only in force from 9pm through to 6am. Consideration should be given to alter the Traffic Regulation Order to provide defined servicing and/or additional on street pay and display parking (comments based on previous application).
- 4.4. Education (School Organisation Team) – request a S106 contribution of £337,986.49 as the development could impact on the provision of places at schools (comments based on previous application).
- 4.5. Leisure Services – in accordance with BDP policy, this development should be liable for an off -site POS contribution of £234,000. This could be directed towards the creation of new POS in the Southern Gateway or an extension / improvement of Highgate Park which is the nearest existing significant green space. As the development is within the City Centre it is not regarded as family accommodation and therefore would not however generate a play area contribution (comments based on previous application).
- 4.6. Employment Access Team – request a S106 planning obligation or condition to secure local employment and training (comments based on previous application).
- 4.7. Local Lead Flood Authority – no objections subject to suitable drainage conditions.
- 4.8. Severn Trent Water – no objections subject to a condition to secure drainage plans for the disposal of foul and surface water flows.
- 4.9. West Midlands Police (comments based on previous application) :-
- the scheme should be to the standards laid out in the Secured by Design 'New Homes 2016' and Secured by Design 'Commercial 2015' guides;
 - each individual apartment should be treated as a separate dwelling for the purpose of the standards of door security;
 - there is only one communal door into the ground floor lobby area before access is gained to the lifts, stairwell and post room. The creation of only one layer of security within this entrance leaves the building vulnerable to an offender tailgating through the doorway. The lobby should be redesigned, or an additional second, internal, communal door be installed to create an additional line of security;
 - the location of the cycle storage area within the interior of the building would have very little natural surveillance;
 - a suitable CCTV system should be installed to cover the site and an intruder alarm should be installed to the commercial units; .
 - concerned that there is a service corridor between the two retail units and the communal areas of the residential aspect of the building, which could lead to potential issues around offenders accessing one of the uses from the other.
- 4.10. West Midlands Fire Service – approval of Building Control will be required.

5. Policy Context

- 5.1. Birmingham Development Plan 2017; Birmingham Unitary Development Plan (saved policies) 2005; Places for All SPG, Places for Living SPG; Affordable Housing SPG; Public Open Space in New Residential Development SPD; Car Parking Guidelines SPD, Draft Development Management in Birmingham DPD and Revised National Planning Policy Framework 2018.

6. Planning Considerations

Principle of Residential Development

- 6.1. The application site is located within the Southside and Highgate Quarter within the City Centre Growth Area as defined by Policy GA1. Policy GA1.3 identifies that development in this location should support the growth of the area's distinctive cultural, entertainment and residential activities, its economic role and provide high quality public spaces and pedestrian routes. Policy GA1.1 also states that the City Centre will be the focus for retail, office, residential and leisure activity. Furthermore, policy states that residential development will continue to be supported in the City Centre where it provides well-designed high quality living environments and this echoes national planning policy which encourages well-designed development on brownfield land within sustainable locations. The site is also near Smithfield which is identified as part of a wider area of change where a significant mix of uses will be expected. The provision of a residential development with ground floor commercial uses on this site is therefore considered to be acceptable in principle subject to detailed matters.
- 6.2. BDP Policy TP27 Sustainable Neighbourhoods requires that new housing contain a mix of dwellings types, sizes and tenures. Policy TP30 Housing Mix states that proposals for new housing should seek to deliver a range of dwellings to meet local needs and account will be taken of the Strategic Housing Market Assessment which sets out the appropriate proportionate city-wide housing mix.
- 6.3. When assessed against the Strategic Housing Market Assessment, there is a potential projected oversupply of 1 and 2 bed dwellings and an undersupply of 3 and 4 bed dwellings. This is skewed by the high percentage of apartments under construction or consented in the City Centre.
- 6.4. Whilst a high proportion of apartments can be expected in the city centre it is important that the scale of provision proposed for any individual dwelling type and size is not so great as to impact on the ability to create sustainable communities. The proposed development provides only 1 and 2 bedroom apartments. Whilst it is disappointing that the scheme does not include some larger 3 bedroom apartments, I do not consider that refusal could be justified for this reason alone.
- 6.5. When assessed against the Technical Housing standards all apartments comply with the minimum standard of 50sqm and 70sqm for 1 bedroom 2 person and 2 bedroom 4 person apartments, respectively. In addition, the scheme includes an outdoor amenity space of 341sqm. Overall therefore I am of the view that the housing mix and size of the apartments are satisfactory.

Noise

- 6.6. The site is located within a vibrant night-time economy area and directly opposite the Nightingale nightclub. Regulatory Services have had many dealings with the nightclub in terms of noise impacts and currently there is a limited amount of residential development potentially impacted by noise associated with the premises and the conditions do not represent a statutory nuisance.

- 6.7. There have been several noise assessments carried out which identified a significant adverse impact on the facades facing the Nightingale club and the applicant initially proposed mitigation by glazing and building envelope design only. This proposal would have resulted in conditions where when the windows were opened the internal noise environment would be adversely affected and the conditions due to noise from the Nightingale would be a statutory nuisance.
- 6.8. Accepted practice is that when considering noise from commercial enterprises a hierarchy of measures should be considered with the priority being mitigation or prevention of the noise at source and the last option being mitigation by treatment at the receptor (in this case glazing and ventilation to the residential development). During the assessment of the previous application there have been several noise reports and Regulatory Services have carried out joint monitoring with the applicants consultant and the consultant acting on behalf of the Nightingale to agree incident levels at the facades of the proposed development, typical noise levels generated by the operation of the nightclub and also the most likely significant sources of noise escape from the building.
- 6.9. This assessment identified that the primary noise sources were the outdoor smoking and drinking areas on the balconies overlooking the development site, noise escape from some weak structural areas of the building and transmitted noise escaped through the ventilation system located on the roof. There were extended discussions about using the “agent of change” approach and Regulatory Services came to an agreement with all parties that a series of measures could be incorporated at the Nightingale which in combination with the facade treatment at the residential development would lead to an acceptable noise environment. However towards the very end of the discussions the Nightingale suggested that they would wish to carry out different measures to those that had previously been agreed and withdrew their agreement for the original scope of works. However following ongoing discussions with the applicant, the Nightingale and their consultant a revised mitigation scheme at source has been detailed and agreed and on this basis the agent of change principle can be agreed between all parties to address the issues previously raised.
- 6.10. The key issue in respect of this application is that Regulatory Services are not able to support the development on the basis that the only mitigation proposed is facade treatment, primarily glazing and ventilation as this would lead to potential nuisance if windows were opened by the residents and it cannot be a reasonable assumption that residents will be requested to keep their windows closed. However the applicant has submitted an outline scheme to address the noise at source to sit alongside the façade mitigation on the development site.
- 6.11. The key consideration is whether the development would introduce a noise sensitive use in an existing area in circumstances where the resulting residential noise climate may represent a statutory nuisance which may place unreasonable restrictions on the operation of existing businesses. Regulatory Services consider that the mitigation measures would address some of the structural and design issues and this will reduce the noise impact however it will still require the Nightingale to operate responsibly and I am of the view that this addresses the balance.
- 6.12. The process for agreement of these measures as part of an agent of change is complicated by the fact that the works at the Nightingale will require planning permission in their own rights. The completion of the noise mitigation works at the Nightingale will be secured through planning conditions, which will require all of the following to be in place before the residential development commences: (i) a technical specification for the works to be submitted and approved, (ii) an agent of change agreement being entered into between the developer and those with a legal interest in the Nightingale to secure the carrying out of the approved mitigation

works at the developer's expense, and (iii) planning permission for the mitigation works being granted. Further conditions will require a commissioning test prior to occupation to ensure the mitigation works achieve the desired noise mitigation. In addition, safeguarding conditions are attached to secure the proposed noise treatment at the façade of the development.

Urban Design

- 6.13. I have no objection to the redevelopment of the site for an apartment block. It responds to the emerging residential context of the area and will contribute to the regeneration of the Southside area of the City Centre. The development sits at back of pavement and wraps around a street corner with an entrance and a ground floor that is generally well arranged. The proposal is typical for much of the new development being proposed or has secured planning permission in the area. Between nine and 12-storeys will not be incongruous with the new scale of this part of Birmingham.
- 6.14. The City Council's Urban Design Manager has concerns that the design of the external envelope lacks rationale, the materials are inappropriate and the amenity space is poor. These latest design comments differ from the previous design comments for the first application which was identical in design, which just raised concerns about materials, the set back of the reveals and the use of Flemish bond and recessed brickwork to add interest. The developer is unwilling to amend the scheme as it the same as the previous application, which was not refused on design grounds. However, they are willing to review the facade materials. Conditions are therefore attached to secure architectural details and materials that are more reflective and typical to Birmingham. A condition to strengthen the function and design of the principle amenity space at first floor has also been added. On balance, subject to the safeguarding conditions suggested, I consider that the design of the scheme is satisfactory and do not consider that refusal could be justified for this reason.
- 6.15. Comments made by the Fire Service and Police have been forwarded to the applicant. Conditions are attached to secure CCTV and lighting.
- 6.16. A Right of Light Study has been submitted to check whether the habitable units which face into the courtyard at the first and second floor of the proposal receive satisfactory levels of daylight and sunlight. The findings of the Study are that all rooms meet the BRE Average Daylight Factor targets with the exception of three of the living/dining/kitchen units served by windows (two apartments on the first floor and 1 apartment on the second floor). These rooms all achieve ADF scores of 1.8% and above against the BRE recommendation of 2.0%. However, the BRE Guide recommends that where kitchens are part of open plan rooms, they should be linked to a well-lit living room. Since all three rooms achieve ADF scores above those recommended for a living room (1.5%), the quality of daylight should be acceptable.

Sustainability

- 6.17. A sustainable construction statement has been submitted within the design and access statement. The sustainable construction statement has followed the guidance note closely, and has met all the criteria required. An energy statement has also been submitted. The statement has not considered connection to the district heat network, which is in the city centre. The document does not conclude which LZC energy source has been selected for the development. Some energy efficiency measures have been outlined in the statement, but this has not included their predicted energy savings in kWh/m²/ annum. An amended Energy Statement

has been submitted, which seeks to address these concerns. This revised document is currently being reviewed and any further comment will be reported.

Ecology

- 6.18. The City Council's Planning Ecologist notes that the building is assessed as having low potential for roosting bats. However, it is recommended that a single dusk emergence/dawn re-entry survey (to be completed between May and August) is completed prior to determination of the planning application. This will provide more conclusive evidence of bats' presence/absence, therefore enabling the impact of the proposed development on legally protected species to be adequately assessed. A further bat survey has been requested and any further comments will be reported.
- 6.19. In relation to other ecological matters, no evidence of nesting birds was found in early 2021, although this would have been before the start of the main nesting season, and not all parts of the building were accessible. The unoccupied nature of the building and the presence of access points means there are opportunities for urban bird species, including feral pigeon, to nest in the building. Therefore, a precautionary approach to building demolition is required to minimise the risk of harm to nesting birds and to ensure works do not contravene the legal protection afforded to wild birds and their nests. The ecology report includes a recommendation to this effect, and implementation of this recommended mitigation is secured via a condition. Conditions are also attached to new habitats/features as part of the proposed development, including a green / brown roof.

Transportation Issues

- 6.20. The Transport Assessment notes that the site currently accommodates office and leisure uses. It is highly accessible by non-car travel modes, with full integration with pedestrian networks and very good access to regular bus and rail services. The site is also located within the southern area of Birmingham city centre and as such is located within short walking distances of various local amenities and opportunities.
- 6.21. The TA adds that it is highly likely that people choosing to reside in a location such as that of the proposed development site would work within the city centre or immediate surrounding area. Therefore, residents would likely commute to work by walking, cycling and public transport.
- 6.22. BCC Transportation have no objection to zero parking being provided given on-street parking is all controlled across a large area and the site is adjacent to the City Centre. I concur and a condition is attached to secure cycle parking along with an informative to secure the off-site highway works, namely, the reinstatement of redundant footway crossings and review of Traffic Regulation Orders.

Drainage and Ground Conditions

- 6.23. An Outline Drainage Strategy was submitted with the original application, which notes that the site lies within an area classified as Flood Zone 1. The site is smaller than 1 hectare and therefore a Flood Risk Assessment is not required. The report proposes to discharge to the existing STW foul sewer within the site. All surface water would be piped to an underground Attenuation Tank, where the runoff would be stored and discharged at greenfield runoff rates for the site. The development includes a proposed first floor garden 340m² in plan area. It is proposed that some Sustainable Urban Drainage features like tree planters and turf be placed within the garden area to reduce runoff rates.

- 6.24. The Local Lead Flood Authority and Severn Trent Water have raised no objections and suitable drainage conditions are recommended.
- 6.25. The land contamination survey recommends further survey work prior to the commencement of the development and appropriate conditions are attached.

Planning Obligations and Community Infrastructure Levy

- 6.26. Policy TP9 of the BDP requires new public open space should be provided in accordance with the New Residential Development SPD whilst TP31 requires 35% affordable housing unless it can be demonstrated that this would make the development unviable.
- 6.27. A financial appraisal has been submitted to demonstrate that, with a policy compliant contribution the scheme would not be financially viable. The report has been assessed by independent consultants who consider that the scheme can sustain a contribution of circa £750,000. It is proposed to use this money as a commuted sum for off-site affordable housing less the cost of the noise mitigation works at the Nightingale (costed by the applicant at £661,000) which are being secured through planning conditions.
- 6.28. Education and Leisure Services have requested S106 contributions towards places at schools and public open space respectively. However, in this instance, I consider that using any unexpended money for affordable housing is a greater priority. The site is in a low value residential area and does not therefore attract a CIL contribution.

Public Sector Equality Duty

- 6.29. The Equality Act 2010 introduced a new public sector equality duty. In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - advance equality of opportunity between people who share a protected characteristic and those who do not;
 - foster good relations between people who share a protected characteristic and persons who do not share it.
- 6.30. This application is only acceptable if an agreement to mitigate noise at source is reached between the City Council, developer and the Nightingale. The reason, for this is that in the absence of an agreement the proposal would potentially be contrary to this Legislation as the scheme could impact upon Nightingale, which is a key venue for the LGBT community.

7. Conclusion

- 7.1. I consider that the scheme is acceptable subject to safeguarding conditions and completion of a legal agreement to secure £750,000 toward off-site affordable housing, less the cost of the noise mitigation works at the Nightingale.

8. Recommendation

- 8.1. That consideration of planning application 2021/03783/PA be deferred pending the completion of a planning obligation to secure the following:
- a) A financial contribution of £750,000 (index linked from December 2018) as a commuted sum toward off site affordable housing, less the cost of noise

mitigation works at the Nightingale which are necessary to comply with conditions 13 and 14; and,

- b) payment of a monitoring and administration fee associated with the legal agreement of £1,500
- 8.2. In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 27 August 2021 the planning permission be refused for the following reason:
- a) In the absence of a suitable legal agreement to secure affordable dwellings the proposal would be contrary to TP31 of the Birmingham Development Plan and Revised National Planning Policy Framework.
- 8.3. That the City Solicitor be authorised to prepare, seal and complete the planning obligation.
- 8.4. That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 27 August 2021, favourable consideration be given to this application subject to the conditions listed below.

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- | | |
|----|--|
| 1 | Requires the prior submission of a contamination remediation scheme |
| 2 | Requires the submission of a contaminated land verification report |
| 3 | Limits the hours of operation 0700-2400 |
| 4 | Requires the prior submission of a drainage scheme |
| 5 | Requires the prior submission of a Sustainable Drainage Assessment |
| 6 | Requires the submission of a Sustainable Drainage Operation and Maintenance Plan |
| 7 | Demolition of buildings |
| 8 | Requires the prior submission of details of bird/bat boxes |
| 9 | Requires the submission of extraction and odour control details |
| 10 | Limits the noise levels for Plant and Machinery |
| 11 | Requires the prior submission of a Noise Mitigation Scheme |
| 12 | Requires the submission of Noise Commissioning Testing |
| 13 | Requires the prior submission of noise insulation (variable) |
| 14 | Requires the prior submission of details of the Noise Mitigation Measures at the Nightingale |
| 15 | Requires the submission of a Commissioning Test for the Mitigation Works at the Nightingale |
| 16 | Requires the submission of a CCTV scheme |
| 17 | Requires the scheme to be in accordance with the listed approved plans |
-

-
- 18 Requires the submission of sample materials
 - 19 Requires the submission of details of green/brown roofs
 - 20 Requires the submission of a lighting scheme
 - 21 Requires the submission of boundary treatment details
 - 22 Requires the submission of hard and/or soft landscape details
 - 23 Requires submission of architectural details
 - 24 Demolition Management Plan
 - 25 Construction Management Plan
 - 26 Requires an employment construction plan
 - 27 Requires the provision of cycle parking prior to occupation
 - 28 Implement within 3 years (Full)
-

Case Officer: David Wells

Photo(s)

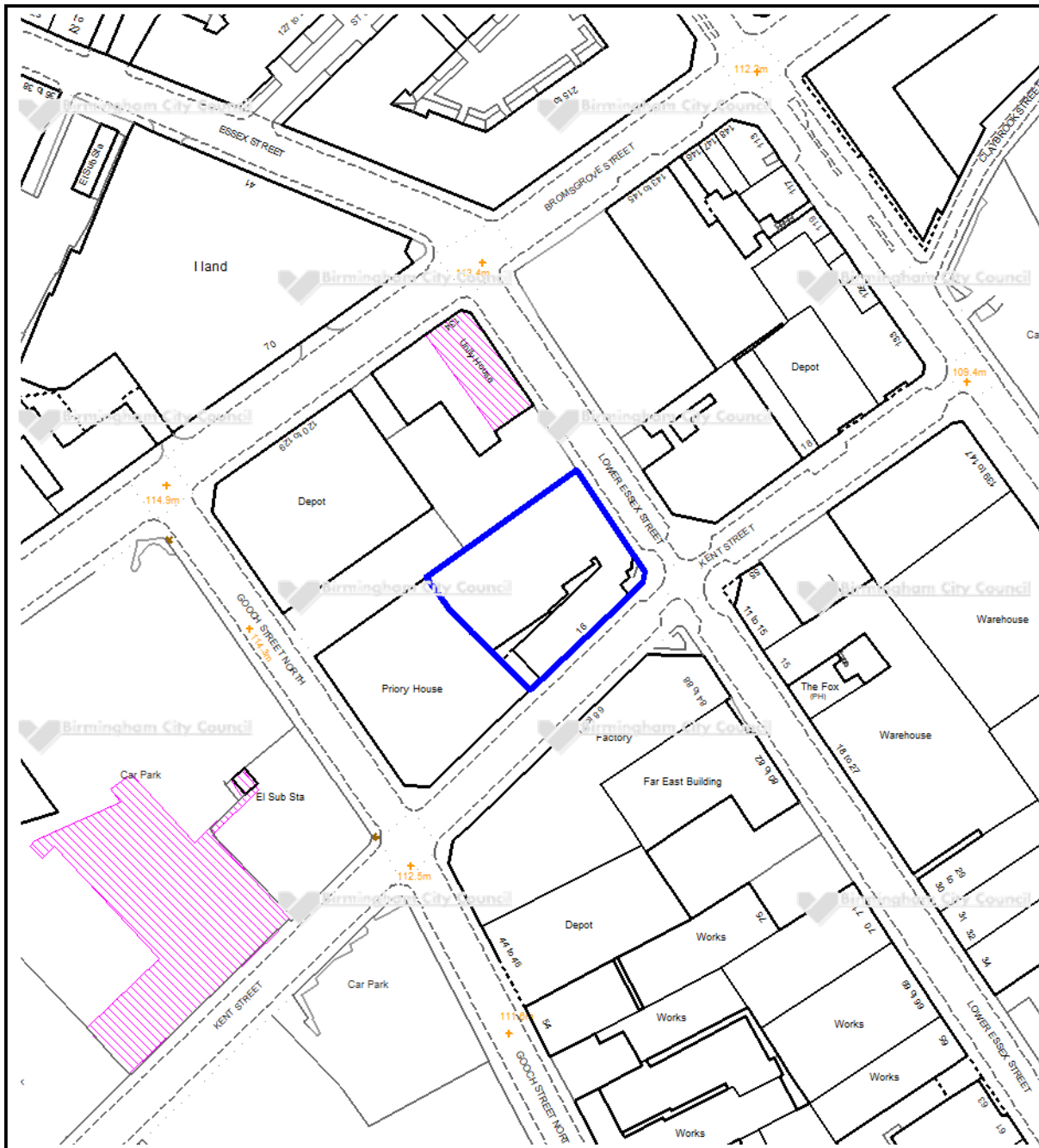


View from Kent Street



View along from corner of Lower Essex Street and Kent Street

Location Plan



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Committee Date:	22/07/2021	Application Number:	2021/03712/PA
Accepted:	26/04/2021	Application Type:	Full Planning
Target Date:	26/07/2021		
Ward:	Bordesley & Highgate		

Smithfield Birmingham, Upper Dean Street, Birmingham, B5 4RB

The temporary change of use of land and erection of temporary overlay structures at Birmingham Smithfield for the purposes of hosting the 3x3 basketball, 3x3 wheelchair basketball and beach volleyball events for the Birmingham 2022 Commonwealth Games.

Recommendation

Approve Temporary

1. Proposal

1.1 Application is for temporary change of use including erection of temporary overlay structures to host 3x3 basketball and beach volleyball events at the Smithfield site during the Commonwealth Games 2022 and includes provision of;

- Fields of play for basketball and beach volleyball
- Athletes warm up/training areas
- Beach volleyball tiered spectator seating (max height 11.8m, 16.8m with flagpoles)
- Basketball tiered spectator seating (max height 7.8m)
- Roof/shade structure over basketball field
- Logistics, media and storage compound/areas
- Food/drink outlets
- Spectator's live site (an open area where spectators can watch the sporting events on large screen as well as other live performances/entertainment)
- Supporting facilities such as toilets, pushchair stores, charging points
- Pedestrian and vehicular arrival/holding points
- Site wide freestanding fencing (max height 2.1m)
- Sports lighting (max height 30m on beach volleyball pitch, 16m on warm up pitch and 12m on basketball warm up pitch)
- All of which would require a wide variety of different sized structures such a box offices, platforms, rigging, platforms, flags, tents, containers and generators.

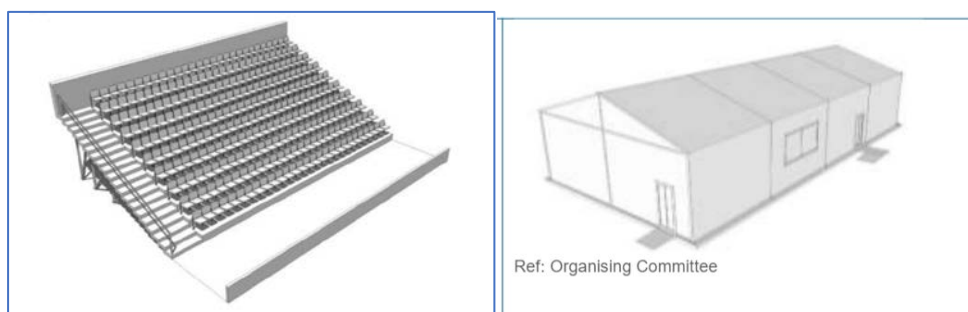


Figure 1: Image of example tiered seating and tents



Figure 2 Example of large display screens

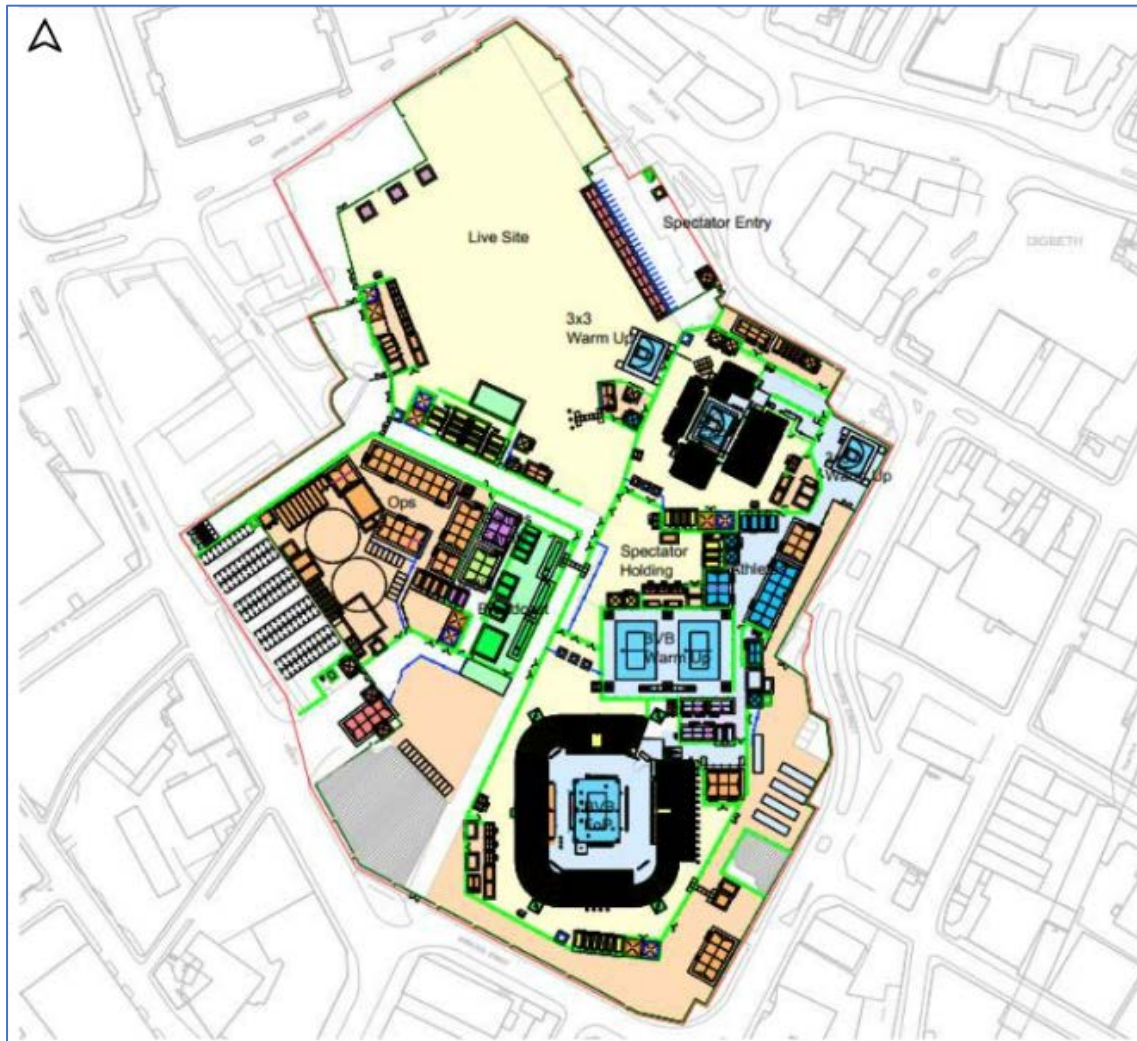


Figure 3: Proposed site plan

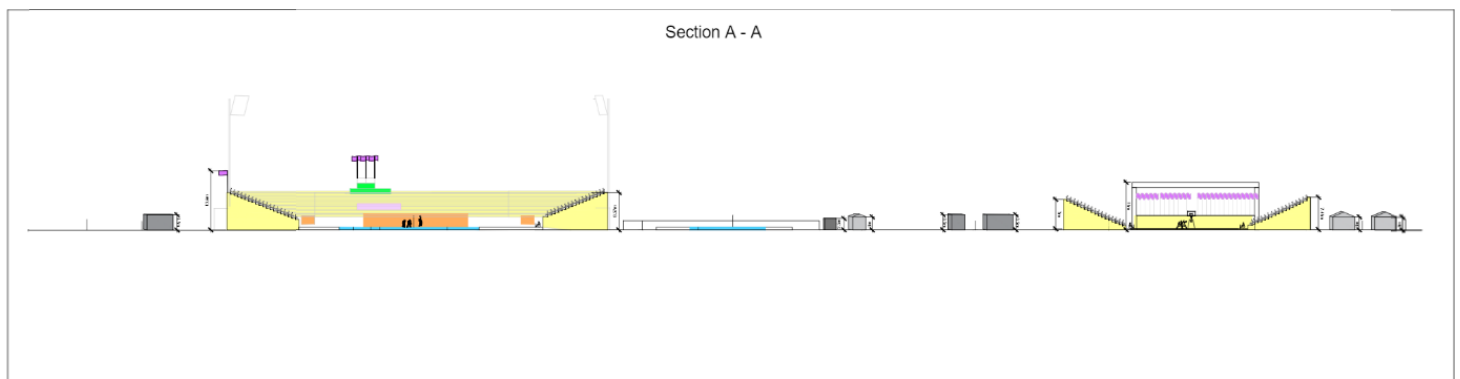


Figure 4: Cross section through part of the site through the two 'stadium' areas

Spectator capacity would be 2,500 for basketball and 4000 for beach volleyball. With an additional 650 (approx.) competitors, support team and media on site.

- 1.3 The structures would be erected from February 2022, used for the Games 29th July-7th August and decommissioned with the site re-instated to existing by the end of September 2022.
- 1.4 The application has been supported by a Planning Statement, Design and Access Statement, Transport Statement and Outline Travel Plan, Flood Risk Assessment and Drainage Strategy, Noise Impact Assessment, Air Quality Screening Assessment, Land Quality Assessment, Heritage Statement, Ecological Impact Assessment, Sustainability and Energy Statements and Waste Strategy. In addition, an EIA Screening request was submitted in support of the pre-application submission and it was determined that the development was not EIA development.
- 1.5 Members will recall they received an overview presentation of the various CWG overlay applications, of which this is one, February 4th 2021.
- 1.6 [Link to Documents](#)

2. Site & Surroundings

- 2.1 The application site is approx. 7.5 hectares brownfield site which previously accommodated a car park and the wholesale markets and comprises, primarily, of existing hardstanding.
- 2.2 The site is bound to all sides by roads – Upper Dean Street to the north, Bradford Street to the East, Sherlock Street to the South and Pershore Street to the West. There are a wide range of uses including commercial, retail and residential in the vicinity.
- 2.3 A small part of the southern site falls within flood zone 3 with zones 2 and 3 immediately to the south and east. There are also a number of heritage assets in close proximity including Parish Church of St Martin (II*), 42-45 Upper Dean Street (II) and Digbeth and Detriend Conservation Area.
- 2.4 [Site location](#)



Figure 5: Ariel shot of existing site (from applicant's D and A)

3. Planning History

3.1. None relevant.

4. Consultation/PP Responses

4.1 Historic England – No objection.

4.2 Network Rail – No objection.

4.3 LLFA – Additional information requested, comments to be provided verbally.

4.4 Regulatory Service – No objection subject to conditions.

4.5 Sport England – Support proposal.

4.6 Transportation Development – No objection subject to conditions.

4.7 West Midlands Police – No objection.

4.8 Local residents' associations, neighbours, Ward Councillors and the MP were notified. Site and press notices were also displayed. 1 letter of objection received raising objections on the following basis;

- It will adversely affect views and light
- Construction noise will have an adverse impact; and
- Use of site as a one-off event is unacceptable - noise, traffic and disruption too great and will have an adverse impact particularly as we work from home in a flat which overheats.

5. Policy Context

5.1 Birmingham UDP saved policies, Birmingham Development Plan 2017, Emerging Development Management DPD, Places for All SPG, Access for People with Disabilities SPG, Car Parking Guidelines SPD, Floodlighting SPG, Nature Conservation Strategy for Birmingham 2017, Big City Plan, Smithfield Masterplan and National Planning Policy Framework.

6. Planning Considerations

6.1 The application seeks consent for temporary use and structures to support the hosting of the basketball and beach volleyball events during the Commonwealth Games 2022.

6.2 The NPPF sets out the framework for national planning policies whilst locally the BDP sets out the strategy to achieve sustainable growth of the City for the period up to 2031. Policy PG2, TP24 and TP25 of the BDP highlight that Birmingham will be promoted as an International City supporting development that strengthens the City's position and reinforce its role as a centre for tourism, culture and events. The existing site is a brownfield, sustainable site and, in advance of its permanent redevelopment, I consider the policy context supports the principle of the proposed use entirely.

6.3 The key issues for consideration are therefore visual impact (including heritage impact), air quality, noise, light spill and transportation.

Visual impact

- 6.4 The proposed overlay requires the erection of a wide variety of temporary structures in a mix of materials, of a functional appearance with the largest structures being items such as sports lights and tiered seating. The proposal would utilise an existing vacant site and change its visual appearance. There are a number of heritage assets within the immediate vicinity, a Heritage Statement (HS) has therefore been submitted in support.
- 6.5 Section 66 of the Planning (Listed Building & Conservation Area) Act 1990, NPPF and TP12 of the BDP requires that careful consideration is given to development that would affect the settings of any designated or non-designated heritage assets.
- 6.6 My conservation Officer agrees with the Heritage Assessment which notes that, as the existing concrete hard slab will not be penetrated, the previously identified site archaeology will not be impacted. Further, whilst recognising the development will alter the setting of some of the nearby listed buildings and other heritage assets he agrees with the Heritage Assessment's overall conclusion that the proposal will not be harmful to the heritage assets significance particularly given the temporary and reversible nature of the proposals. Historic England also raise no objection to the proposals whilst also welcoming the opportunity to celebrate heritage assets as a backdrop to the sporting events. In addition, I note the very significant public economic and social benefits locally and nationally as a result of hosting the games from trade and investment opportunities, increased revenue spending across a myriad of areas from spectators, volunteers and athletes, improved transport networks and improved sporting profiles, opportunities and provision.
- 6.7 The structures are necessary to facilitate the sites successful hosting of the Commonwealth Games and are temporary. As such I consider the scale, appearance, and positioning of them would have an acceptable visual impact in line with policy.
- Air quality, noise and light spill.
- 6.8 An air quality assessment has been submitted in support of the application. Regulatory Services have considered it and whilst they have some concerns over some of the statements made in respect of the screening criteria, given both construction and operational phases are for short temporary periods they consider any impact on air quality will be of a limited extent. Therefore, subject to a construction management plan appropriate mitigation can be secured.
- 6.9 The proposed overlay is likely to generate noise during construction and events by virtue of the crowd, broadcasting/sound systems, mechanical equipment and road traffic noise. The application is supported by a noise assessment which has been considered by Regulatory Services. Construction hours are identified within normal parameters and no significant adverse effects are predicted at noise sensitive receptors and therefore subject to a management plan condition this can be effectively controlled. Further, whilst the noise report considers event crowd or traffic noise would not be significantly above accepted limits, information with regard noise from broadcasting sound equipment and mechanical equipment is currently unavailable as providers have yet to be appointed. However, given the temporary nature of the event and the wider economic and social public benefits of hosting the Commonwealth Games I concur with Regulatory Services who raise no objection subject to conditions to secure this information which I recommend accordingly.
- 6.10 The proposal includes the provision of a range of sports lighting. 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 or confirmed

hours of use. 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 also be removed by end of September 2022.

- 6.11 Emerging policies within the Development Management DPD and policies within Floodlighting SPG seek to safeguard resident's amenities in respect light pollution. The site is within an urbanised environment, but the lights have the potential to overspill onto residential properties which could have an adverse impact particularly if used beyond 23.00 hours. I would therefore expect to see an iso illumination plan to demonstrate that the level of light spill from the field of play would accord with policy and not adversely impact resident's amenity. 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 I agree with Regulatory Services that this information can be conditioned. Therefore, subject to safeguarding conditions I consider the proposed lighting acceptable.

Transportation

- 6.12 The proposed use will result in a significant number of spectators to the area as well as the competitors, media and support teams. There is a wide level of planning and coordination taking place to deliver the various CW Games events across the City with officers from BCC, TFWM and the Combined Authority as well as WM Police involved with the transport plans. The intention is that vehicular traffic will be limited to Games family only with spectators travelling to site via public transport methods. The Transport Statement has been assessed by Transportation Development who consider it provides all the required information for this site and that the impact on the highway will be appropriately managed. I also note the highly sustainable location of the site and existing public transport networks and infrastructure. Therefore, subject to a condition regarding construction management Transportation Development raise no objections, a view with which I concur.

Other

- 6.15 The site has minimal biodiversity interest with existing habitats/features providing incidental habitat resource for a restricted range of species. No objections are therefore raised subject to securing the mitigation as identified within the Ecological Management Plan which, to be consistent with the other CWG venues, should also include the appointment of an Ecological Clerk of Works, and conditions are recommended accordingly.
- 6.16 Residents' objections are dealt with within the main body of the report.
- 6.18 The Land Contamination Assessment identifies the site is appropriate for the proposed use but that asbestos fibres are present in places. Whilst the temporary structures do not require the existing concrete hard slab to be broken a safeguarding condition is recommended.
- 6.19 The LLFA seek reassurance that the proposed overlay will not result in increased surface run and increased flood risk. Additional information has been submitted alongside an FRA which is currently being considered, a verbal update will be provided to your Committee.

7. Conclusion

- 7.1 The structures are necessary to support the hosting of the 3x3 basketball and beach volleyball events during the Commonwealth Games 2022. The structures are temporary in nature and safeguarding conditions ensure that the site will be returned

to its current condition post event and that no long-lasting adverse impacts would occur. Proposal would have significant short and long term economic and social benefits in accordance with local and national planning policy and it should therefore be approved.

8. Recommendation

8.1 Approve Temporary

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- | | |
|---|--|
| 1 | Requires the submission of a scheme to show how the structures would be removed within a timescale |
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | Requires submission of sound information |
| 4 | Site Contamination |
| 5 | Limits cumulative sound from plant and machinery |
| 6 | Requires lighting details |
| 7 | Requires the implementation of the submitted mitigation/enhancement plan |
| 8 | Construction Management Plan |
| 9 | Requires the prior submission of a construction ecological mitigation plan |
-

Case Officer: Joanne Todd

Photo(s)

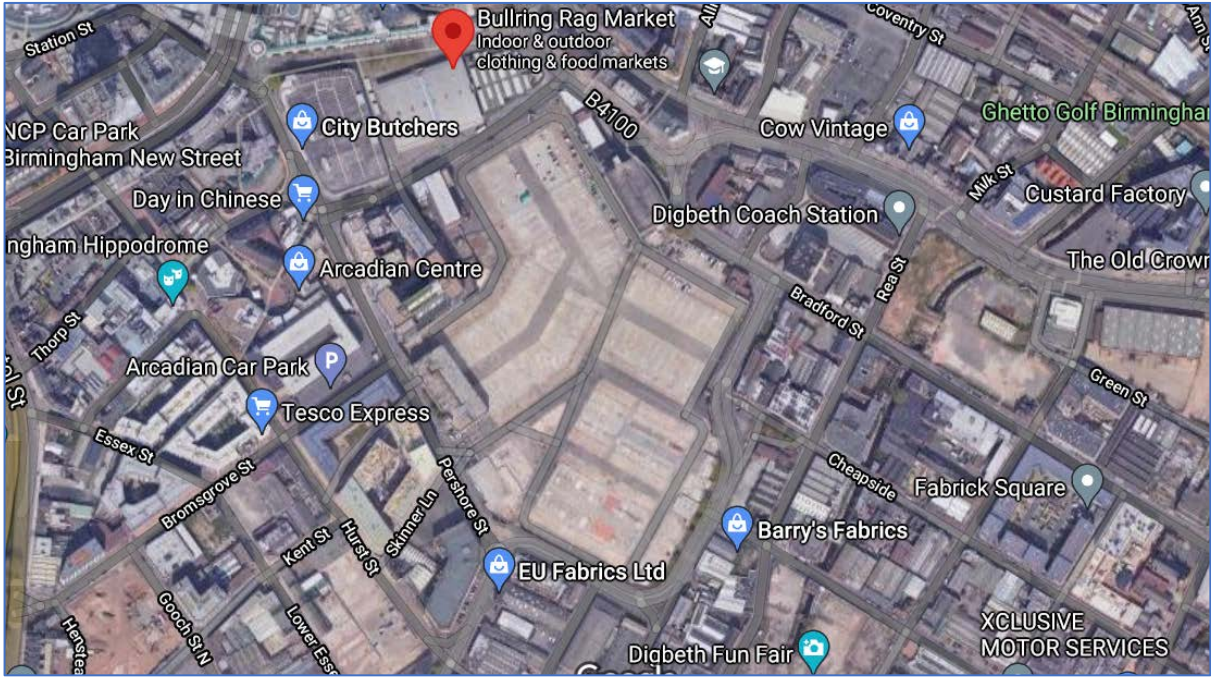
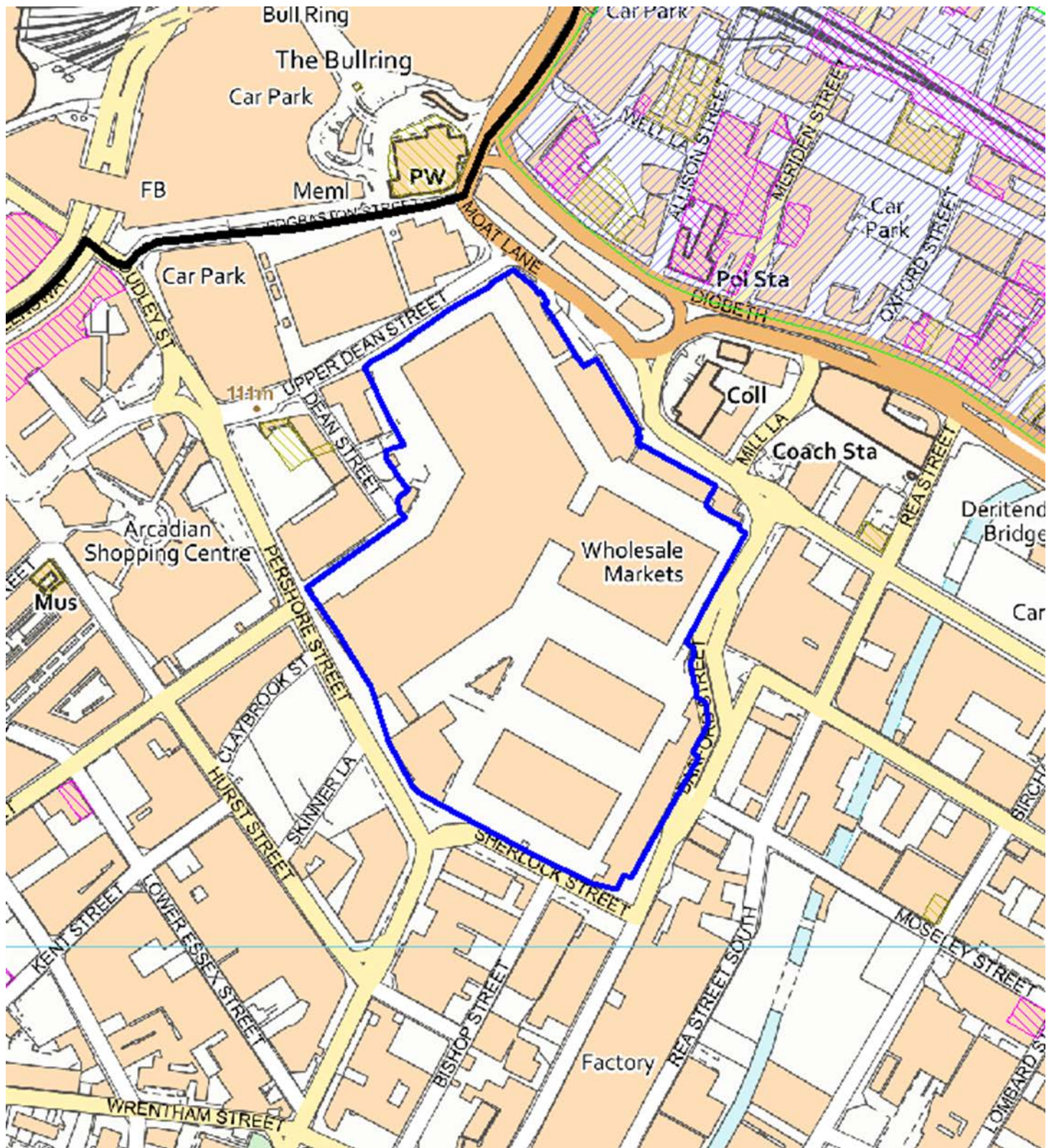


Figure 6: Google ariel view

Location Plan



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Birmingham City Council

Planning Committee

22 July 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 – Subject to 106 Legal Agreement	9	<p>2021/02972/PA</p> <p>Peddimore Land north of Minworth, east of A38 and west of Wiggins Hill Road Sutton Coldfield Birmingham B76</p> <p>Section 73 application to vary conditions 3, 17, 19, 20, 21, 22, 34 and 35 attached to planning permission 2019/00108/PA to relocate Peddimore Brook vehicular crossing, re-align northern boundary of Development Zone 1A, incorporate minor changes to the internal spine road and structural landscaping (including paths), reposition pumping station, reduce plateau levels of Development Zones 1A, 1B and 2, rationalise quantum of maximum floorspace and increase maximum building heights at Development Zone 1A and variation of conditions 5, 7, 8, 9, 14, 24, 25 and 37 to reflect approved non-material amendments and agreed discharge conditions details pursuant to 2019/00108/PA.</p>
Approve – Conditions	10	<p>2021/04890/PA</p> <p>Perry Barr Rail Station Birchfield Road Perry Barr Birmingham B20 3JE</p> <p>Reserved matters application for access, appearance, landscaping, layout and scale for the construction of a new bus interchange and determination of the details for conditions 3 (demolition method statement/ management plan), 14 (bird/ bat box details), 17 (levels details), 19 (boundary treatment details) and 28 (air quality assessment) for the bus interchange part of the hybrid approval 2020/07426/PA.</p>

Committee Date:	22/07/2021	Application Number:	2021/02972/PA
Accepted:	07/04/2021	Application Type:	Minor Material Amendment
Target Date:	30/07/2021		
Ward:	Sutton Walmley & Minworth		

Peddimore, Land north of Minworth, east of A38 and west of Wiggins Hill Road, Sutton Coldfield, Birmingham, B76

Section 73 application to vary conditions 3, 17, 19, 20, 21, 22, 34 and 35 attached to planning permission 2019/00108/PA to relocate Peddimore Brook vehicular crossing, re-align northern boundary of Development Zone 1A, incorporate minor changes to the internal spine road and structural landscaping (including paths), reposition pumping station, reduce plateau levels of Development Zones 1A, 1B and 2, rationalise quantum of maximum floorspace and increase maximum building heights at Development Zone 1A and variation of conditions 5, 7, 8, 9, 14, 24, 25 and 37 to reflect approved non-material amendments and agreed discharge conditions details pursuant to 2019/00108/PA.

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

- 1.1 The application proposes a number of amendments to the 2019 hybrid planning permission by virtue of the variation of condition 3 (Approved plans), 17 (Work to be in accordance with FRA), 19 (Realignment of Peddimore Brook), 20 (Earthworks and Levels as detailed on plans), 21 (Surface Water Management as shown on plans), 22 (Foul Drainage as shown on plans), 34 (Limits maximum gross floorspace of units) and 35 (Limits the whole of zone 2 and min of 5.09 ha of zone 1 to B1c/B2) to;

Full permission

- Relocate the vehicular crossing over the diverted Peddimore Brook which serves Development Zone 1A
- Make minor modifications to the spine road (relocating a path, pedestrian crossing and repositioning the nearby pumping station)
- Make minor modifications to the strategic landscaping including the realignment of permissive paths; and
- Reduce the approved plateau levels of Development Zones 1A, 1B and 2 (within approved parameters)

Outline permission

- Extend the northern boundary for DZ1a (to the north west resulting in a 0.42 hectare gain)
- Increase of the maximum floorspace figure under Condition 34; and
- Increase the height parameters for DZ1A from 23.5m to 24.8m



Figure 1: Illustrative masterplan 2021

In addition, the application also seeks to amend conditions to reflect approved non-material amendments, conditions and obligations that have been approved/provided/complied with since the original determination date, 2nd September 2019. As such conditions 5 (Archaeology), 7 (Requires stopping up of Peddimore Lane and provision of access), 8 (Stopping up of Wishaw Lane), 9 (Requires PROW stopping up), 14 (Requires submission details of bird/bat boxes), 24 (Requires gatehouse materials), 25 (Requires green/brown roof details for gatehouse) and 37 (Trigger points for M42 J9 and M6 J5) are also sought to be varied.

- 1.2 The application has been supported by a Planning Statement, Design and Access Statement Addendum, Heritage Addendum, Transport Assessment Addendum, Addendum to Flood Risk Assessment, Sustainable Drainage Statement and Water Framework Directive, Landscape and Green Infrastructure Strategy, Statement of Community Engagement, Framework Ecological Mitigation Strategy Clarification Note and External Lighting Assessment Report Addendum. An ES supplement has also been submitted and this includes chapters on Air Quality, Noise and Vibration, Landscape and Visual, Built Heritage, Socio-Economics and Human Health and Cumulative Effects.
- 1.3 An overview presentation of this and two reserved matters applications for DZ1A was presented to Members February 4th 2021.
- 1.4 The application is made as a joint application with Birmingham Property Services.
- 1.5 [Link to Documents](#)
- 2.0 Site & Surroundings
- 2.1 The application site is 65.13 hectares and is currently arable fields. It lies on the north east edge of Birmingham and is enclosed by the A38 on the west, housing at

Minworth and the Birmingham and Fazeley Canal to the south, Wiggins Hill Road to the east and Peddimore Hall and Barns and agricultural fields to the north. On the opposite side of the A38 is the land allocated as Langley Sustainable Urban Extension. There are 8 Grade II listed buildings, 1 Scheduled Ancient Monument (SAM) and 3 local non-designated heritage assets in the immediate area surrounding the site.

2.2 [Site location](#)

3.0 [Planning History](#)

- 3.1 2nd September 2019 - 2019/00108/PA - Hybrid planning application comprising: Outline application with all matters reserved for an employment park comprising B1b, B1c, B2 and/or B8 uses, including ancillary offices (B1a), gatehouses and security facilities, service yards and HGV parking, plant, vehicular and cycle parking, landscaping, pedestrian and cycle infrastructure, green and blue infrastructure, ancillary business and community facilities (D1/D2/B1a/A3/Sui Generis) including a multi-purpose hub building and associated development. Full planning application for a new roundabout access from the A38, construction access and compound area, internal spine road, site gatehouse, primary substation and tower, engineering operations including foul pumping station, acoustic fencing, earthworks (including creation of development plot plateaus), pedestrian and cycle infrastructure and structural landscaping including drainage infrastructure and development platform within Peddimore Brook corridor for ancillary business and community facilities. Approved with conditions and S106 Agreement.



Figure 2: Approved infrastructure plan

- 3.2 2021/04566/PA – Reserved matters application for access, landscaping, appearance, layout and scale for erection of storage and distribution centre (B8) including ancillary offices and welfare facilities and all associated works following hybrid planning permission 2021/02972/PA. Currently being assessed.
- 3.3 2021/04579/PA – Application for the discharge of Condition Nos: 35, 40, 41, 44, 45, 47, 48, 49, 54, 55 and 56 attached to approval 2021/02972/PA (Plot DZ1A Unit B only). Currently being assessed.

4.0 Consultation/PP Responses

- 4.1 Canal and River Trust – No concerns.
- 4.2 EA – No objection.
- 4.3 Historic England – No objection.
- 4.3 Highways England – No objection.
- 4.4 LLFA – No objection.
- 4.5 Natural England – No comments.
- 4.6 Regulatory Services – No objection.
- 4.7 Transportation Development – No objection subject to financial bond within S106.
- 4.8 West Midlands Fire – List building regulation requirements.
- 4.9 West Midlands Police – No objections.
- 4.10 Local Residents' Associations, neighbours, Ward Cllrs and MP were notified. Site and Press notices including EIA were also displayed. 1 letter of objection received raising concerns on the basis of;
 - The adverse impact of the proposed buildings in relation to noise, light pollution and car parking. Concerned that the surrounding lanes will become a car park and existing access/highway movements will become dangerous.

5.0 Policy Context

- 5.1 Birmingham Development Plan (BDP) 2017, Birmingham Unitary Development Plan (UDP) 2005 saved policies Emerging Development Management DPD, Peddimore SPD 2019, Langley SPD 2019, Nature Conservation SPD 1997, Places for All SPG 2001, Archaeology Strategy SPG 2004, Access for People with Disabilities SPD 2006, Lighting Places SPD 2008, Car Parking Guidelines SPD 2012 and National Planning Policy Framework (NPPF) 2019.

6.0 Planning Considerations

- 6.1 Section 73 of the Town and Country Planning Act 1990 enables an applicant to apply to amend or remove conditions attached to an extant planning permission. It is mainly intended to allow flexibility in the planning system by allowing conditions to a planning permission to be changed without risking the entirety of the consented scheme. The original development description cannot be altered, the principle of the development is established, and it is the specific changes sought by the proposed condition variation can be considered only.
- 6.2 The changes sought to the full permission are namely;
 - Relocation of the vehicular crossing over the diverted Peddimore Brook which serves Development Zone 1A
 - Minor modifications to the spine road (relocating a path, pedestrian crossing and repositioning the nearby pumping station)
 - Minor modifications to the strategic landscaping including the realignment of permissive paths; and

- Reducing the approved plateau levels of Development Zones 1A, 1B and 2

These changes are not considered to be significant and no new issues are identified. Subject to safeguarding conditions as previously no objections are raised to this element of the proposal.

- 6.3 In addition, details required by conditions 5 (Archaeology), 7 (Requires stopping up of Peddimore Lane and provision of access), 8 (Stopping up of Wishaw Lane), 9 (Requires PROW stopping up), 14 (Requires submission details of bird/bat boxes), 24 (Requires gatehouse materials), 25 (Requires green/brown roof details for gatehouse) and 37 (Trigger points for M42 J9 and M6 J5) have been submitted and agreed/complied with since the decision was issued. These conditions are therefore to be amended to secure/reflect these previously agreed details and no objections are raised to this element of the proposal either.
- 6.4 Conditions 1 and 32, as time restrictive conditions, are also amended to reflect the original consent.
- 6.5 Therefore, the principle issues for consideration are the changes to the outline consent and the impact of these in relation to matters of visual appearance (including heritage) and highways.

Visual appearance

- 6.6 Since hybrid permission 2019/00108/PA was approved the applicants have been in discussion with a potential end user for part of DZ1A and due to their building requirements an increase of 1.2m on the max height parameters for buildings within DZ1A and the north and northwest movement of the boundary zone is sought. The height parameters elsewhere would remain as previously approved and the specific design detail of future plots would still need to be submitted as reserved matters detail to comply with the necessary conditions (including the reserved matters design guide and plot landscaping requirements).
- 6.5 The original application's heritage assessments concluded that the proposed scheme would have a harmful impact on the significance of both designated and non-designated heritage assets due to the change in setting as a result of the loss of the surrounding rural landscape. However, the level of harm was considered less than substantial in NPPF terms and accordingly, the harm was considered in the planning balance, to be out weighted by the significant public, social and economic benefits of the scheme.
- 6.6 Notwithstanding this given the changes now proposed, the impact on cultural and heritage assets has been reviewed and a Heritage Assessment Addendum (HAA) and ES Addendum provided. The HAA has compared visual impacts from the approved hybrid application against those of the proposed changes. It concludes that due to the distance and the limited change in height there would be no discernible increase in the impact upon the heritage assets. The development would still result in some harm to significance; but this would be no higher than the previously approved scheme.
- 6.7 My Conservation Officer and Historic England have reviewed the supporting information and do not disagree with its conclusions. The economic, social and environmental benefits of the scheme remain as before. There is therefore no reason to reach a different conclusion to that done so in respect of 2019/00108/PA. As such the public benefits are considered to outweigh any harm to heritage and the application remains in line with policy in this respect.

- 6.8 Therefore, given all of the above I consider the proposed alterations would have an acceptable visual impact consistent with the original decision and that subject to retention of the safeguarding conditions the proposal would be acceptable and accord with policy in this respect.

Highways

- 6.9 When the original application was considered end occupiers were unknown. The Transport Assessment and Environmental Statement submitted in support of the application therefore used generic trip rates reflecting a typical range of single floor industrial uses to understand potential highway network impacts and consequently, Condition 34 was attached to limit gross internal floorspace to ensure any highway impacts could be mitigated with proportionate S106 contributions in accordance with the Infrastructure Delivery Plan (IDP). As such condition 34 read;

“The maximum gross (internal) floorspace of the industrial units approved through reserved matters applications shall not exceed 247,716sqm (GIA). Of the total floorspace no more than 159,000sqm (GIA) is to be B1c or B2 use as defined in the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument amending, revoking and/or re-enacting that Order with or without modification).”

- 6.10 Discussions are now at an advanced stage with a potential operator for part of DZ1A who require a B8 industrial building with 3 mezzanine floors. However, such a building would take up the majority of the floorspace permitted by condition 34. Therefore, in order to enable the delivery of subsequent phases a modification to increase the floorspace permitted by this condition is proposed as follows;

“The maximum gross (internal) floorspace approved through reserved matters applications shall not exceed 386,809sqm (GIA) comprising up to 228,751sqm (GIA) of ground floor industrial warehousing, ancillary offices, gatehouses and/or the multipurpose hub building and up to 158,058sqm of mezzanine floorspace (GIA) for Use Class B8 provided within a single warehouse. Of the total industrial warehousing ground floorspace no more than 145,788sqm (GIA) is to be B1c or B2 use as defined in the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument amending, revoking and/or re-enacting that Order with or without modification).”

- 6.11 The Transport Assessment and Environmental Statement submitted in support have therefore been revised utilising the proposed end user specific requirements alongside an updated illustrative masterplan and this has essentially enabled generated trip rates to be redefined when compared to the assumptions used to assess application 2019/00108/PA.
- 6.12 The updated information has been considered by Transportation Development. In principle they accept that the generic trip rates used to assess the original application were onerous now a specific B8 operator is known, that, in principle, mezzanine floors generate lower order trip rates than ground floor space and that sensitivity tests on junction modelling show that the proposed floorspace increase would have a negligible impact. Notwithstanding this however, Transportation Development do not consider the 50% discount on trip generation used within the TAA has been fully justified.
- 6.13 Subsequently, the applicant has accepted the need to provide a ‘financial bond’, in addition to the previously agreed package of contributions, which would be held and used to mitigate against any unforeseen adverse highway impacts should the increased B8 floorspace provision exceed the discounted assumptions. This would

be secured by an additional clause to the previous S106 by virtue of a Deed of Variation.

- 6.14 As such, additional information has been submitted. Transportation Development accept the information provided sufficiently justifies a methodology for determining a proportional bond payment, based on mitigating a potential increase in trips of 9.6%. However, there is disagreement regarding
- the starting point for calculating the Bond payment.
 - The need to consider multi-modal impacts as well as highway impacts; and
 - What the mitigation may look like (whilst acknowledging that the final transport interventions through Monitor and Manage will be determined through recommendations of the Green Travel District to BCC).
- 6.15 However, all interested parties are committed to reaching a successful outcome and negotiations on the above matters continue with the understanding that your Committee will be updated in advance of being asked to make a decision on the application.
- 6.16 Therefore subject to satisfactory agreement being reached on these outstanding matters, and Members being updated, I consider that the financial bond (in addition to the highway mitigation previously secured) would be consistent with the “Monitor and Manage” approach agreed in relation to the original consent and would safeguard the delivery of future phases of Peddimore and the Langley SUE development. I am also satisfied that the ‘bond’ would be necessary, directly related to, fair and proportionate and therefore in accordance with NPPF and CIL Regulations. Consequently, I consider the proposed variation of Condition 34 would be acceptable and accord with local and national planning policy.

7 Conclusion

- 7.1 The application seeks amendments to the originally approved hybrid planning permission for Peddimore and has been supported by additional information including an ES Addendum. The changes proposed would not result in any greater harm than previously considered and mitigated against in the planning balance. Safeguarding conditions remain as would the S106 (updated as necessary) with an additional clause to secure a financial bond. Therefore, subject to the signing of a Deed of Variation (with the additional clause) the application should be approved as it would accord with local and national planning policies.

8 Recommendation

- 8.1 That planning application 2021/02972/PA should be approved subject to the prior completion of a Deed of Variation to include any previously agreed details and an additional clause to secure the following;
- a) A financial contribution of £TBC. The contribution will be held as a bond and used on highways mitigation if monitoring demonstrates that B8 warehouse units with mezzanine floorspace generate trip rates greater than:
 - Morning peak hour 284 vehicles two-way
 - Evening peak hour 214 vehicles two-way.On a sliding scale up to a potential 9.6% increase in trips.
 - b) Payment of a monitoring and administration fee associated with the legal agreement of £1,500.

- 8.2 In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 27th August 2021, or such later date as may be authorised by officers under delegated powers, the planning permission be refused for the following reason:
- i) In the absence of a legal agreement to secure a financial contribution towards highway junction improvements, public transport, walking and cycling and the Green Travel District and the annual monitoring of the traffic impact until the complete occupation of the site the proposal conflicts with Policies PG3, GA6, TP38, TP39, TP40, TP41 and TP44 of the Birmingham Development Plan and the National Planning Policy Framework.
 - ii) In the absence of a legal agreement to secure an offsite contribution towards the provision landscaping within Wishaw Lane Playing Fields the proposal will have a significant adverse visual impact and as such conflicts with Policies PG3 and GA6 of the Birmingham Development Plan and the National Planning Policy Framework.
 - iii) In the absence of a legal agreement to secure a commitment for the provision of the permissive path around the site the proposal conflicts with Policies PG3 and GA6 of the Birmingham Development Plan and the National Planning Policy Framework.
 - iv) In the absence of a legal agreement to secure a commitment for off-site mitigation of the impact of the development on farmland birds the proposal conflicts with Policies TP8, TP28 and GA6 of the Birmingham Development Plan and the National Planning Policy Framework.
 - v) In the absence of a legal agreement to secure the provision of diverted Public Rights of Way the proposal conflicts with Policies PG3 and GA6 of the Birmingham Development Plan and the National Planning Policy Framework.
- 8.3 That the City Solicitor be authorised to prepare, seal and complete the planning obligation.
- 8.4 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 27th August 2021, favourable consideration be given to this application subject to the conditions listed below.

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|---|---|
| 1 | Full Planning Permission: |
| 2 | Requirement to enter into a legal agreement. |
| 3 | Requires the scheme to be in accordance with the listed approved plans. |
| 4 | Limit construction and earthwork hours to 07:00 to 19:00 Mon to Fri and 08:00 to 13:00 Sat, except highway works. |
| 5 | Archaeology written scheme of investigation. |
| 6 | Employment minimum of 60 person weeks per £1m for new entrants. |
| 7 | Requires stopping up order for Peddimore Lane and provision of access. |
| 8 | Requires stopping up of Wishaw Lane. |
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- 9 Requires PROW stopping up.
 - 10 A38 access to be provided prior to any above ground work on site.
 - 11 A38 access and bridge to be provided prior to occupation.
 - 12 Bunds and strategic landscaping to be commenced within the first planting season following commencement and completed within the first planting season following first occupation.
 - 13 Work to be carried out in accordance with ecology surveys and reports.
 - 14 Requires the prior submission of details of bird/bat boxes.
 - 15 Requirements within pre-defined tree protection areas
 - 16 Requires tree pruning protection
 - 17 Work to be in accordance with FRA.
 - 18 Drainage method statement for Peddimore Brook works.
 - 19 Realignment of Peddimore Brook.
 - 20 Earthworks and levels to be as detail on plans.
 - 21 Surface water management scheme as shown on plans.
 - 22 Foul drainage scheme as shown on plans.
 - 23 Requires the prior submission of unexpected contamination details if found on a phased basis
 - 24 Requires the submission of details of materials for gatehouse.
 - 25 Requires the submission of details of green/brown roofs for gatehouse.
 - 26 Requires the submission of detail of materials for pumping stations etc.
 - 27 Spine road lighting as per details.
 - 28 Public art.
 - 29 Internal spine road to be completed prior to first occupation of industrial unit.
 - 30 Closure of temporary accesses on completion of the roundabout.
 - 31 Landscape management in accordance with 20 landscape management plan.
 - 32 Outline planning permission: Time limit for Reserved Matters - all reserved matters to be within 10 years.
 - 33 Requires completion of S106 prior to work on plots.
 - 34 Limits the maximum gross floorspace of the units.
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- 35 Limits the use of whole of zone 2 and minimum of 5.09ha of zone 1 to to B1c/ B2.
 - 36 Requires the submission of reserved matter details following an outline approval.
 - 37 Requires trigger points for works to M42 J9 and M6 J5.
 - 38 Requires works to M42 J9 and M6 J5 to be in accordance with details and timetable.
 - 39 Requires further traffic surveys for B1b uses.
 - 40 Requires updated sustainability and carbon reduction targets with each RM application.
 - 41 Requires the prior submission of a construction ecological mitigation plan on a phased basis.
 - 42 Requires the submission of a scheme for ecological/ biodiversity/ enhancement measures on a phased basis.
 - 43 Requires further ecology surveys if a two year period lapses between work and application.
 - 44 Foul and surface water drainage details for plots to be submitted.
 - 45 Ground conditions details for plots to be submitted.
 - 46 Requires the prior submission of unexpected contamination details if found on a phased basis
 - 47 Requires the submission of a lighting scheme in a phased manner.
 - 48 Requires noise impact assessment for plots
 - 49 Requires the prior submission of level details.
 - 50 Reserved matters submissions to comply with submitted parameters plan.
 - 51 Reserved matters submissions to comply with submitted RMDG.
 - 52 Limits construction hours 07:00 to 19:00 Monday to Friday; 08:00 to 13:00 on Saturday; and no working on Sundays or Bank Holidays.
 - 53 Minimum of 60 person weeks per £1m for new entrants.
 - 54 Car parking for plots (inc 10% EV).
 - 55 HGV parking details.
 - 56 Cycle parking/ storage.
 - 57 Requires the submission of a commercial travel plan.
 - 58 Bus stops on site.
 - 59 Details of stack, vent or extract system to be submitted.
-

Case Officer: Joanne Todd

Photo(s)

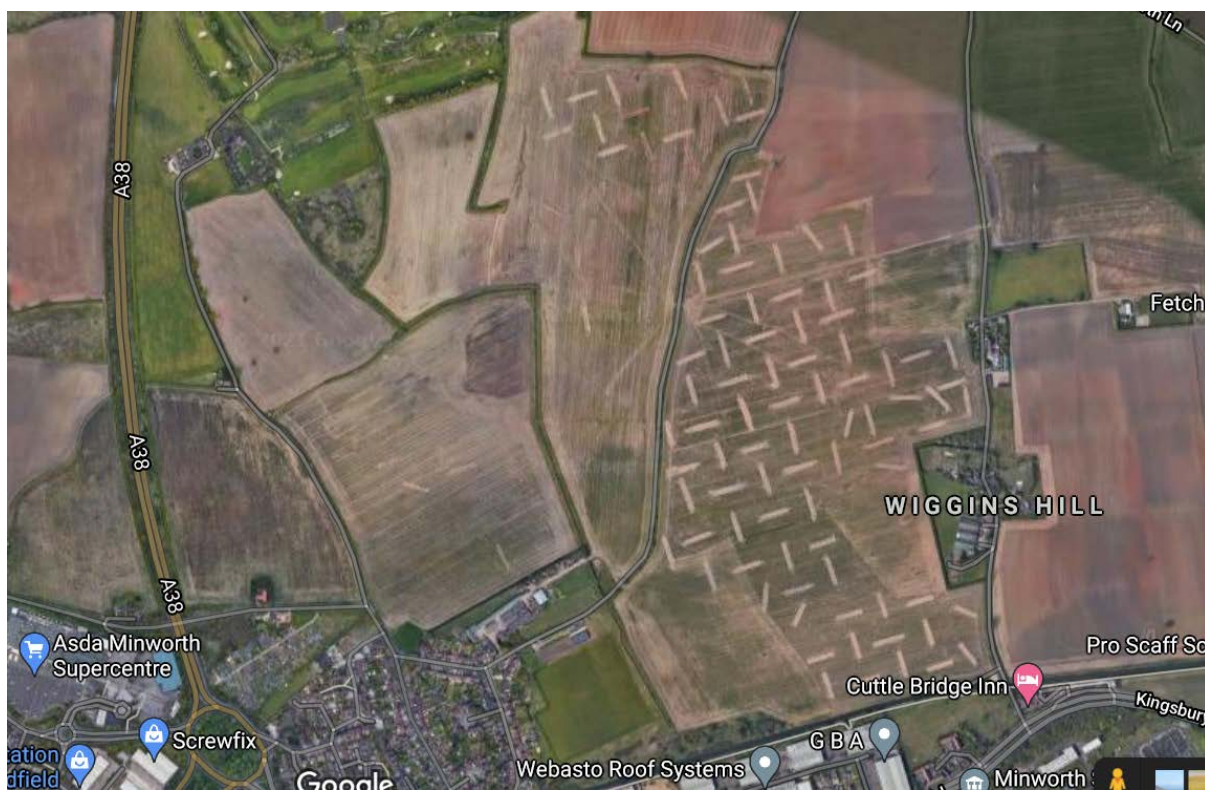
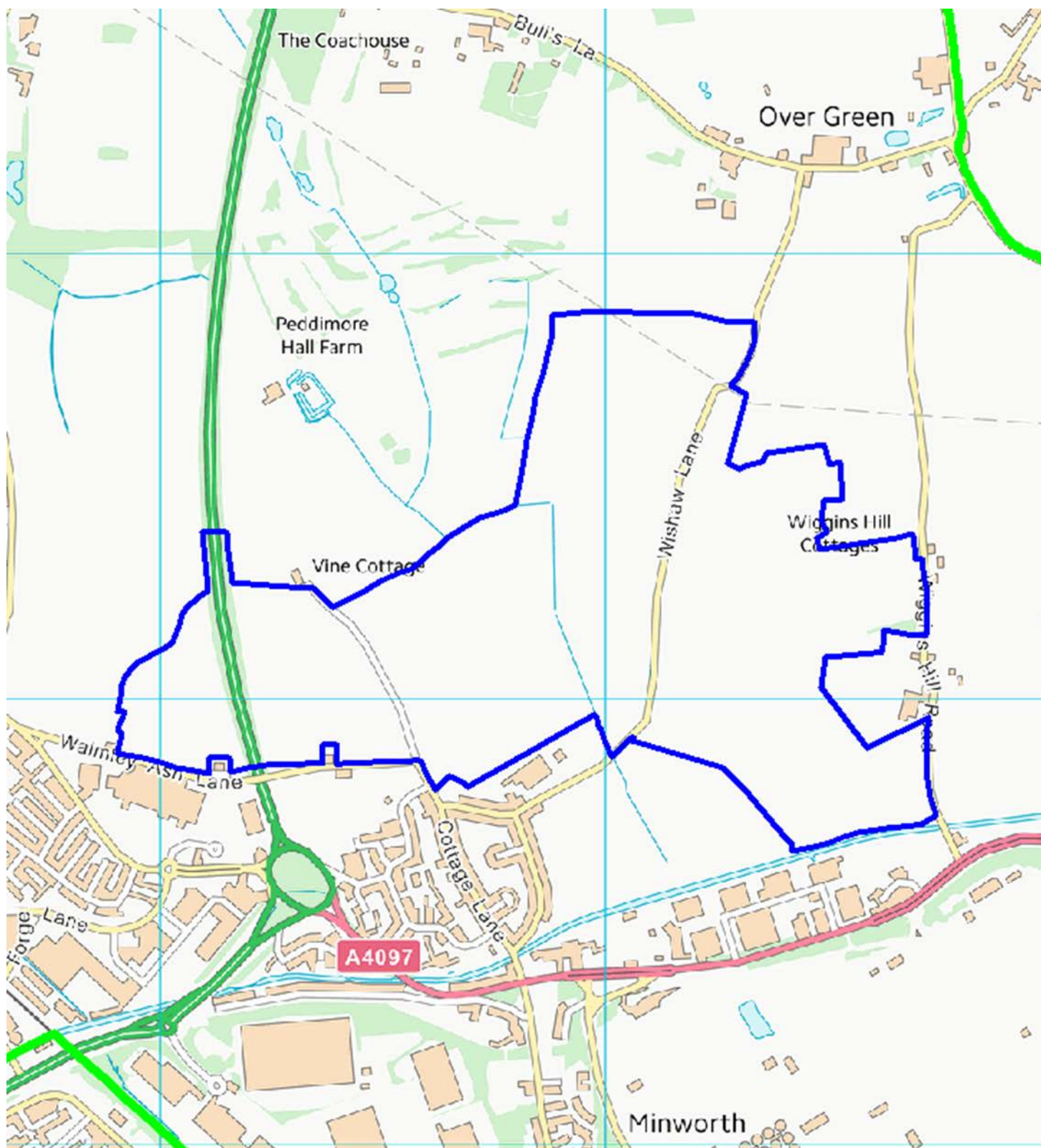


Figure 3: Google ariel photo of site

Location Plan



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Committee Date:	22/07/2021	Application Number:	2021/04890/PA
Accepted:	01/06/2021	Application Type:	Reserved Matters Development
Target Date:	27/07/2021		
Ward:	Perry Barr		

Perry Barr Rail Station, Birchfield Road, Perry Barr, Birmingham, B20 3JE

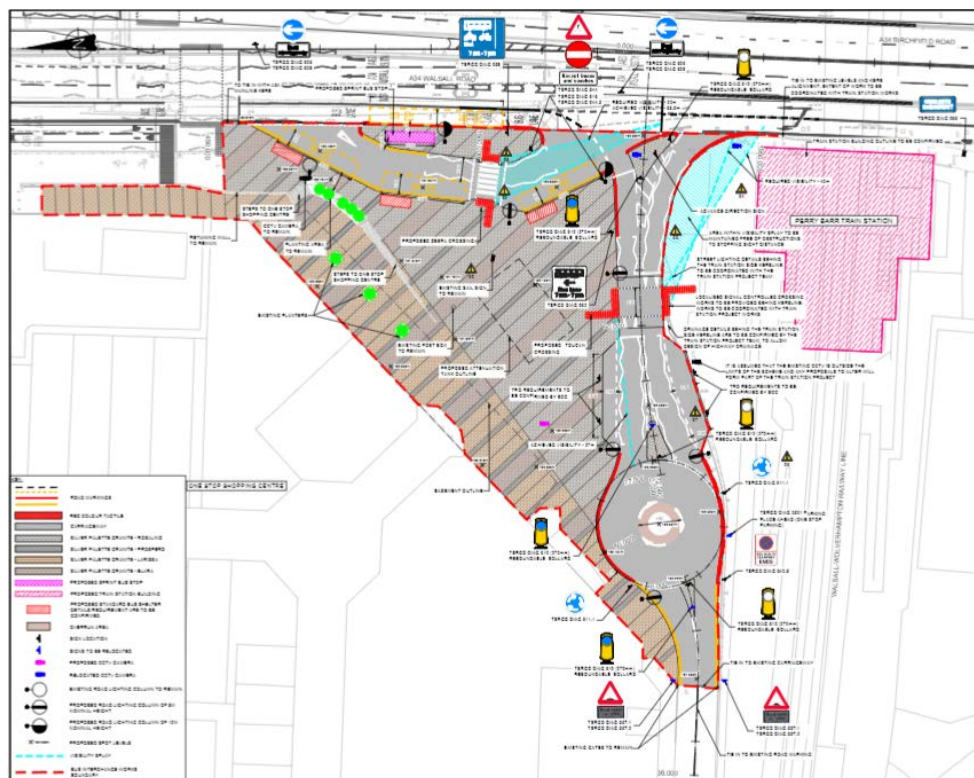
Reserved matters application for access, appearance, landscaping, layout and scale for the construction of a new bus interchange and determination of the details for conditions 3 (demolition method statement/ management plan), 14 (bird/ bat box details), 17 (levels details), 19 (boundary treatment details) and 28 (air quality assessment) for the bus interchange part of the hybrid approval 2020/07426/PA.

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. This application is for approval of reserved matters for the bus interchange element of the outline consent granted in February 2021 for a hybrid planning application for Perry Barr rail station and bus interchange (2020/07426/PA). The hybrid application approved the details of the new rail station in full and the new bus interchange as an outline consent. The reserved matters now applied for are access, appearance, landscaping, layout and scale. The following plan shows the proposed layout for this application:



- 1.2. The application has been submitted with the following supporting documents: Planning Statement, Transport Assessment, Air Quality Impact Assessment and Drainage report. In addition the Transport Statement, Noise Impact Assessment, Flood Risk Assessment, Ecology Appraisals, Bat Roost Assessment, Arboricultural Report and Geo-environmental Assessment, which were submitted with the hybrid application have been re-submitted with this reserved matters application.
- 1.3. The current application also seeks to determine the details required by conditions 3 (demolition method statement), 14 (requirement for bird and bat boxes), 17 (levels), 19 (boundary treatments) and 28 (air quality assessment).
- 1.4. [Link to Documents](#)
2. Site and Surroundings
 - 2.1. The site is 0.5ha and is currently the bus interchange and public realm outside the One Stop shopping centre. The site is separated from the rail station by Birchfield Road which provides access from the A34 to the One Stop car park and also bus access. At present the buses pull in from Birchfield Road and then access one of four sheltered stops within a large hard surfaced area. Pedestrian crossings link the rail station to the bus interchange and One Stop.
 - 2.2. [Site Location](#)
3. Planning History
 - 3.1. 2020/07426/PA – Hybrid application incorporating: Full planning application for demolition of existing railway station building and construction of new station building. Including part infill of existing pedestrian subway, installation of steps and lifts to platforms. Installation of new platform shelters; cycle parking; soft and hard landscaping and other associated works. Outline planning application for the construction of a new bus interchange with all matters reserved – Approved subject to conditions 04.02.2021.
 - 3.2. 2020/06719/PA – Application for Prior Notification for the proposed demolition of former retail units and advertising hoarding – Prior approval required and approved with conditions 24.09.2020
4. Consultation/PP Responses
 - 4.1. Adjoining occupiers, local councillors and local MP notified as well as site and press notices displayed. 2 letters of representation have been received providing the following comments:
 - Advantages of providing an integrated transport hub for the area
 - Disadvantages are noise and fumes
 - Risk of increase in people hanging around, drinkers, drug use, begging etc
 - No effort has been made to ensure the public realm details are consistent between the train station and bus interchange
 - Lack of pedestrian crossing
 - Insufficient green space

- 4.2. Network Rail – No comments received.
- 4.3. Transportation – Require the designer's response to RSA to be submitted.
- 4.4. Environment Agency – No objections to reserved matters application and no comments to make on conditions.
- 4.5. Regulatory Services – No objection to the reserved matters submission as there are existing conditions (2, 4, 6, 7 and 8) on 2020/07426/PA which address contamination and construction impacts. Furthermore in respect of the request to discharge condition 3 note that there is no proposed demolition and hence have no objection to this condition being discharged and similarly in respect of condition 28 having now reviewed the proposed scheme is content there are no air quality impacts.
- 4.6. West Midlands Police – No comments on the conditions. Recommends Lighting Against Crime standard, CCTV, use of anti-graffiti coating on planters and furniture which also need to be of a robust nature to avoid being vandalised. Also recommends changes in paving and good signage to distinguish areas for vehicles, cyclists and pedestrians.

5. Policy Context

- 5.1. The following policies are applicable:
 - Birmingham Development Plan 2017
 - Birmingham Unitary Development Plan (saved policies)
 - Draft Development Management in Birmingham DPD
 - Places for All SPD
 - Urban Centres SPD
 - Perry Barr Public Realm Strategy
 - Aston, Newtown & Lozells Area Action Plan
 - Birmingham Transport Plan 2031
 - Birmingham Connected 2014
 - Revised National Planning Policy Framework 2019

6. Planning Considerations

Policy and principle of development

- 6.1. The principle of redeveloping the site for a bus has accepted through the outline consent.
- 6.2. The changes to the bus interchange are required as the existing facility is not fit for purpose and needs upgrading to meet current and predicted growth in passenger numbers. The scheme is part of a wider strategy to improve the network of, and access to, sustainable transport facilities across Birmingham and the West Midlands and part of the wider regeneration of Perry Barr.
- 6.3. The key issues for consideration are the layout, scale and appearance of the bus interchange and the associated structures and the highway impact, including pedestrian and cycle movements.

Layout, scale and appearance of proposed bus interchange

- 6.4. The bus interchange proposal is predominately a public realm scheme proposing a large area of hard surfaced open space with small elements of landscaping and 4

new bus shelters (three standard shelters and a sprint shelter). The plan in section 1 above is supported by indicative images of the proposed scheme:



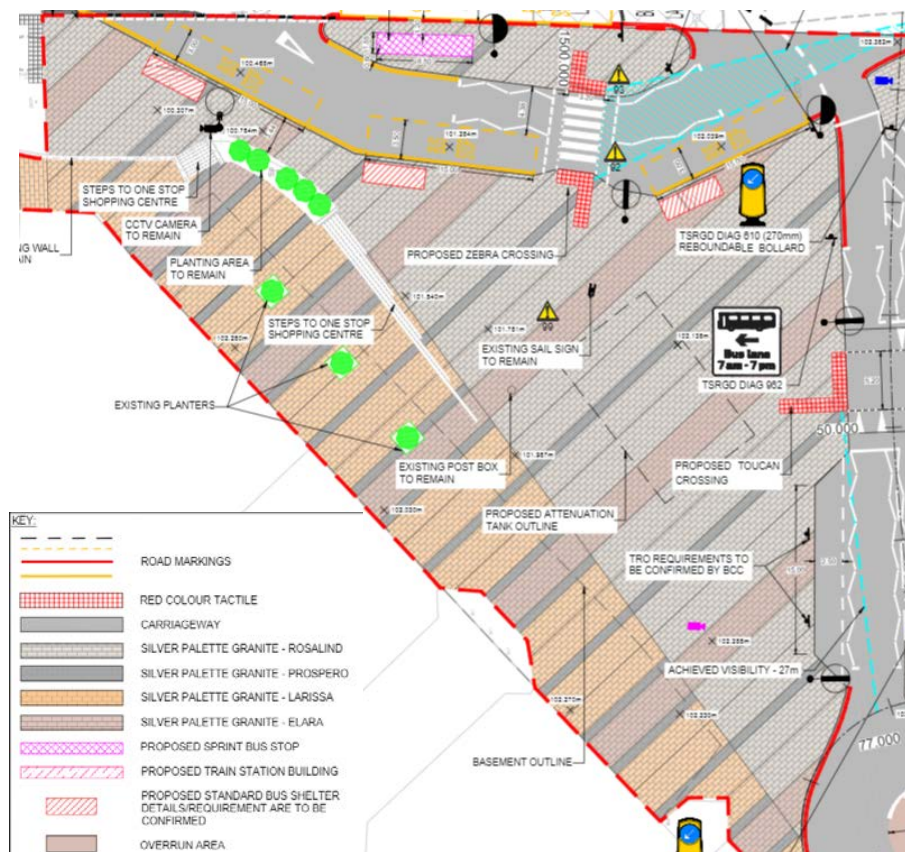
- 6.5. The proposal will alter the bus route to the three standard stops to a shorter route than presently, accessed directly off the A34 and returning back onto the A34. The Sprint stop will be on the A34 due to the potential length of these buses and the need for a quick stop. Beyond the bus stop route the site is to be hard surfaced to provide a greater amount public realm. Currently the bus stop route crosses over most of this land and creates a wide barrier for pedestrians. The proposed scheme will reduce the amount of land taken up by the buses and remove the barrier.
- 6.6. It is proposed that the bus interchange public realm will link to the train station public realm with the relocated pedestrian crossing providing a safe crossing point. The Perry Barr Public Realm Strategy includes several key design considerations, including:
- One Stop access road to be visually integrated into the public realm and designed to minimise impacts on pedestrians, whilst accommodating vehicle movements.
 - The northern part of the public space to seamlessly connect with the pedestrian crossing of Aldridge Road to deliver a safe, legible and inviting route that integrates changes in level into the design.
 - The bus interchange to be integral to public space and not a barrier to movement or views towards One Stop and key pedestrian routes.
- 6.7. The layout as proposed meets all of these design objectives integrating the access road into the development, connecting the public realm to the wider area and removing the barrier created by the current bus interchange. The layout as proposed also provides clear visibility of One Stop and a closer arrangement of the bus shelters.
- 6.8. Four bus stops are proposed, three standard stops and a sprint stop. They are all of a similar design with the sprint stop being wider (4.8m and 8.6m respectively). The structures have two open sides, one enclosed with a glazed panel and a closed rear elevation. The roof is a shallow mono-pitch. Green roofs have been considered both for visual and ecological benefits, however there is not currently any means or finances available to maintain green roofs. Internally the stops will provide space for advertisements, seating and real-time bus information. The structures are standard and the sprint stop design and scale will be repeated along the whole of the sprint route.



- 6.9. City Design has advised that the layout and scale is acceptable, balancing the need to deliver a bus/ sprint interchange with creation of a new public space in front of One Stop. The amount of road space given over to buses and One Stop delivery vehicles and customer cars has been significantly reduced, facilitating creation of a larger and much more attractive and welcoming space for pedestrians. The public space adopts the Perry Barr Public Realm Strategy 'Silver' palette, ensuring use of materials that will deliver appropriate visual quality and robustness. The existing One Stop 'sail' sign is to be retained and a digital totem provided for wayfinding. The bus shelter will be upgraded to the new modern design adding to the coherent, high quality appearance.
- 6.10. Overall the layout, scale and appearance of the bus interchange proposals are considered to be acceptable and in accordance with the development plan policies and the Perry Barr Public Realm Strategy.

Landscaping proposals

- 6.11. As already noted the proposal is predominately hard surfacing. The hard surfacing materials are as per the 'silver' palette of materials in the Perry Barr Public Realm Strategy. The submitted plans show 4 different coloured granite laid out in formal 'stripes' at 90 degrees from the frontage of One Stop. The area is split into two. The section closest to the One Stop will be surfaced in Larissa, Elara and Prospero colours, beyond that area is to be Rosalind, Elara and Prospero with the Elara and Prospero coloured stripes running across both areas.



- 6.12. The plan shows existing planters outside the shops and a planted area, which also provides a retaining structure with steps either side. The indicative 3D and 2D images include additional tree planting and raised beds across the public realm hard surfacing but the exact details and location of these is yet to be agreed. This can be dealt with through an appropriately worded condition. The addition of extra trees and landscaping is currently the subject of negotiations between the developer and One Stop who will be taking on the management of the public realm and also who have covenants over the land requiring open views of the shops to be maintained.
- 6.13. One objector has challenged whether there is sufficient link between the proposed layout and materials of bus interchange and the rail station proposals. The design of the spaces is different in that the rail station hard surfacing is a random mix of the granite paving, whereas the bus interchange is proposed with a striped layout of the granite paving. The materials are both within the 'silver' colour palette of the Perry Barr Public Realm Strategy and will both have some consistency with each other and also the wider improvements to public realm in Perry Barr.
- 6.14. My Landscape Officer has confirmed that the landscaping is subject to continuing discussions and green infrastructure – trees and other planting – is considered an important element of the scheme's place quality, benefitting users through visual quality and the microclimate (shading, shelter, cooling) created, as well as potentially for sustainable drainage and biodiversity. Detailed proposals are required as soon as possible, and it is hoped that these will deliver significant greenery including trees. Details should include drawings of proposed planting methods, including tree pits/ soil/ watering/ fixing system, etc.
- 6.15. With regard to ecology the bus interchange site is Area 2 in the submitted Preliminary Ecological Appraisals (PEAs) and Preliminary Roost Assessments (PRAs) and the dominant habitats are hardstanding and built structures, with two small areas of introduced shrubs and two cherry trees. As such, the site is of

minimal ecological value, offering only incidental habitat resources for urban wildlife, in particular birds and invertebrates. My Ecologist has advised that the current application is to be dominated by hard landscaping, but notes that soft landscaping details are the subject of continuing discussions and are therefore not included in the submitted drawings. There is an expectation of consistency in the detailing of planting across this scheme and the railway station scheme.

Highway impact, access and parking

- 6.16. The Transport Statement (TS) submitted with the outline application has been re-submitted with this planning application. In addition an application specific Transport Assessment (TA) has been provided, which includes a Road Safety Audit (RSA). The TA seeks to demonstrate that the bus stop provision is sufficient and to show that the buses can safely enter and exit the stands. The stand capacity is based on the current timetable and includes 'through' services, which stop briefly to set down and pick up passengers, and 'layover' services which are scheduled with a longer stop at the site. The 'layover' services are to use the stops within the bus interchange, some of the 'through' services will use the sprint stop, however stop allocation is not fixed and will be organised by TfWM to ensure most efficient use of the stops and to reduce the potential for buses queueing on the A34.
- 6.17. Access to the bus interchange is to be via an upgraded access off the A34. The issue raised at the hybrid application stage of the alignment of the road and the landscaping outside the train station has been resolved for the submission of this application. Swept path drawings have been provided to show safe manoeuvring. Collision records have been considered though the changes to the layout of the bus interchange will also result in positive changes the safety of the site. Risks to existing road users and pedestrians have been considered in the RSA. The Designer's response to the RSA has been submitted to the Council and advises that tracking has been carried out and that all of the issues raised in the RSA have either been designed out or the risk minimised as much as possible. Transportation Development have been reconsulted and their comments will be provided at the committee meeting.

Drainage

- 6.18. The FRA submitted with the outline has been re-submitted and a site specific drainage report also provided. The drainage proposals for the site have been discussed with the LLFA prior to submission and the application includes a high level drainage design. Only surface water needs to be considered, there is no foul drainage required for the bus interchange. The scheme proposes discharge to the existing STW sewer with flow restricted to 5 litres per second through the use of hydrobrakes and attenuation crates. The drainage details are already subject to a condition on the outline planning consent and will need to be submitted for approval before the development is commenced.

Conditions

- 6.19. The current application also requests consideration of the details required for conditions 3, 14, 17, 19 and 28 on the outline planning permission.
- 6.20. Condition 3 requires the submission of a demolition method statement prior to any demolition works (for each phase of the development). For the bus interchange there is no demolition required. The existing hard surfacing will need to be removed but this does not fall within the remit of demolition. As such the applicant has requested that the details for condition 3 be determined alongside the reserved matters consent. Regulatory Services have no objection on the basis that there is no demolition required.

- 6.21. Condition 14 requires the submission of details of bird and bat boxes for each phase of the outline consent. The statement submitted with this reserved matters application has advised that there is no space or structures within the bus interchange that could provide for bat or bird boxes. The One Stop shopping centre is not within the applicant's ownership and as such it would not be possible for the current applicant to commit to placing bat and bird boxes on One Stop. The Council Ecologist has confirmed that the bus interchange is acceptable without any bat or bird boxes and as such the details required for condition 14 can be determined as acceptable.
- 6.22. Condition 17 requires the submission of details of the site levels, existing and proposed. Spot levels are shown on the General Arrangement drawing. From the A34 pedestrian crossing in the north, land rises about 2.5m up towards the rail station and the One Stop entrance. There is limited scope to change levels across the site because of the fixed roads and One Stop levels, as well as basements that project forward from One Stop below the public space. The combination of public realm gradients, formal ramps and steps is considered to provide reasonable movement of pedestrians around the site and acceptable appearance. The information is therefore considered to be acceptable for both the details of the reserved matters and for the requirements of condition 17.
- 6.23. Condition 19 requires the submission of boundary treatment details for each phase of the development. The submitted bus interchange proposals do not include any physical boundaries, changes in ownership are to be marked by different paving, as detailed elsewhere in this report, protection between highway and pedestrian areas is to be provided by kerbing. This approach is welcomed as a major benefit in removing barriers to walking and reducing visual clutter. As such no boundary treatments are proposed and the information required for condition 19 is acceptable.
- 6.24. Condition 28 requires the submission of an Air Quality Impact Assessment with the bus interchange reserved matters application. This report has been submitted and has considered both construction phase and operational phase. The scheme proposes 4 bus stands to replace the existing 4 stands, the application has been based on the current bus movements and as such no additional bus movements or bus stands are proposed. The report therefore concludes that the operational phase will not have a significant impact on road traffic or air quality. The construction phase is planned over 28 weeks with approximately 3 HGV and 4 LGV movements per day. The report concludes that the small number of vehicle movements will ensure that there is no air quality impacts from construction. Mitigation measures are recommended in the report to further minimise any potential construction impact.
- 6.25. An additional statement was also received during the consideration of the application which has taken into account the two drop-off zones shown either side of the access road to One Stop and the impact of waiting buses on pollution. Regulatory Services have considered the submitted information and advised that there are no air quality issues resulting from the development and that the information is satisfactory for condition 28.
- 6.26. It is recommended that, alongside recommending approval for the reserved matters application, that a separate decision letter approving the details for conditions 3, 14, 17, 19 and 28 is issued.

Other matters

- 6.27. West Midlands Police Architectural Liaison Officer has raised no objection to the proposals and made some recommendations. Most of these (CCTV, lighting and furniture) are all covered by existing conditions on the hybrid consent. The request

for anti-graffiti coating has been passed to the agent as this does not require planning consent.

7. Conclusion

- 7.1. The proposed bus interchange provides a high quality, fully accessible, public transport interchange, increases passenger capacity and encourages the use of public transport. The scheme improves the visual relationship of this facility with the wider public realm and improves landscaping, natural surveillance and has the potential to increase green infrastructure. The access, appearance, landscaping, layout and scale of the scheme are all considered to be acceptable and result in an appropriate form of development. Overall the scheme is considered to comply with the aims and principles of the Development Plan, relevant Supplementary Planning Documents and the National Planning Policy Framework.
- 7.2. The information submitted for conditions 3, 14, 17, 19 and 28 on the hybrid consent is acceptable and the details required for these conditions can be agreed.

8. Recommendation

- 8.1. That planning permission be granted subject to the conditions listed below;
- 8.2. That the details submitted for conditions 3, 14, 17, 19 and 28 is considered as being acceptable and the details are approved in full.

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| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Requires the submission of hard and/or soft landscape details |
| 3 | Demolition |
| 4 | Bat and bird boxes |
| 5 | Requires the levels of the bus interchange to be as approved |
| 6 | Boundary treatments |
| 7 | Requires compliance with the air quality assessment for bus interchange |
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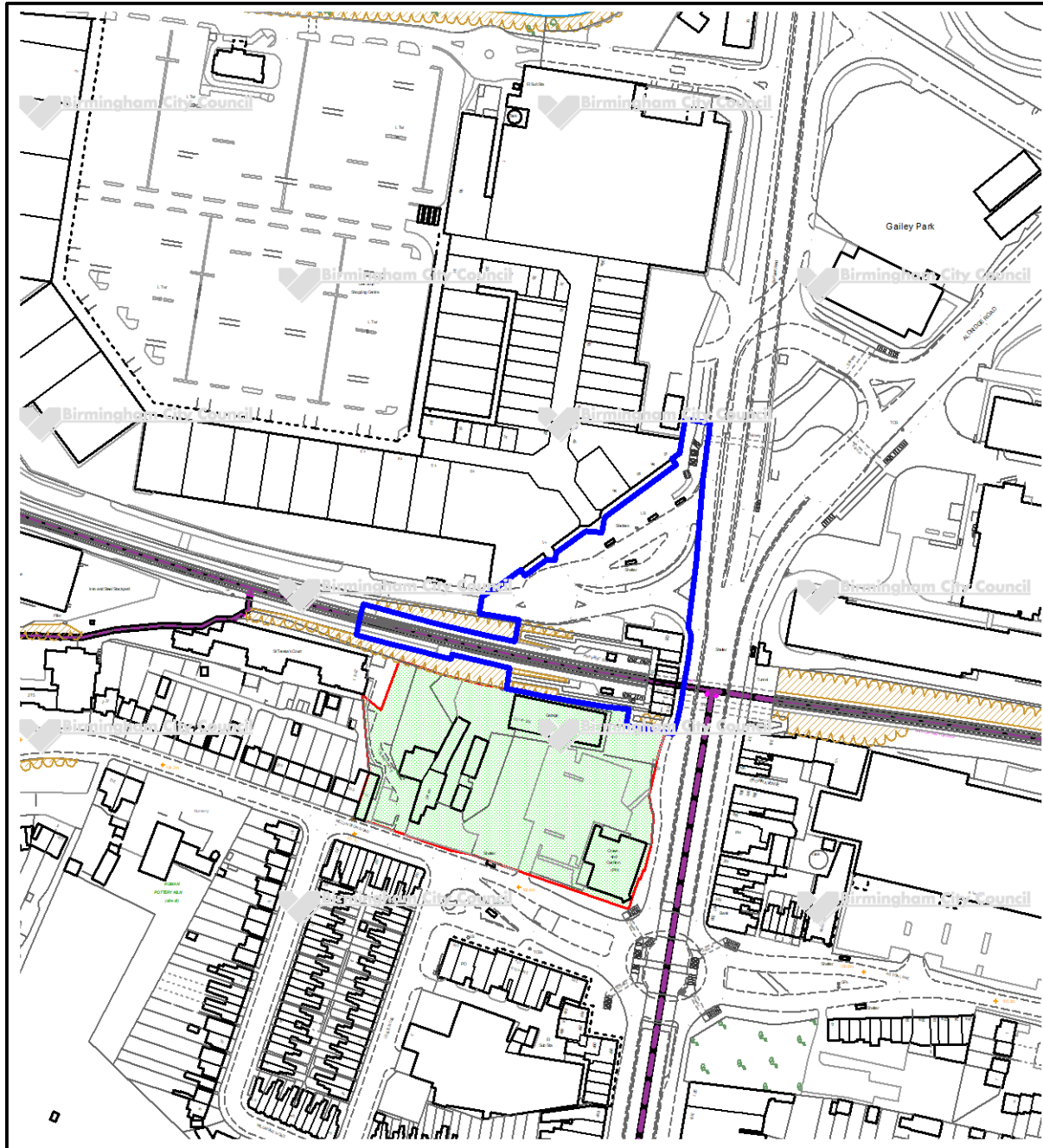
Case Officer: Karen Townend

Photo(s)



Street view of current bus interchange

Location Plan



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