

Birmingham City Council

Planning Committee

18 August 2016

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>
Refuse	8	2016/04795/PA Old Horns Crescent Great Barr Birmingham B43 7HA Site clearance (including cutting and filling the existing site to create a level site) and construction of a class A1 retail store with associated car parking and landscaping.
Refuse	9	2016/04621/PA Land at corner of Wellhead Lane & Aston Lane and to the rear of Aston Lane Aston Birmingham B20 3HA Erection of 86 no. dwellings, associated access roads, parking and associated works

Committee Date:	18/08/2016	Application Number:	2016/04795/PA
Accepted:	07/06/2016	Application Type:	Full Planning
Target Date:	06/09/2016		
Ward:	Oscott		

Old Horns Crescent, Great Barr, Birmingham, B43 7HA

Site clearance (including cutting and filling the existing site to create a level site) and construction of a class A1 retail store with associated car parking and landscaping.

Applicant:	Aldi Stores Limited Holly Lane, Atherstone, CV9 2SQ
Agent:	STOAS Architects Limited 216 Fort Dunlop, Fort Parkway, Birmingham, B24 9FD

Recommendation

Refuse

1. Proposal

- 1.1. Prior to the submission of this application, extensive pre-application negotiations were carried out between the Councils planners and the applicant and their representatives. In these discussions, planners set out, in liaison with other colleagues such the Councils tree officer, guidelines for the developer that they were expected to adhere in the submitting scheme. A large part of this guidance centred around the need to protect as many of the existing trees on this site as possible.
- 1.2. The applicant proposes the clearance of the application site, which will also entail the cutting and infilling the site to level it, then to develop the site by erecting a new build Use Class A1 retail store with associated car parking and landscaping.
- 1.3. The lower section of the site that currently meets Queslett Road at the same level would after the site has been cut, in filled and levelled off, stand approximately 4 metres above Queslett Road.
- 1.4. The new building would be rectangular in shape and would generally follow the line of Queslett Road from which it would be separated by a retaining wall (with some intervening landscaping) measuring approximately 4 metres high. Direct pedestrian access from Queslett Road to the site would be achievable by a proposed staircase.
- 1.5. Three of the four facades of the new building would be largely blank other than the provision of an array of high level windows along the north west façade and return shopfront glazing with recessed exit door (facing Queslett Road) and emergency escape doors and two other windows (which would be secured by security grilles) on two other elevations. The shop frontage would be located on the south western elevation and would face into the site. This elevation would be largely glazed with entrance door all set under the building canopy. The main part of this glazing would be recessed to allow for trolley bays to the front of it.

- 1.6. The exterior building façade would be mainly constructed out of rendered walls interspersed with glazing, security doors and rollershutter loading bay.
- 1.7. The total floor space to be created would equate to 1140 sq.metres.
- 1.8. The applicant states that 24 full time and 20 part time jobs would be created (equivalent to 30 full time jobs).
- 1.9. The proposed hours of use would be 0800-2200 hours Mondays to Saturdays and 1000 hours to 1600 hours on Sundays.
- 1.10. A total of 86 parking spaces would be provided with vehicular access from Old Horns Crescent.
- 1.11. The site area measures 6410 sq.metres.
- 1.12. The applicant has set out a Heads of Terms offer (S106) which would provide for log seating; information boards, hedgehog habitats, bins, new path lake and bat boxes on land adjacent to the application site which also forms a SINC and nature reserve as does the application site.
- 1.13. The applicant has submitted a Design and Access Statement; Heads of Terms (S106), Planning and Retail Statement, Ground Investigation Report, Preliminary Ecological Assessment, Statement of Community Involvement, Land Contamination Phase 1 Environmental Site Assessment, Travel Plan, Transport Assessment, Pre-development Arboricultural Survey, Reptile Survey and Plant Survey.
- 1.14. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The site appears to have historical linkages to use as a gravel pit, a tip use and other commercial uses. Though the site is currently secured by perimeter fencing, it is designated as Open Space whilst part of it also forms part of a larger SINC (Site of Important Nature Conservation) site within the draft Birmingham Development Plan (BDP). The remainder of the SINC is situated immediately adjacent to the south of this application site. The site area measures 6410 sq. whilst the total site area of the SINC, including that part of the application site that forms part of the SINC, measures approximately 4.8 hectares.
- 2.2. The site is uneven in that its north western, northern, eastern and southern perimeter are set at a higher level than its central section. Those outer areas comprise steep rising earth (embankments) supporting trees and vegetation, whilst the smaller central area is formed of remnant hard surfacing. All trees on site are covered by a TPO (1528) many of which fall within the SINC part of the site. The site is located to the south western edge of Queslett Neighbourhood centre. There is a large ASDA superstore located immediately across Old Horns Crescent to the north west of the site. Queslett Road is a dual carriageway which marks the boundary with Walsall to the west. The nearest residential dwellings are located across Queslett Road to the west in Walsall and also to the south of the site (beyond the immediate

neighbouring site which is a building that is being fitted out to become a medical centre).

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

3. [Planning History](#)

- 3.1. 03.06.2015- 2015/03969/PA- Pre-application advice for the construction of a retail store (Class A1)- pre application finalised.
- 3.2. 09.04.2015- 2015/01805/PA- Pre-application discussion for a foodstore development with associated car parking- pre application finalised.
- 3.3. 12.02.2015- 2015/00413/PA- Pre-application enquiry for the use of the site as a natural play area for children, installation of associated play equipment and erection of a garden cafe/shop- pre application finalised.

4. [Consultation/PP Responses](#)

- 4.1. Surrounding occupiers, local councillors, local MP and community groups notified as well as site and press notices displayed- A communication has been received from Councillor Linnecor which identifies that concerns have been raised by many residents relating to congestion, parking and the environment and as such he would naturally call for this application to be put before Planning Committee.
- 4.2. 39 letters of support received. The support set out for the project in those letters can be summarised as follows:- Will provide healthy competition for Asda; great news for elderly residents as no need to travel to alternative Aldi in Scott Arms, employment creation, will improve existing site which has grown wild, will increase variety in the local retail offer, will help keep prices down, will help the area look better in comparison to the existing situation and finally it would be convenient for local people.
- 4.3. A further 7 letters of support have been received which also raise concerns about the traffic impact of the proposal.
- 4.4. 4 Letters of objection received. The objections can be summarised as follows:-Road network will not be able to cope with the additional traffic; concerns regarding the ecological impact of the proposal and concerns regarding the unnecessary destruction of woodland.
- 4.5. A further letter of objection has been received with the objector setting out his concerns about the accuracy of the submitted traffic data and raises concerns about the accessibility of the site by cyclists and pedestrians. He states that he would support the application if measures to deal with pedestrian and cyclists accessibility are addressed and if a fresh traffic survey is carried out that includes traffic flows on Aston Villa match days and during school term times.
- 4.6. 2 letters of objection have also been received from Oscott Residents Association. The objections/concerns raised include matters relating to the visual, structural, environmental, ecological and highway impact of the proposal.

- 4.7. A response has been received from Booths Farm Neighbourhood Forum which request further time to comment on the application but do at this stage comment that the current situation with traffic at this junction (not specified) is already causing concerns.
- 4.8. Transportation Development- Request further information and amendments in relation to the submitted Transport Assessment (TA) whilst also requesting a Stage 1/2 independent Road Safety Audit to be carried out for the proposed scheme and the details to be submitted.
- 4.9. Regulatory Services- Request conditions be attached which relate to controls on noise levels from all plant and machinery; hours of use, requirement for a site contamination remediation scheme and a verification report as well as a requirement for an electric vehicle charging point.
- 4.10. Severn Trent- No objection subject to a condition related to securing satisfactory drainage and advise there is a public sewer located within the application site and they encourage the applicant to investigate this.
- 4.11. Environment Agency- No objection subject to a condition that requires a contamination site investigation (and remediation works if deemed to be necessary) and conditions relating to controls on piling or any other foundation designs using penetrative methods and that no infiltration of surface water drainage into the ground is permitted (other than where it has been demonstrated where there would be no unacceptable risk to controlled waters).
- 4.12. Walsall Council- note that the proposal should be subject to a sequential appraisal as the site is an out of centre site, but also state that they are not aware that there are any available sites within local centres in nearby parts of Walsall that would provide a preferable location. They also state the proposal would not have an adverse impact on traffic in Walsall. They provide negative comments on the design and layout of the proposal. Finally they relay comments received from Walsall residents which are:- they do not want another supermarket in this location as they feel they are already well served, congestion on Queslett Road, the destruction of trees on site, impact on nature reserve, light pollution, litter and state that there is already flooding in the immediate location which the scheme will not help.
- 4.13. WM Police-Request that if the application is approved that works are carried out in line with Secured by Design 'Commercial 2015' and Secured by Design document "Lighting Against Crime, that intruder alarms and CCTV are provided, road markings to indicate a crossing point between parent and child parking spaces and the store itself and also recommend that access to the car park be gated.
- 4.14. Local Lead Flood Authority- Only a drainage plan has been submitted which does not meet LLFA requirements. Further information in the form a Sustainable drainage assessment as well as a Sustainable drainage operation and maintenance plan (in order to assess the impact of the proposal on drainage) is required.
- 4.15. Leisure Services- Object to the partial loss of the SINC, but note that the development might be acceptable if the mitigation proposals are deemed appropriate by colleagues in the Sustainability Team and that the loss of TPO trees is limited. In addition to this, they advise the loss of the sites Open Space designation would require a compensatory sum of £128,000 to be paid which they

would want directed towards the provision, improvement and/or maintenance of the adjacent nature reserve (the remaining part of the SINC).

- 4.16. Ecologist- Advises no objection following his consideration of the impact on wildlife, subject to safeguarding conditions, but does object to the offer of compensation made for the loss of ecological site value offered in the applicants heads of term (S106 offer).

5. Policy Context

- 5.1. UDP (2005); Shopping and Local Centres SPD, UDP (2005), Draft Birmingham Development Plan (BDP), Nature Conservation Strategy for Birmingham SPG, Car Parking Guidelines SPD, NPPF and NPPG.

6. Planning Considerations

- 6.1. The proposed development gives rise to a number of issues. These are considered below:-
- 6.2. Principle- The National Planning Framework (NPPF) confirms that there should be a presumption in favour of sustainable development in assessing planning applications with the three elements that comprise sustainable development being economic, social and environmental.
- 6.3. The application site falls just outside the edge of the Queslett Neighbourhood centre. The NPPF states in part 24 that Local Planning Authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up to date Local Plan. It further states that applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. And concludes by stating applicants and Local Planning Authorities should demonstrate flexibility on issues such as format and scale.
- 6.4. I can confirm to members that the applicant has submitted a Planning and Retail Statement which details a sequential appraisal of why this site has been chosen and the lack of suitable alternatives. I can further add that the site sits immediately to the south of Queslett Neighbourhood Centre (separated only by Old Horns Crescent). Pedestrian access to and from the designated neighbourhood centre is achievable by a pedestrian crossing at the junction of Old Horns Crescent and Queslett Road. Having reviewed the submitted sequential appraisal I acknowledge that the site is easily accessible from the existing local centre adjacent. With respect to the matter of flexibility in format and scale in relation to discounting site allocation in terms of the sequential test, the applicant has provided details that confirm that the proposal accords with the requirements of the sequential test (which includes the provision of case law that acknowledges that in the consideration of alternative sites for a development, alternative sites can be discounted if they would result in the scale of the development having to be compromised). I therefore consider, based on the information submitted, the principle of establishing an edge of centre retail use on this site is acceptable from a sequential retail assessment perspective.

- 6.5. Loss of Open Space, Ecology and Trees- In order to deal with these matters the applicant has submitted a Preliminary Ecological Assessment, Pre development Arboricultural Survey, reptile survey and notable plant survey in support of this application. The applicant has also made an offer (heads of terms) to provide the following features within the southern part of the SINC which also forms a nature reserve:- log seating, hedgehog habitats, creation of a new path to the lake within the reserve, information boards, bins and bat boxes as a means by which to mitigate the loss of this part of the SINC. The applicant has not provided details of the costing of such which should be to the value of £128,000 (at £20 per sq. x the site area).
- 6.6. I will therefore address the three issues above- loss of open space, ecology and trees as two separate issues in the sections of the report below (by first setting out the particular policy background that applies to POS and Ecology separately but then bringing together my conclusion of the impact on both under one heading), mindful always that there is an interrelationship between them, particularly centred around wider social, health and environmental impacts.
- 6.7. Loss of designated Open Space and ecological impact
- 6.8. Loss of designated Open Space With respect to promoting healthy communities the NPPF states in part 69 “The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities”. This is followed through in part 70 by the following “To deliver the social, recreational and cultural facilities and services the communities needs, planning policies and decisions should:- plan positively for the provision of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments; - guard against the unnecessary loss of valued facilities and service, particularly where this would reduce the community’s ability to meet its day to day needs; - ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community; and – ensure an integrated approach to considering the location of housing, economic uses and community facilities and services”.
- 6.9. It states in part 73 “Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessment should be used to determine what open space, sports and recreational provision is required”.
- 6.10. Part 74 states “Existing open space, sports and recreational buildings and land, including playing field, should not be built on unless:- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirement; or – the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or – the development is for alternative sports and recreational provision, the need for which clearly outweighs the loss”.
- 6.11. The link between pursuing good planning outcomes and improving health outcomes is also supported by policy 2.14A of the UDP which states “The City Council

recognises that there are clear links between the quality of the environment and the quality of people's health. Poor housing, traffic and air borne pollution and high levels of urban deprivation have all shown to contribute to medical problems and poor health. Conversely, access to open space, sport and recreational facilities are important in being able to offer opportunities for physical exercise thereby promoting healthier living. The planning process therefore has a clear and important role to play in helping to tackle health inequalities and promote healthy neighbourhoods". Policy 2.14 A continues by stating "...When considering planning applications for new development the effects of the development on peoples health will similarly be considered. Developments which contribute to creating a healthier environment will be encouraged".

- 6.12. The protection of open space and the requirement to provide evidence that such space is surplus in the context of open space provision in the ward (with the requirement to provide an equal or better provision in its place) is also set out in policy TP9 of the draft BDP which states "Planning permission will not normally be granted for development on open space except where:- It can be shown by an up to date assessment of need that the open space is surplus taking account of a minimum standard of 2 ha per 1,000 population and the accessibility and quality criteria listed below.- The lost site will be replaced by a similar piece of open space, at least as accessible and of similar quality and size- Where an area of open space is underused, as it has inherent problems such as port site surveillance, physical quality or layout, which cannot be realistically dealt with, then in this case proposals that would result in the loss of part of a larger area of open space will be considered if compensation measures would result in significant improvements to the quality and recreational value of the remaining area.- The development is for alternative sport or recreational provision, the benefits of which clearly outweigh the loss".
- 6.13. Parts 8.50-8.1 (planning obligations) of the UDP sets out measures that should be secured through planning obligations that would be expected to offset the impact on the environment and loss of/impact on amenity/resource on the site or nearby as a consequence of a proposal such as this. This includes replacement/retention of recreation/environmental facilities e.g. playing field and nature conservation areas.
- 6.14. The desire to protect the best of the City's environment and prevent poor development is also set out in parts 3.8 and 3.10 of the UDP.
- 6.15. Mindful of the above policy context, I can confirm the site forms part of a wider SINC site forming a green edge to the SINCS north west boundary to Queslett Road and north east boundary to Old Horns Crescent. Though currently secured by fencing, it is also designated as open space under the extant UDP (2005) and the draft BDP. Therefore, the site plays an important strategic environmental, recreational and ecological role through its strategic designation within the draft BDP and UDP (2005) as part of a SINC and as open space. The aim of these designations is to protect and enhance the ecological assets of the City whilst providing open space which aim to improve the health and wellbeing of its citizens. This beneficial impact also provides wider positive ecological and visual impacts (discussed later in this report).
- 6.16. Ecology- Turning to the NPPF's commentary on seeking the conservation and enhancement of the natural environment, part 109 states "The planning system should contribute to and enhance the natural and local environment by: - protecting

and enhancing valued landscapes, geological conservation interests and soils; - recognising the wider benefits of ecosystem services; - minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the governments commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and-remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land where appropriate”.

- 6.17. Part 113 of the NPPF focuses in on the protection of wildlife and geodiveristy and landscaped areas when it states “Local planning authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. Distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks”.
- 6.18. Part 114 states “Local Planning Authorities should: - set out a strategic approach in their Local Plans, planning positively for the creation, protection, enhancement and management if networks of biodiversity and green infrastructure”.
- 6.19. Part 118 states “When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:- if significant harm resulting from a development cannot be avoided through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused”. It further adds “- opportunities to incorporate biodiversity in and around developments should be encouraged;- planning permission should be refused for development resulting in the loss or deterioration or irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss”.
- 6.20. The UDP sets out guidance on safeguarding and enhancing the natural environment in part 3.37 when it states “The importance of safeguarding and enhancing the natural environment of the City is recognised. This involves both the protection of existing areas of nature conservation importance and measures to improve the diversity and quality of wildlife habitats throughout the City”. It further adds in 3.37A “Development likely to have an adverse effect on a Local Nature Reserve (LNR) or Site of Important Nature Conservation (SINC) identified in the UDP, or subsequently identified, will not be permitted unless it can be clearly demonstrated that there are reasons for the proposal which outweigh the need to safeguard the substantive nature conservation value of the site or feature”. Part 3.37 B continues “Where development of any SSSI, LNR or SINC is permitted, planning conditions may be imposed and/or planning obligations sought to promote the management and conservation of the nature interests involved and to provide appropriate compensatory measures. However, permission will not be granted for the development of any SSSI, LNR or SINC simply because the nature conservation value of the site has been reduced since designation due to a lack of good management”. Part 3.38 states “Development which may harm the integrity or continuity of landscape features which are of major importance for wild fauna and flora (including features such as river and stream corridors, canals, active and

disused railway corridors, natural green spaces, urban wasteland sites, hedgerows, ponds and small woods) will only be permitted where the reason for development clearly outweigh the need to retain the features and in such cases developers would be expected to provide appropriate mitigating measures. Appropriate management of features will be sought by the imposition of conditions, by the use of planning obligations, and by concluding management agreements with landowners and developers". Part 3.40 reaffirms the importance of the ecological role of SINCS when it states "Sites of Important Nature Conservation (SINCS) are identified in the constituency statements. These sites, which have all been identified by English Nature, will be protected".

- 6.21. Members are reminded that although the site previously formed part of a SLINC until its reclassification as part of a SINC in December 2004 this designation was too late to be included in the proposals plan in the current UDP (2005). Nevertheless, the protection afforded to SINC land by UDP policies is applicable to this site because, as mentioned earlier above, part 3.37A of the UDP extends UDP policy related to SINC's to land which has been designated as SINC since its adoption.
- 6.22. The draft BDP sets out its policy with respect to protecting the green infrastructure network when it states in policy TP 7" The City Council will seek to maintain and expand a green infrastructure network throughout Birmingham. The integrity of the green infrastructure network will be protected from development and where possible opportunities will be taken to extend and enhance the network and to improve links between areas of open space. Any development proposal that would sever or significantly reduce a green infrastructure link will not be permitted. New development will be expected to address green infrastructure issues in an integrated way and to take advantage of new opportunities such as green and brown roofs. It is important that all new green infrastructure features and assets are designed to help the City adapt to a changing climate."
- 6.23. The draft BDP focuses in on biodiversity and geodiversity in policy TP8 when it states "The maintenance, enhancement and restoration of sites of national and local importance of biodiversity and geology will be promoted and supported. These include Sites of Special Scientific Interest (SSSIs), National Nature Reserves (NNRs), Local Nature Reserves (LNRs), Sites of Importance for Nature Conservation (SINCs) and Sites of Local Importance for Nature Conservation (SLINCs).....Development which directly or indirectly causes harm to local sites of importance for biodiversity and geology (LNRs, SINCs and SLINCs), priority habitats and important geological features, species which are legally protected, in decline, are rare within Birmingham or which are identified as national or local priorities will only be permitted if it has been clearly demonstrated that:- The benefits of the proposal outweigh the need to safeguard the designated site, or important habitat, species or geological feature.- Damage is minimised and measures can be put in place to mitigate remaining impacts. – Where damage cannot be avoided or fully mitigated, appropriate compensation is secured. Development proposals which are likely to affect any designated site or important habitat, species or geological feature must be supported by adequate information to ensure that the likely impact of the proposal can be fully assessed. The integrity of wildlife corridors and 'stepping stones' connecting them will be protected from development which would harm their function.....All developments should, where relevant, support the enhancement of Birmingham's natural environment, having regard to strategic objectives for the maintenance, restoration and creation of ecological and geological assets, such as those identified for the Birmingham and Black Country Nature Improvement Area. Biodiversity and geodiversity enhancement measures should be appropriate to the nature and scale of the development proposed. Development proposals should

clearly identify how ongoing management of biodiversity and geodiversity enhancement measures will be secured”.

- 6.24. Finally, with respect to setting the policy context for assessing the ecological impact of the proposal, adopted SPG ‘Nature Conservation Strategy for Birmingham’ categorises SINCS as critical nature capital (page 15). This states in part 3.3.1 “Biodiversity (or biological diversity) is the variety of life we see around us. It includes every sort of animal, plant, fungus and microscopic life. It embraces the great variety of species, the genes those species carry, and the places where those species live. There are three distinct levels of biodiversity:- diversity between and within ecosystems and habitats- diversity of species- genetic variation within individual species”. This policy documents then states in policy one (page 10) “The City Council will seek itself and encourage others to conserve and enhance biological diversity within Birmingham and to contribute wherever possible to conservation of national and global biodiversity”.
- 6.25. Evaluation of impact of loss of POS and ecology- Using the above policy context I assess the impact of the proposal in terms of loss of POS and ecology as following. I note that the proposal would see the entire redevelopment of the site and the resultant loss of this part of the wider SINC. The applicant has submitted various reports and surveys covering matters relating to ecology, wildlife and trees. With respect to the issue of animal wildlife, whilst the submitted reports identify that the site may be used as migratory routes by protected species such as bats or badgers and for foraging, there was no evidence of such mammals actually occupying the site. My Ecological advisor concurs with this view and recommends conditions that would help provide protective measures on the ground during the construction period for badgers that may traverse the site and for bats after completion of the development, such as which control lighting. I concur with this view.
- 6.26. However, the above evaluation of the impact on protected wildlife does not diminish the significant wider adverse ecological impact the proposed redevelopment of the site is likely to have. The reasons for this include that the site forms part of a wider SINC that extends southwards and that the site measures 6410 sq.metres in total, hence the clearance of this site which has an important wider ecological value in terms of its size and diversity (in terms of plants, vegetation etc. that inhabit it) would result in significant harm arising through its clearance for redevelopment. For example the site contains a substantial number of good quality trees (the impact upon which is considered in greater detail later in this report) and vegetation which play an important role in helping support this non protected mammal wildlife site as a buffer between the built up environment to the north and west and the wider (protected mammal wildlife habitat) area of the SINC to the south.
- 6.27. It also acts to reduce acoustic exposure to the other part of the SINC by helping absorb noise from commercial premises and road traffic. It also acts, as mentioned earlier, as a migratory route and foraging area for badgers and bats. Therefore, the site as existing supports bio-diversity and acts as a wider ecological support with associated environmental benefits. Some of these benefits are also appreciable to the naked eye in that the site edge visually represents a green boundary to a SINC set against a mainly built up urban surrounding when viewed from the north (Old Horns Crescent) and west (Queslett Road). Its loss would also result in the encroachment of that built environment into the designated SINC and hence a degradation of that ecological asset.
- 6.28. In terms of the POS aspect of the site, whilst it is secured by fencing, members are reminded of the policy set out earlier including that set out in TP9 with respect to

POS. On this basis, I note that the site does not make a contribution to publicly accessible Open Space as it is secure and inaccessible. However, the site still plays an important ecological, environmental and health beneficial role.

- 6.29. Policy TP9 allows for the applicant to provide for suitable alternative compensation (as detailed in part 6.12 above) if the “measures would result in significant improvements to the quality and recreational value of the remaining area (and) the development is for alternative sport or recreational provision, the benefits of which clearly outweigh the loss”. The applicant has made an offer that centres around providing for ecological compensation rather than sport, which I consider is more appropriate in this instance given the POS is not accessible to the public. However, my ecologist advises that the proposed improvements offered are inappropriate and that the monies should be directed towards woodland management and other habitat improvements. I concur with this view.
- 6.30. Finally, the issue still remains, that the offer cannot be quantified in terms of its financial value and as such fails on the grounds of the Local Planning Authority being unable to assign a financial value to it (mindful of the £20 sq.m required for the loss of this POS which is currently inaccessible). The total sum should be £128,000.
- 6.31. I therefore conclude that, based on the above assessment, the loss of this designated Open Space as well as the removal of the ecological role that it plays if the site were to be redeveloped would conflict with the stated aims of parts 69-74, 109, 113, 114 and 118 of the NPPF (Promoting Healthy Communities) and policies 2.14A, 3.8, 3.10, 3.37, 3.37A, 3.37B, 3.38, 3.39, 3.40 and 8.50 -8.1 of the UDP, policy 1 of the Birmingham Nature Conservation Strategy SPG and policy TP 7, TP 8 and TP9 of the draft BDP. The offer of off-site compensation detailed in the heads of terms (offer) by the applicant is considered not to be an equivalent or better provision to the site ecological, environmental and health value of the site whilst the on site landscaping and trees that would be provided within the development would fall short of replacing the loss of this ecological asset.
- 6.32. Trees- With respect to the matter of trees on the site, the applicant has submitted an arboricultural survey with this application. This survey identifies that the site mainly comprises B and C category trees. The best category trees, that is category B, are largely situated along the most prominent site perimeters i.e. along Queslett Road, the junction of Queslett Road and Old Horns Crescent and along Old Horns Crescent. These are the sites publicly viewable perimeters. The majority of trees on site are categorised as either young, early mature or mature whilst there is a TPO designation on the site that covers all trees on site. Mindful of this context, the proposal would entail the complete removal of all the trees on site and therefore if agreed a separate TPO application would not be needed.
- 6.33. Given the importance of the trees on the site, members are reminded of the importance that the NPPF places on enhancing the quality of the built and natural environment (parts 56-108 of the NPPF discussed in detail below in the design and layout section of this report) and the conservation and protection of the natural environment as detailed in parts 109, 113, 114 and 118 set out earlier above as part of its achieving sustainable development agenda.
- 6.34. Whilst specific reference to the words tree or trees are limited within the NPPF, that policy guidance does cover the broad need to protect and enhance ecological assets (detailed earlier in this report). Of most particular relevance, in terms of the important role that trees help play in our environment, part 17 of the NPPF sets out core planning principles which includes “contributing to conserving and enhancing

the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this framework”.

- 6.35. The importance of protecting trees and landscaping is further set out in part 3.16A of the UDP (2005) when it states “Trees are important for their visual amenity, benefits to health, historical significance and nature conservation value. They help to improve air quality and can be used to screen development and soften building lines. The City Council will continue to protect trees through Tree Preservation Orders, planning conditions and conservation legislation. Developers will be expected to give priority to the retention of trees, hedgerows and natural features on development sites, and existing landscaping should also be kept and protected where possible. Where trees or hedgerows are lost as a result of development, replacement trees will be required and, where possible, replacement hedgerows. Suitable additional planting will be required to complement and enhance existing landscaping, where this will not result in the loss of other existing semi-natural habitats. Species planted should be appropriate to the locality, and a variety of species will be sought across the City. The City Council will continue to promote tree management plans where appropriate in order to ensure the long term amenity of an area. These will include the management of street trees which are coming under increasing threat from development or from the renewal of replacement underground public utilities”.
- 6.36. 3.16B further adds “The City Council will itself, and in liaison and partnership with others, seek to expand the City’s woodland resource by encouraging planting of new woodland wherever appropriate”.
- 6.37. Finally, with respect to relevant policy background in relation to trees, policy TP7 of the Draft Birmingham Development Plan states “.....The City Council will seek to conserve and enhance Birmingham’s woodland resource (collectively known as ‘The Birmingham Forest’). Particular attention will be given to protecting the City’s ancient woodlands as irreplaceable semi-natural habitats. All trees, groups, areas and woodlands will be consistently and systematically evaluated for protection and all new development schemes should allow for tree planting in both the private and public domains. The importance of street trees in promoting the character of place and strengthening existing landscape characteristics will be recognised”.
- 6.38. It is within this context the impact of the loss of the trees are assessed below.
- 6.39. Given the importance of the site in terms of its ecological and open space designation and the recognition of the particularly important role the trees play on this site and in terms of their wider visual and environmental impact, officers provided extensive pre application advice to the applicant on what may be acceptable from a planning perspective. Over that pre application process there were many discussions, site visits, meetings, etc. Throughout these discussions the underlying message from the Principal Arboricultural Officer in respect of the TPO has been that any proposal that required the removal of the majority of the protected trees could not be supported, with advice provided on key tree groups that would, as a minimum, need to be protected and retained with the development.
- 6.40. Despite this advice, the submitted scheme shows the removal of all the trees on site which currently as a group represent a high value visual feature along the southern edge of the local centre and alongside the busy dual carriage way (Queslett Road). They provide soft landscaping thereby reducing the impact of the more harsher surrounding built environment. They also visually help mark the western edge of the

SINC thereby providing a visual break between the built environment to the north and west of the site and the natural environment to the east. The value of the trees extends beyond simply their visual amenity, and extends to them acting as a considerable carbon sink storing approximately 2 tonnes of CO₂ per annum (calculated from latest Forestry Commission figures) next to a busy road with, at times, a lot of stationary traffic. In addition they have an important role in rainwater control on a site which is in places steeply sloping, pollutant particulate capture and oxygen manufacture. The trees are mainly self set opportunistic species such as birch, willow and other natives. The site has approximately 90 trees (taken from Bluesky mapping data) of varying sizes covering approximately 50% of the site area.

- 6.41. The proposal is to fell all the trees, equivalent to an area measuring approximately 0.8 acre, in other words deforestation of the land and then mitigate by planting 16 new trees around the edges. The proposed trees would not offset the adverse loss of the trees on site be it in terms of quantity, quality and or spacing and the existing positive role that the current trees play as set out above would be lost and as such the loss of these trees would result in significant harm arising. Members are reminded that part 118 of the NPPF states “.....if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused”.
- 6.42. My conclusion that the proposal would have an adverse impact on the trees on site, is also identified in the applicants own arboricultural survey which indicates that 94% of the trees on site are in a good or fair condition (page 17) and further states in part 5.3 paragraph 4 “ The woodland is predominantly young to early mature but contains several mature specimens which are of intrinsic value. This habitat is also of notable consideration due to its potential to support an array of wildlife and its importance as a green corridor (forming part of a larger woodland). The development will result in the loss of this woodland”.
- 6.43. On the basis of the above assessment, the loss of trees would be visually harmful and go against the aims of policies 17, 109, 113, 114 and 118 of the NPPF and parts 3.8, 3.10, 3.16A and 3.16B of the UDP and TP7 of the Draft BDP.
- 6.44. Design and layout- The NPPF contains a presumption in favour of sustainable development and core planning principles seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, the NPPF seeks to ensure the provision of sustainable development, of good quality, in appropriate locations. It also advises that Local Planning Authorities should consider the case for setting out policies to resist inappropriate development, for example where development would cause harm to the local area.
- 6.45. Chapter 7 of the NPPF places great emphasis on design. Paragraph 59 states that LPAs: “should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally”. Paragraph 60 stresses it is “proper to seek to promote or reinforce local distinctiveness”.
- 6.46. Policies 3.8 and 3.10 of the Birmingham UDP seeks to “to protect and enhance what is good in the City's environment” whilst stating “proposals which would have an adverse effect on the quality of the built environment will not normally be allowed”. The NPPF states there is “a presumption in favour of sustainable

development” and the development should “secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”.

- 6.47. The draft BDP states in policy PG3 “All new development will be expected to demonstrate high design quality contributing to a strong sense of place. New development should:- Reinforce or create a positive sense of place and local distinctiveness with design that responds to site conditions and the local area context, including heritage assets and appropriate use of innovation in design.- Create safe environments that design out crime and make provision for people with disabilities through carefully considered site layouts, designing buildings and open spaces that promote positive social interaction and natural surveillance.- Provide attractive environments that encourage people to move around by cycling and walking.- Ensure that private external spaces, streets and public spaces are attractive, functional, inclusive and able to be managed for the long term.- Take opportunities to make sustainable design integral to development, such as green infrastructure, sustainable drainage and energy generating features.- Support the creation of sustainable neighbourhoods.- Make best use of existing buildings and efficient use of land in support of the overall development strategy”.
- 6.48. Overall the NPPF, Birmingham UDP and draft BDP all seek high quality design that responds to an area’s character, reinforcing and evolving positive local characteristics.
- 6.49. Using the above policy guidance by which to assess the design and layout of the proposal, the existing site comprises a positive visual green edge alongside a busy dual carriageway. The presence of a range of young to mature trees of mainly good to fair quality which encompass approximately half the site with large groupings alongside its perimeter edge softens the urban environment that runs alongside it. This has a wider visual benefit through its enhancement of the image of the City as a whole due to its location adjacent a dual carriageway that also runs alongside the boundary with the neighbouring authority (Walsall). In contrast to the existing situation it is proposed to remove these key features of the site through comprehensive site clearance, including site cutting and infilling, to form a single large plateau. In the place of the largely tree occupied site which visually marks the site from the outside, a 4m high retaining wall that will be a visual and physical barrier along Queslett Road would be erected. This would be a negative step in urban design terms which would also undermine the permeability of the site whereas currently level access, for both vehicles and pedestrians, is achievable from Queslett Road the new wall (not withstanding the proposed raised steps from Queslett Road) would act as a barrier. This would visually represent a physical and visual barrier to the site. As a result it would appear detached from the wider street scene. Whilst the size of the wall and elevated building would appear as obtrusive features in the street scene.
- 6.50. With respect to the wider layout of the site, the proposed layout remains fundamentally flawed in terms of good urban design. The store is inward-looking and totally car focused, turning its back to the road junction and the surrounding area and presenting largely blank elevations to streets. Despite the inclusion of pedestrian steps from Queslett Road, the site layout means that the store is unwelcoming for pedestrians, including a route from Old Horns Crescent that is not overlooked, alongside the delivery yard. The applicant appears to recognise that this part of the site could have security and safety issues by covering the small staff room and meeting room windows with security grilles. This further reinforces the impression of a development that is not pedestrian friendly or would be able to integrate

smoothly with its surrounds. For example, windows to these rooms should be larger and uncovered to help provide a safer, more welcoming environment around the store thereby adding and not detracting from the buildings appearance.

- 6.51. For the reasons above the proposed development would result in a visually poor development which would appear obtrusive in the street scene by reason of its size, mass and design and layout and would be a retrograde step with respect to the existing situation. For these reasons the proposal would conflict with paragraphs 3.8 and 3.10 of the UDP; parts 59 and 60 of the NPPF and policy PG 3 of the draft BDP.
- 6.52. Parking/highway issues- Policy TP43 of the draft BDP states “The efficient, effective and safe use of the existing transport network will be promoted through the following:- Ensuring the planning and location of new development supports the delivery of a sustainable transport network and development agenda.- The prevention or refusal of development on transport grounds where the residual cumulative impacts of development are severe.- A requirements for Transport Assessments/Statements and Travel Plans as necessary in line with the relevant national guidelines”.
- 6.53. Part 32 of the NPPF states “All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether: ● the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure; ● safe and suitable access to the site can be achieved for all people; and ● improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe”.
- 6.54. Transportation Development request further information and amendments in relation to the submitted Transport Assessment (TA). Having discussed this matter with Transportation Development, they confirm that they cannot advise at this stage if they would recommend refusal if the information/amendments requested were not provided. In the absence of a firm direction from Transportation Development I therefore provide an assessment of the parking and highway impact of the proposal below based on the information at hand.
- 6.55. From a strategic perspective the site is located in an edge of centre location. This reduces pressure on the use of private cars to access the site. Furthermore, the site is located within walking distance of a large residential catchment area which further reduces parking demand.
- 6.56. Car parking guidelines contained within the City's adopted SPD Car Parking Guidelines sets out maximum parking ratios. In this instance the provision of A1 floorspace (convenience retail) in this location (zone 3) should ideally be provided with 1 car parking space per 14 sq.metres of floorspace. On this basis, this would equate to 82 car parking spaces. As the applicant has indicated the provision of 87 car parking spaces, the level of on site parking spaces is considered acceptable. With respect to the matter of cycle provision, guidance indicates that a provision of 3 spaces should be made. I consider such could be provided within the site such as through the loss of some of the parking spaces closer to the site to accommodate cycle storage. The applicant has provided within the submitted TA a swept path analysis that satisfactorily demonstrates how an articulated lorry 16.48 metres in length could access and egress the site in forward gear.

- 6.57. However, despite the above matters being acceptable, the submitted TA falls short of critical analysis with respect to various matters including the impact on the Queslett Road/Aldridge Road/Beacon Road roundabout. The submission also lacks a stage 1 / 2 independent road safety audit. On this basis, given the omission of such information, I am unable to satisfactorily evaluate whether the proposal would have a severe impact on the road network in terms of the freeflow of pedestrians and motorists and also on their safety. For these reasons, the proposal conflicts with paragraphs 3.8 and 3.10 of the UDP, TP 43 of the draft BDP and part 32 of the NPPF.
- 6.58. Drainage- The NPPF states in part 94 “ Local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations”. This national guidance is further supplemented by ministerial statement (18th December 2014).
- 6.59. Mindful of the above national guidance, policy TP2 of the draft BDP states “The City will need to adapt to the impacts of extreme weather and climate change. Measures to help manage the impacts will include:- Managing Flood Risk and promoting sustainable drainage systems (Policy TP6).”. Policy TP 6 states “ A Sustainable Drainage Assessment and Maintenance Plan will be required for all major developments, as defined by Article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2005. As part of their Flood Risk Assessment (FRA) and Sustainable Drainage Assessment developers should demonstrate that the disposal of surface water from the site will not exacerbate existing flooding and that exceedance flows will be managed. For all developments where a site specific Flood Risk Assessment and/or Sustainable Drainage Assessment is required, surface water discharge rates shall be limited to the equivalent site specific greenfield runoff rate for all return periods up to the 1 in 100 year plus climate change event, unless it can be demonstrated that the cost of achieving this would make the development unviable”.
- 6.60. It continues by stating “To minimise flood risk, improve water quality and enhance bio diversity and amenity all development proposals will be required to manage surface water through Sustainable Drainage Systems (SuDS). Wherever possible the natural drainage of surface water from new developments into the ground will be preferred. Surface water runoff should be managed as close to its source as possible in line with the following hierarchy:-Store rainwater for later use- Discharge into the ground (infiltration)- Discharge to a surface water body- Discharge to a surface water sewer, highway drain or other drainage system- Discharge to a combined sewer”. It follows through by stating “ All SuDS must protect and enhance water quality by reducing the risk of diffuse pollution by means of treating at source and including multiple treatment trains where feasible. All SuDS schemes should be designed in accordance with the relevant national standards and there must be long term operation maintenance arrangements in place for the lifetime of the development”.
- 6.61. Further supporting policy background with regard to the need to address the issue of flood risk and the need to ensure this is done through the demonstration of satisfactory Sustainable Urban Drainage is contained within paragraphs 3.71-3.76 of the adopted Unitary Development Plan 2005 and Sustainable Drainage – Birmingham City Council Guide to Design, Adoption and Maintenance and Sustainable Management of Urban Rivers and Floodplains SPD.

- 6.62. I note the comments from my drainage advisor that states that only a drainage plan has been submitted, which does not provide the information that the LLFA would require to make an appropriate assessment of the impact of the proposal on drainage. I concur with this view. The information that should have been provided includes a sustainable drainage assessment and a sustainable drainage operation and maintenance plan. As per the advice from the LLFA, I do not consider the information provided allows for the opportunity to make an appropriate assessment of the proposal on drainage and as such recommend that if members are minded to refuse this scheme a reason for refusal is also added that sets out our objections with respect to the lack of drainage information provided.
- 6.63. Environmental issues- Regulatory Services raises no objection to the proposal subject to controls on the cumulative noise from all plant and machinery, limiting the hours of use and requiring a contamination remediation scheme and verification report. I concur with this view. The proposed development would see the redevelopment of a site previously used for commercial purposes including quarrying related activity and hence it would be prudent to secure satisfactory land remediation in the event of redevelopment of the site. With respect to the matter of noise I consider that the controls on noise emanating from plant and machinery and the hours of use should be satisfactory to safeguard the amenity of the nearest residential dwellings which are located south west, beyond and intervening commercial premises on Queslett Road and also to the west across the Queslett Road (a dual carriageway) if the application were to be approved.
- 6.64. Loss of light/outlook- No loss of light or outlook issue identified arising as a result of the proposal.
- 6.65. Overlooking- No overlooking issue identified arising as a result of the proposal.
- 6.66. CIL- This proposal does not attract a CIL charge as it proposes the establishment of less than 2,700 sq.m of retail floorspace.
- 6.67. Economic impact- Part 7 of the NPPF sets out the governments vision as to what constitutes sustainable development, namely reconciling the economic, social and environmental role that development plays. Part 8 states "These roles should not be undertaken in isolation, because they are mutually dependent. Economic growth can secure higher social and environmental standards, and well designed buildings and places can improve the lives of people and communities. Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions".
- 6.68. Bearing the above in mind, I acknowledged that the applicant states the development is expected employ up to the equivalent of 30 full time jobs. There is also likely to be greater consumer choice and perhaps more competitive pricing of goods for consumers (as the development is likely to increase competition with other local retailers including the Asda store to the north). Despite these potential economic benefits I do not consider that this would outweigh the adverse environmental impact (as a result loss of open space, loss of ecology and loss of trees) as detailed earlier in this report as well as the potentially adverse impact of the proposal on highway safety and flood grounds as well as the adverse visual impact of the overall design and layout of the development. Members attention is drawn to part 9 of the NPPF which immediately follows the above advice by stating "Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of

life, including (but not limited to):- making it easier for jobs to be created in cities, towns and villages;- moving from a net loss of bio diversity to achieving net gains for nature;- replacing poor design with better design; - improving the conditions in which people live, work, travel and take leisure; and – widening the choice of quality homes”. Part 10 continues “ Plans and decisions need to take local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas”.

- 6.69. On the basis of the above, I conclude that whilst the proposal would have potential economic benefits these would not outweigh the adverse impact on the environment and the concerns about the lack of appropriate information to evaluate the highway and drainage impact of the proposal and the adverse visual impact the proposal would have.

7. Conclusion

- 7.1. The proposed development would have an adverse impact on the basis it would lead to the loss of open space; lead to the loss of an important ecological asset, would lead to the loss of a woodland and TPO trees, is supported by information that lacks critical information to make a satisfactory assessment of the impact of the proposal on the safety and freeflow of pedestrians and motorists and is also supported by an unsatisfactory drainage strategy. The proposal would also have an adverse visual impact as a result of its design and layout. When these impacts are viewed individually against the context of detailed planning policy set out through this report, they are found to conflict with them and would have consequential adverse impacts on the provision of open space, lead to the loss of an important ecological asset, have an adverse visual impact, and adverse impact on the environment as well as road safety and also heighten potential flood risk.
- 7.2. When assessing the proposal as a whole, members are reminded of the holistic impact that developments should satisfactorily address when seeking to attain sustainable development as stated in part 8 of the NPPF which states “ These roles (economic, social and environmental) should not be undertaken in isolation, because they are mutually dependent. Economic growth can secure higher social and environmental standards and well designed buildings and places can improve the lives of people and communities. Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions”. Part 9 continues “Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in peoples quality of life, including (but not limited to):- making it easier for jobs to be created in cities, towns and villages; - moving from a net loss of bio-diversity to achieving net gains for nature- replacing poor design with better design; - improving the conditions in which people live, work, travel and take leisure; and widen the choice of high quality homes”. I therefore consider that the proposal not only fails the particular impact assessments carried out earlier in this report but also falls short of the overall policy tests that developments should meet as a whole in terms of seeking sustainable development set out in part 8 and part 9 of the NPPF.

8. Recommendation

- 8.1. Refuse on the grounds of loss of open space; ecology, trees, poor design and layout, potential adverse highway impact and flood risk.

Reasons for Refusal

-
- 1 No costing of the off site compensation offered has been provided and the measures proposed will not achieve the necessary ecological benefits for the adjoining nature reserve. For these reasons, the loss of this designated Open Space as well as the removal of the ecological role that it plays, if the site were to be redeveloped, would conflict with the stated aims of parts 69-74, 109, 113, 114 and 118 of the NPPF (Promoting Healthy Communities) and policies 2.14A, 3.8, 3.10, 3.37, 3.37A, 3.37B, 3.38, 3.39, 3.40 and 8.50 -8.1 of the UDP, policy 1 of the Birmingham Nature Conservation Strategy SPG and policy TP 7, TP 8 and TP9 of the draft BDP.
 - 2 The development would lead to the loss of all the trees on site, all of which are covered by a TPO (Tree Preservation Order). As a result this would be visually harmful with wider adverse environmental and health consequences (due to the important environmental role that the trees play) and would set a negative precedent. This would go against the aims of policies 8; 9, 17, 109, 113, 114 and 118 of the NPPF and parts 3.8, 3.10, 3.16A and 3.16B of the UDP and TP7 of the Draft BDP.
 - 3 The proposed development would result in a visually poor development which would appear obtrusive in the street scene by reason of its size, mass and design. For these reasons the proposal would conflict with paragraphs 3.8 and 3.10 of the UDP; parts 8; 9, 59 and 60 of the NPPF and policy PG 3 of the draft BDP.
 - 4 The submitted TA (Transport Assessment) falls short of critical analysis with respect to various matters including the impact on the Queslett Road/Aldridge Road/Beacon Road roundabout. The submitted transport information also lacks a stage 1 / 2 independent road safety audit. On this basis, given the omission of such information, the ability to satisfactorily evaluate whether the proposal would have a severe impact on the road network in terms of the freeflow of pedestrians and motorists and also on their safety is not possible. For these reasons, the proposal conflicts with paragraphs 3.8 and 3.10 of the UDP, TP 43 of the draft BDP and parts 8,9 and 32 of the NPPF.
 - 5 The applicant has not provided satisfactory information with respect to demonstrating that the site would be provided with satisfactory sustainable drainage (and maintenance of) in order to allow for an appropriate assessment of the local flood risk associated with the development. This conflicts with policies parts 8, 9 and 94 of the NPPF (including ministerial statement 18th December 2014), policies 3.71-3.76 and 3.8 and 3.10 of the adopted UDP (2005), policies TP2, TP3 and TP6 of the draft BDP and policies contained within Sustainable Drainage - Birmingham City Council Guide to Design, Adoption and Maintenance and Sustainable Management of Urban Rivers and Floodplains SPD.
-

Case Officer: Wahid Gul

Photo(s)

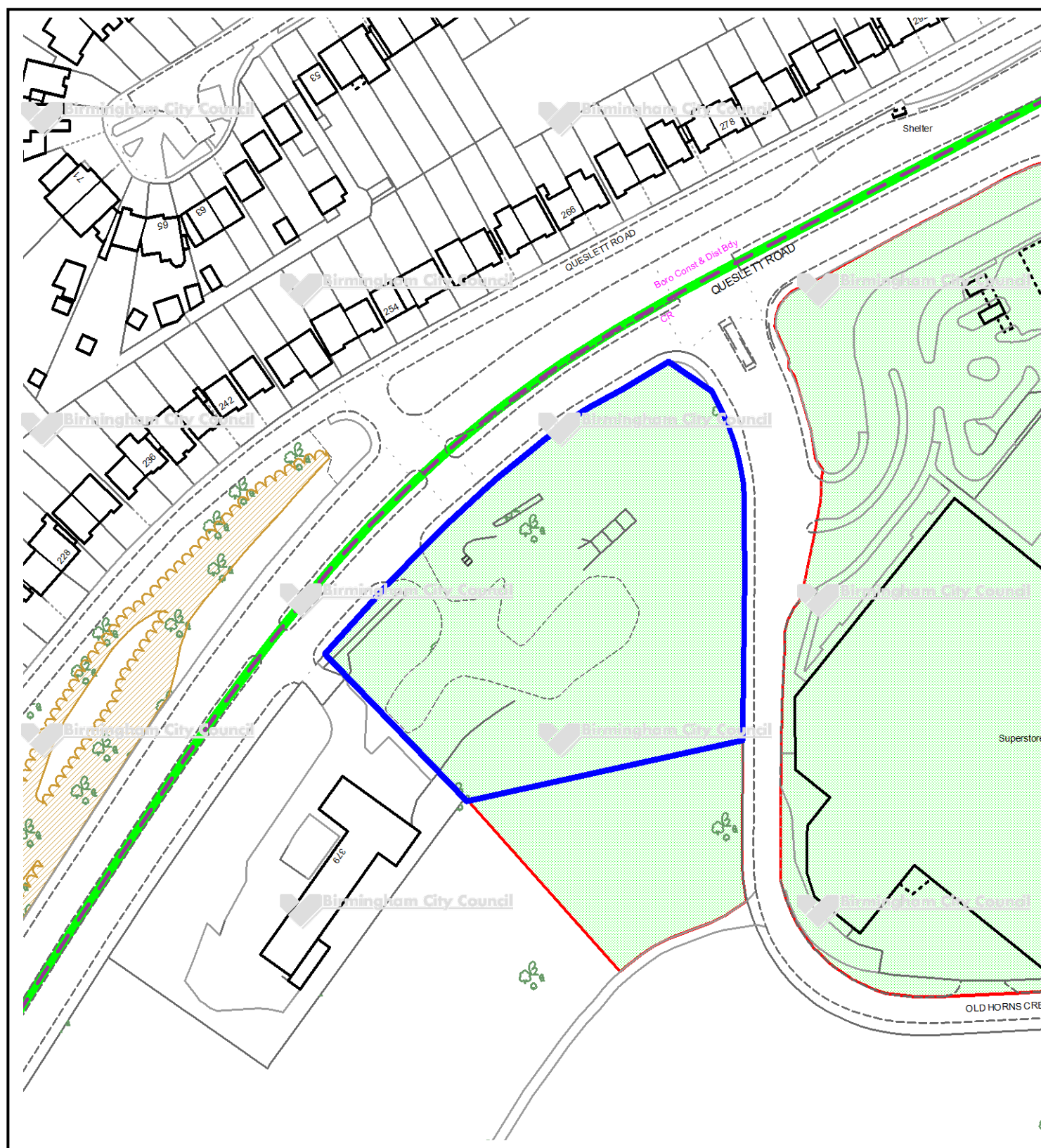


Site of proposed Aldi in the left of picture when viewed on Queslett Road



View of site along Old Horns Crescent

Location Plan



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Committee Date:	18/08/2016	Application Number:	2016/04621/PA
Accepted:	10/06/2016	Application Type:	Full Planning
Target Date:	09/09/2016		
Ward:	Aston		

Land at corner of Wellhead Lane & Aston Lane, and to the rear of Aston Lane, Aston, Birmingham, B20 3HA

Erection of 86 no. dwellings, associated access roads, parking and associated works

Applicant:	Westleigh Partnerships Limited c/o Agent
Agent:	Cerda Planning Vesey House, 5-7 High Street, Sutton Coldfield, Birmingham, B72 1XH

Recommendation
Refuse

1. Background

- 1.1 Members may recall refusing an outline planning application for residential development of this site on 3rd September 2015 on grounds of loss of industrial land, noise impact on the proposed residents (particularly from the adjacent proposed wholesale markets), subsequent risks of complaints regarding noise having a detrimental effect on existing businesses, and the absence of an agreed section 106 agreement for affordable housing and public open space contributions (see planning history).
- 1.2 The applicant has submitted a planning appeal under the written representations procedure for which a decision is currently awaited. In the meantime, the applicant has submitted this planning application, seeking to provide further justification in respect of their case regarding the grounds for refusal.

2. Proposal

- 2.1 This application seeks full planning consent for the erection of 86 new dwellings with associated access roads, parking and associated works. The proposed layout would be configured in two parcels. The western part of the site (plots 1-46) would be accessed via a new access onto Wellhead Lane, with the eastern part of the site (plots 47-86) to be accessed via the existing unadopted access onto Aston Lane. This access is intended to be improved to adoptable standards. The two parts of the site would be connected by a pedestrian link on the northern side. The layout proposes a mix of houses and apartments using 5 different house types as follows :
- 2.2 Type A : (16 units) two storey flat block containing a 1 bedroom flat for two persons on the ground floor and a 1 bedroom flat for 2 persons on the first floor. Each flat

would have an open plan kitchen/dining and living space, bathroom and stores. Floor area 45 sq.m.

- 2.3 Type B : (20 units) Two storey dwelling used in semi-detached and terraced blocks, containing two bedrooms for 4 persons. Each house would have hallway, kitchen, living/dining room, w/c and store at ground floor, with the bedrooms, bathroom and stores at first floor. Floor area 68 sq.m
- 2.4 Type C (37 units) Two storey dwelling used in semi-detached and terraced blocks, containing 3 bedrooms for 5 persons. Each house would have hallway, kitchen/dining room, living room, w/c and store at ground floor, with the bedrooms, bathroom and stores at first floor. Floor area 84 sq.m
- 2.5 Type D (7 units) Two storey dwelling used in semi-detached and terraced blocks, containing 4 bedrooms for 7 persons. Each house would have hallway, living room, kitchen/dining room, w/c and store at ground floor, with the bedrooms, bathroom and store at first floor. Floor area 109 sq.m
- 2.6 Type E (6 units) Cranked two storey dwelling used in semi-detached blocks, containing 2 bedrooms for 4 persons. Each house would have hallway, living room, kitchen/dining room, w/c and store at ground floor with the bedrooms, bathroom and store at first floor. Floor area 71 sq.m
- 2.7 The bedroom sizes all meet the guidance in Places for Living. The house types would be constructed in facing brickwork with a tiled pitched roof and would be traditional design with simple flat roof canopies over front doors, and brick detailing to window cills and headers and a string course between ground and first floor level. The type A flats would have a rendered panel at first floor level.
- 2.8 Parking is proposed in a mix of driveways and within shared parking courts, with 100% for 1 and 2 bedroom units, and 200% for three and four bedroom dwellings, with some additional visitor spaces.
- 2.9 Details of materials and boundary treatments have been provided which includes the provision of a 2 metre high acoustic fence along the northern boundary of the site adjacent to the railway line.
- 2.10 It is understood that the applicant has secured a grant from the Homes and Communities Agency (HCA) for the delivery of 100% affordable housing on this site.
- 2.11 The application is accompanied by a Planning and Housing Statement, Design and Access Statement, Transport Assessment and Travel Plan, Heritage Statement, Drainage Strategy Report, Flood Risk Assessment, Ecological Appraisal, Tree Survey, Environmental Noise and Vibration Report, Detailed Vibration Assessment, Phase 1 Desk Study, Marketing Report and S106 heads of terms.
- 2.12 The Heads of Terms states that the applicant is willing to complete a section 106 agreement to provide 35% affordable housing within the development site and a financial contribution of £199,450 towards the provision of public open space and children's play (in lieu of on-site provision). A CIL contribution would not be required in this case.
- 2.13 [Link to Documents](#)

3 Site & Surroundings

- 3.1 The site is situated on the northern side of Aston Lane at the junction of Aston Lane and Wellhead Lane, with the south western corner of the site having frontages to Aston Lane and Wellhead Lane and with the western edge of the site fronting to Wellhead Lane. The site is L-shaped with much of the eastern part of the site situated to the rear of neighbouring uses that front onto Aston Lane.
- 3.2 The site shares its northern boundary with the rail line that connects Birmingham and Walsall, which is used for both passenger and freight services. Beyond the rail line to the north is the land being developed for a secondary school and the IM Hub site which is being developed to relocate the wholesale markets from its present site in the Digbeth area of the City Centre. The configuration of the wholesale markets development in the vicinity of the appeal site is that there will be south facing loading bays within the building facing onto a service yard area that would be adjacent to the rail line. A 5 metre high acoustic barrier has been built along part of the wholesale markets boundary to protect existing residents to the south east from noise. This acoustic barrier terminates part way along the site boundary, such that there would be a gap of approximately 100 metres where the application site will be exposed to noise from within the service yard of the wholesale markets. In the south western corner of the wholesale markets site there is to be a recycling area.
- 3.3 To the south of the application site there are several neighbouring uses that are situated between the site and Aston Lane. This includes Leacy Classics, a company that trades in the supply and distribution of classic car parts and also has a workshop for the restoration of classic cars. The workshop area is situated at the western end of the building. The site is also adjoined by a job centre, a car wash and a petrol filling station on its south side. To the western side of Wellhead Lane is Tufnols, an engineering business specialising in engineering plastics, industrial laminates and resin based materials.
- 3.4 The southern side of Aston Lane is predominantly residential in character.
- 3.5 The site occupies an edge of centre location to Perry Barr/Birchfield District Centre, and is situated approximately 450 metres from Perry Barr train station.
- 3.6 [Site location and street view](#)

4 Planning History

- 4.1 An outline planning application for residential development with details of proposed access and with all other matters reserved was refused under reference 2015/01779/PA on 3rd September 2015. The reasons for refusal were 1) the loss of industrial land, 2) Noise impact from wholesale markets site, noise from other neighbouring businesses, vibration from the rail line has been inadequately assessed and appropriately mitigated, 3) impact on adjoining businesses in respect of likely noise complaints having to restrict or curtail their activities, with an impact on established businesses and local jobs, and 4) lack of a section 106 agreement for affordable housing and public open space/children's play provision/contributions. A written representations appeal has been submitted and a decision is currently awaited from Planning Inspectorate (PINS).

- 4.2 The wholesale markets development to the north of the appeal site was approved under application reference 2015/05235/PA on 3rd September 2015 and is nearing completion.
- 4.3 The planning consent for the wholesale markets includes certain requirements to protect existing residents from noise including an acoustic barrier. The details of the acoustic barrier have been approved under discharge of condition application ref 2015/07781/PA.
- 4.4 The planning consent also contains other conditions to manage the operation of the wholesale markets in the interests of residential amenity including a tenant's handbook, which includes details of the hours of use for trading and for deliveries. The use is permitted to operate 24 hours a day.

5 Consultation/PP Responses

- 5.1 Press and Site Notices erected. Ladywood and Perry Barr MP's, Aston and Perry Barr ward members, residents associations notified. 1 representation received from a neighbouring resident objecting on the following grounds :
- Overdevelopment of the site
 - Added burden on medical, education and traffic management services that are already over-stretched
- 5.2 Regulatory Services – Advises refusal. Comments that the vibration report concludes that no specific anti-vibration mitigation measures are required with the layout proposed and that they agree with this conclusion so this aspect of the previous reason for refusal has now been addressed. However, their objection in respect of the noise issues still stand. In particular, the applicant now proposes a 2 metre high noise barrier along the northern boundary. They comment that the proposed barrier would result in a reduction in noise levels from rail noise affecting the dwellings, and a reduction in noise from the wholesale markets affecting gardens and ground floors of proposed dwellings, particularly closer to the barrier. As noise from the rail line would be better mitigated than noise from the markets, the subjective perception by future occupiers is likely to involve an increased noticeability of market noise, due to less rail noise being present and a reduction in the masking effects. Due to the significant night time hours of use of the markets, and the barrier not being of any significant benefit to upper floors, this perception of more noise from the markets is likely to be more pronounced and therefore have a more significant adverse impact on occupiers amenity and as upper floors will be used to accommodate bedrooms then sleep disturbance would be more significant. The mitigation strategy of acoustic glazing and mechanical ventilation remains unchanged and is not considered acceptable. Future occupiers would need to keep windows closed and be reliant on mechanical ventilation, to achieve a suitable internal noise environment, which would not be satisfactory. They conclude that the matters relating to noise have not been suitably addressed and that the application should be refused.
- 5.3 Transportation Development – Makes detailed comments in respect of the proposed layout, stating that amendments are required to address several matters including amendments to sections of footway width, pedestrian refuges required to some footway crossings, deterrent measures required to prevent the footpath link being used by vehicles, reduction of the width of the service strip along the railway boundary, conflicts of use of visitor spaces provided in the vicinity of some plots, some parking appears too remote from the units they serve, and possible third party

land issues with the existing private drive from Aston Lane which might prevent the proposed drive that would extend from this being adopted.

- 5.4 Lead Local Flood Authority – Objects as the submitted assessment does not meet their requirements and recommends refusal. Comments that the proposed discharge rate of 16.6 l/s for all events up to and including the 100 year plus climate change event is unacceptable. They require the development to limit surface water discharge to an equivalent site-specific greenfield run-off rate (or a rate of 5l/s) for all return periods up to the 1 in 100 year plus climate change event, so a revised strategy to reflect the required reduced discharge rate is required. The LLFA require evidence of the use of sustainable drainage principles, and there is no information on the consideration of green SUD's features or use of infiltration features and therefore the current strategy to utilise permeable paving and oversized pipework is unacceptable. Proposed drainage plans are required including attenuation volumes, SUD's features and discharge locations following revision of the discharge rates. Provision of a plan showing drainage catchment, proposed impermeable and permeable areas are required. Calculations including proposed discharge rates, storage requirements and evidence of performance of the proposed drainage network are required. Confirmation of acceptable discharge rates to Severn Trent Water sewers is required, proposed finished floor levels set to 97.36 AOD with 300 freeboard above the 1000 year event is acceptable. Consideration should be given to exceedance flows and details of operation and maintenance of SUD's features including specifications for inspection and maintenance actions.
- 5.5 Severn Trent Water – No objections subject to conditions to agree details of foul and surface water flows, and that there may be a public sewer located within the application site which should be investigated further.
- 5.6 Leisure Services – State that they are aware that there are still issues with this application and that the original application was refused. As far as this service is concerned we have no objections but would reiterate comments made at the outline stage that the site would be subject to off-site play and POS contributions. Based on the current mix this would be for £201,000. This would be spent on the provision, improvement and/or maintenance of POS and play in Aston Park within the Aston ward.
- 5.7 West Midlands Police – Makes detailed comments regarding Secured by Design standards, lighting, the presence of some parking being too remote from the units they serve, and provision of communal alleyways which are not controlled by gates, clarification of measures to be installed to the pedestrian link to ensure there is no vehicle encroachment, and the need to increase the height of some boundary treatments to 2.1 metres.
- 5.8 West Midlands Fire Service – No objections subject to sufficient water supplies for fire fighting.
- 5.9 Environment Agency – No objections. Recommends a condition in respect of ground contamination remediation.
- 5.10 Network Rail – No objections. Makes detailed comments on various matters in relation to ensuring that the safety, operation or integrity of the operational railway is not adversely affected. This includes comments and suggested conditions relating to risk assessments, Party Wall Act implications, safety barriers adjacent to proposed roads and parking areas to prevent accidental vehicular access to the rail land,

stability of the acoustic fence to prevent fencing falling onto railway land, no encroachment of foundations, no encroachment of scaffolding, details of any vibro compaction near to the railway, surface water drainage to be directed away from the railway, works to ground levels near to the railway, the risk of tree planting near to the railway and comments on noise that current railway usage is subject to change, that they often carry out maintenance and emergency works at night, and that they should not be prevented from its statutory undertaking and that the Council should therefore satisfy itself that the development that the proposed development will not be adversely affected by noise from the use of the rail line.

6 Policy Context

- 6.1 Adopted UDP, Draft Birmingham Development Plan and associated Inspectors Main Modifications, Aston, Newtown and Lozells AAP, Loss of Industrial land to alternative uses SPD, Places for Living SPD, Public open space in new residential development SPD, car parking guidelines SPD, NPPF, PPG, Noise Policy Statement for England.

7 Planning Considerations

- 7.1 Outline planning consent has been previously refused on this site for residential development, and that application is subject to a current planning appeal. The principal differences between that application and this one are as follows :
- The appeal application only sought detailed approval in respect of access and whilst a proposed layout was submitted, that was for indicative purposes only. In contrast, this current application is a full application and so the design and layout of the scheme is to be considered. This brings into consideration the relevant policies in the UDP, BDP, Places for Living and the NPPF in respect of good urban design.
 - In respect of the loss of industrial land, the applicant has sought to provide additional information in respect of how the site has been marketed for industrial use,
 - In respect of noise and vibration, the applicant is proposing a 2 metre high acoustic barrier along the northern boundary of the site with the same scheme of noise attenuation for windows, with mechanical ventilation. The proposed layout allows for the detailed consideration of the relationship of the proposed houses with the noise sources, including the wholesale markets. They have also submitted a detailed vibration assessment to consider the impact of passing trains,
 - The outline application was submitted shortly before the requirement for SUD's was introduced in April last year. A SUD's assessment is submitted with this application.
 - The applicant has now confirmed in the proposed heads of terms that they would be willing to complete a section 106 agreement in respect of affordable housing and public open space/children's play in accordance with the Council's policies.

Policy

- 7.2 At the present time, the saved policies of the Birmingham Unitary Development Plan (UDP) 2005 form the "development plan" for decision making purposes. On the 26th May 2016 the City Council received a holding notice by the Government under its powers in the new Housing and Planning Act. Adoption of the BDP will be delayed

until the direction is withdrawn. Notwithstanding this, the BDP has been supported by the Plan Inspector and its policies are therefore a material consideration in the determination of this appeal.

- 7.3 It is therefore necessary to consider both the relevant saved policies of the UDP and the proposed policies in the BDP alongside the Inspectors recommended Main modifications at this stage, and to give appropriate weight to them.

UDP

- 7.4 The appeal site is not allocated for development in the UDP and is vacant industrial land. Paragraph 4.20 sets out the industrial land requirements for the City. These have now been updated, and the titles of the sub-markets have been re-defined in the BDP. In the UDP, 5 sub markets are identified. The application site is considered to fall within the fourth sub-market, the 'Good Urban' category, being a good quality site suitable for locally based clients. This reflects the size and location of the site and its accessibility to the existing transport network. The UDP requirement for the 'Good Urban' category is a minimum reservoir of 30 hectares of readily available land which equates to a 3 year supply at 10 hectares per year.
- 7.5 The Council produced a schedule of Industrial sites in April 2014 as evidence to support the BDP Inquiry in 2014. This shows that there was 20.79 hectares of readily available sites in the 'Good Urban' category. The April 2016 industrial land supply figures have now been produced and represent the most up to date picture on Industrial land supply. They demonstrate that there is 19.66 hectares of readily available land in the 'Good Quality' category, so there has been a reduction in supply of industrial land in these categories in this time.
- 7.6 Paragraph 4.31 is the principal policy in the UDP that is relevant to the issue of loss of industrial land. The policy states that opportunities for industrial development in the built up area of the City are diminishing. In order to reduce pressure on greenfield sites the loss of industrial land to retail or other non-industrial uses will be resisted except in cases where the site is a non-conforming use. The policy is supplemented by the guidance in the Loss of Industrial land to alternative uses SPD.
- 7.7 The industrial land to the north side of the adjoining rail line (the IM Hub site) is allocated for industrial development under policy IR6. Paragraph 10.17 of the UDP identifies that the Holford Drive Business park and the IMI works are included in the Tame Valley area of Industrial Regeneration.
- 7.8 Paragraph 5.25C is a policy that considers the appropriateness of previously developed sites for housing. It states that the City Council will take into account a number of factors including the suitability of the location for housing, and the need to maintain a diversity of uses within the built up area.
- 7.9 Paragraphs 3.8 and 3.10 of the UDP are overarching environmental statements. Paragraph 3.8 sets out that the Council's environment strategy is based on two principles :- the need to protect and enhance what is good in the City's environment, and to improve what is less good; and the need to recognise the relationship between environmental quality and levels of economic activity. The keynote must be quality. Paragraph 3.10 sets out that proposals which would have an adverse effect on the quality of the environment will not normally be allowed.
- 7.10 Paragraph 3.14 requires a high standard of design. Paragraph 3.14D sets out that applications for new development will be assessed against several principles

including the impact of the development on the character of the area, where positive local characteristics are to be reinforced, that places should feel safe pleasant and legible, the fronts and backs of buildings being clearly defined with active frontages to public realm and with landscaping an integral part to complement new development. The importance of good urban design in residential development is re-affirmed in paragraph 5.20, which cross refers to the guidance in Places for Living.

- 7.11 Paragraphs 3.53-3.53B relates to the provision of public open space (POS). This sets out the standard of 2 hectares per 1000 population, for the provision of open space across the City. The policy identifies that public open space provision will be calculated on a ward basis, with the application site being within Aston ward, and close to Perry Barr ward to the north. The ward figures for these wards are 1.45 hectares of POS per 1000 population in Aston and 8.43 hectares per 1000 population in Perry Barr, the latter reflecting the location of Perry Hall playing fields and Perry Park to the north and west side of Perry Barr centre. There is therefore a shortfall of POS in Aston (locationally more significant to the appeal site) when measured against the UDP standard.
- 7.12 In this context, the policy set out in paragraph 3.53B is an important consideration. This states that new residential developments generate a need for public open space and children's play facilities to serve the occupants of the new homes. This will normally be secured through section 106 agreements and will normally be provided within the curtilage of the site, but in certain circumstances off-site provision or improvements to existing local facilities, including playing fields may be appropriate.
- 7.13 Paragraph 3.61 deals with provision of children's play and states that it is important that a safe and accessible play area is available for all children. Such facilities are normally expected to be provided within 400 metres safe walking distance of all dwellings. Children's play areas will normally be required in all new residential developments of 20 or more dwellings. Paragraphs 5.20B-5.20D dovetail with these policies, again referring to the 2ha per 1000 population standard and the expectation that new developments will be expected to meet their own public open space needs.
- 7.14 Paragraphs 3.71-3.76 relate to water and drainage. Paragraph 3.72 states that the full potential for the use of SUD's must always be reviewed before any rainwater run-off is diverted into sewers or via storm water drains. Wherever possible, rainwater should drain into the ground via adequate control devices.
- 7.15 Paragraph 5.37-5.37G relates to the provision of affordable housing. These policies set out that affordable housing will be expected to be provided in new housing developments to include housing provided by a Registered Social Landlord or similar organisation where housing is allocated on the basis of need. The policy seeks provision of 35% of the total number of units proposed, and it is understood that the appellant is willing to provide a contribution in line with this policy (as it is intended that 100% of the units would be affordable).
- 7.16 Paragraphs 8.50-8.54 sets out the Council's policies in respect of Section 106 obligations.

Loss of Industrial land to alternative uses SPD

- 7.17 This SPD provides further guidance on the information required where a change of use from industrial to an alternative use is being proposed, and supplements the industrial land policies in the UDP, particularly paragraph 4.31. The SPD forms a material consideration for decision making purposes.

- 7.18 Section 5 of the SPD gives detailed guidance on the information required when submitting a planning application involving the loss of industrial land. It explains that the applicant will need to demonstrate that active marketing has been undertaken for a reasonable period (normally a minimum of two years). This is explained to mean marketing undertaken by an established industrial property agent and would include adverts being placed in property publications; mail shots to the agents client base, and a 'For Sale' board being placed outside the site. The details of the site should also be included on the 'Locate in Birmingham' website. It is recognised that marketing publications such as the Estates Gazette are now a less important tool, and their role in advertising land for development can alternatively be achieved through websites such as Showcase and Co-star. These alternatives would therefore be accepted to placing adverts in the Estates Gazette and local newspaper. The requirement for a 'For Sale' board to be erected on site remains a requirement to meet the terms of this policy.
- 7.19 The guidance explains that evidence would need to be provided that the site is being marketed for a price which accords with other industrial property of a similar type in the area. This will ensure that the price does not reflect any aspirations for residential or other alternative uses on the site.

Public Open Space in new Residential development SPD

- 7.20 This SPD provides further detailed guidance on the application of the Council's policy for provision of new public open space in new residential developments, including the formula used to calculate the value of a financial contribution for off-site improvements where this is deemed appropriate.

The Birmingham Development Plan 2031 (pre-submission version Dec 2013) and the Inspectors Recommended Main Modifications

- 7.21 The application site is located with a growth area identified in the BDP. Policy GA3 sets out the strategic objectives for this growth area, centred around the development of Perry Barr centre. The main development opportunities in Perry Barr arise out of the relocation of Birmingham City University from its Perry Barr campus to the eastside area of the City Centre. The policy makes provision for over 700 new homes, one Regional Investment site at Aston, 10,000 sq.m of office space and 20,000 sq.m of retail development in Perry Barr. This housing provision does not include the appeal site.
- 7.22 In respect of the case regarding the loss of industrial land, policies TP16, TP18, TP19 and TP27 are relevant to this appeal.
- 7.23 Policy TP16 relates to the portfolio of employment land and premises in the City, and essentially supersedes the paragraph 4.20 of the UDP. The categorisation of land has been revised with the 'Good Urban' UDP category becoming 'Good Quality' category in the BDP. The 'Good Quality' category is defined as being sites suitable for locally based investment, likely to exceed 0.4 hectares in size, for which a minimum reservoir of 31 hectares of readily available land is required to be maintained. This reservoir is now identified to provide 5 years supply at a rate of 6.2 hectares per year, rather than 3 years supply in the UDP. Readily available sites are defined as committed employment sites with no major problems of physical condition, no major infrastructure problems and which are being actively marketed.

- 7.24 The policy sets out that the portfolio of land will be managed and kept up-to-date through regular monitoring and the production of employment land reviews. The Council produced a review of Employment Land in 2012 and is presently preparing the 2016 Employment Land Review.
- 7.25 The present supply of available sites in the 'Good Quality' category is 19.66 hectares at April 2016. There is therefore a shortfall of good quality industrial land to meet the City's needs when measured against the requirements of policy TP16, as this equates to just over 3 years supply, where a minimum reservoir of 5 years supply is required.
- 7.26 Policy TP18 relates to Core Employment Areas. The wholesale markets site falls within this area designation. The policy states that Core Employment Areas will be retained in employment use and the focus for economic regeneration activities and development opportunities during the plan period. The policy sets out that measures to improve the operational and functional efficiency and the quality and attractiveness of these areas to investment in new employment will be supported. There is specific reference to reducing conflict with adjacent residential areas where this exists.
- 7.27 Policy TP19 relates to the protection of employment land, and essentially replaces paragraph 4.31 of the UDP. This states that employment land and premises are a valuable resource to the Birmingham economy and will be protected where they contribute to the portfolio of employment land and are needed to meet the longer term employment land requirements set out in policy TP16. Outside of Regional Investment Sites and Core Employment Areas there may be occasions where employment land has become obsolete and can no longer make a contribution towards the portfolio of employment land. In such cases change of use proposals from employment development to other uses will be permitted where it can be demonstrated that either :
- The site is considered a non-conforming use; or
 - The site is no longer attractive for employment development having been actively marketed, normally for a minimum of two years, at a price which accords with other property of similar type in the area. Where it is argued that redevelopment for employment purposes would be commercially unviable, a viability assessment may also be required which should include investigations into the potential for public sector funding to overcome any site constraints.
- 7.28 The applicant is not seeking to demonstrate that the site is non-conforming, nor has it presented a case that the site is unviable for industrial development. The applicant is seeking to demonstrate that the site is no longer attractive for employment development based on marketing evidence.
- 7.29 Policy TP27 relates to the location of housing setting out that new residential development should (amongst other things) not conflict with any other specific policies in the BDP, in particular the policies for protecting Core Employment Areas.
- 7.30 Policy PG3 relates to place making. All new development will be expected to demonstrate high design quality, contributing to a strong sense of place. New development should: • Reinforce or create a positive sense of place and local distinctiveness, with design that responds to site conditions and the local area context, including heritage assets and appropriate use of innovation in design. • Create safe environments that design out crime and make provision for people with disabilities through carefully considered site layouts, designing buildings and open

spaces that promote positive social interaction and natural surveillance. • Provide attractive environments that encourage people to move around by cycling and walking. • Ensure that private external spaces, streets and public spaces are attractive, functional, inclusive and able to be managed for the long term. • Take opportunities to make sustainable design integral to development, such as green infrastructure, sustainable drainage and energy generating features. • Support the creation of sustainable neighbourhoods (Policy TP26). • make best use of existing buildings and efficient use of land in support of the overall development strategy.

- 7.31 Policy TP6 relates to managing flood risk and water resources. A sustainable drainage assessment and operation and management plan is required by the policy for all major developments. As part of the SUD's assessment, developers should demonstrate that the disposal of surface water from the site will not exacerbate existing flooding and that exceedance flows will be managed. Surface water discharge rates shall be limited to the equivalent site-specific greenfield run-off rate from all periods up to the 1 in 100 year plus climate change event, unless it can be demonstrated that the cost of achieving this would make the proposed development unviable.
- 7.32 Its states to minimise flood risk, improve water quality and enhance biodiversity and amenity all development proposals will be required to manage surface water through Sustainable Drainage Systems (SuDS). Wherever possible the natural drainage of surface water from new developments into the ground will be preferred. Surface water run-off should be managed as close to its source as possible in line with the following drainage hierarchy : store rainwater for later use, discharge into the ground (infiltration), discharge to a surface water body, surface water sewer, or to a combined sewer as the last option. All SuDS must protect and enhance water quality by reducing the risk of diffuse pollution by means of treating at source and including multiple treatment trains where feasible. All SuDS schemes should be designed in accordance with the relevant national standards and the long-term maintenance arrangements in place for the lifetime of the development.
- 7.33 In respect of section 106 requirements, policies TP9 (relating to public open space provision) and TP30 (affordable housing) are relevant. The first part of the policy TP9 is only relevant to those proposals that involve the loss of public open space and so it is not necessary to consider that in this case. The second part relates to the provision of public open space and is relevant.
- 7.34 The policy states that public open space should aim to be provided throughout Birmingham in line with the following standards :
- All residents should have access within 400m to an area of publically accessible open space which should have grass and trees and be at least 0.2 hectares in size, and also within 400 metres of a children's play area.
 - Within 1km of all residents an area of publically accessible open space of at least 2 hectares in size capable of accommodating differing recreational activities
 - Within 3km of all residents publically accessible park of 2 hectares or more with a wide range of facilities, capable of holding local or in some instances national events.
- 7.35 The policy states that new developments, particularly residential, will place additional demand upon all types of open space and children's play areas. In new residential developments provision of new public open space will be required broadly in line with

the standard of 2 hectares per 1000 population. In most circumstances residential schemes of 20 or more dwellings should provide on-site public open space and/or children's play provision. However, developer contributions could be used to address the demand from new residents on other types of open space such as allotments and civic spaces. The policy refers to the details provided in the Public Open Space in New Residential Development SPD.

- 7.36 The BDP policy therefore refers to the same 2 hectare per 1000 population standard set out in the UDP, and makes the same provision for off-site contributions to enhance existing public open space to be provided in lieu of on-site provision where appropriate.
- 7.37 Policy TP30 relates to affordable housing. The policy sets out that the City Council will seek 35% affordable homes as a developer contribution on new developments of 15 dwellings or more. The level of developer subsidy will be established taking account of the above percentage and the types and sizes of dwellings proposed, and that the Council may seek to negotiate a revised mix or adjust the level of subsidy on individual dwellings. The policy makes provision for the assessment of viability where the applicant considers that a development proposal cannot provide affordable housing in accordance with the percentages set out above.

Aston, Newtown and Lozells Area Action Plan (AAP)

- 7.38 The AAP provides more detail in respect of the City Council's proposals for the growth of Perry Barr District Centre, however the application site is not allocated for development in the AAP.

National Planning Policy Framework

- 7.39 Paragraph 7 of the NPPF sets out that the purpose of the planning system is to deliver sustainable development. This in turn is defined as having three roles, economic, social and environmental, and paragraph 8 tells us that each of these are mutually dependent. Paragraph 9 sets out that sustainable development involves improving people's quality of life, by (amongst other things) improving the conditions in which people live.
- 7.40 Paragraph 14 relates to the presumption in favour of sustainable development. This explains that for decision making, this means approving development proposals that accord with the development plan without delay. Where the development plan is absent, silent or the relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole or specific policies in the Framework indicate development should be restricted.
- 7.41 Paragraph 17 includes a number of core planning principles. The third and fourth bullets are most relevant to this application. The third bullet states that planning should proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such

as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking into account of the needs of the residential and business communities. The fourth bullet sets out that planning should always seek to secure a high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

- 7.42 Paragraph 22 states that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Where there is no reasonable prospect of a site being used for employment use, applications for alternative uses should be treated on their merits.
- 7.43 Paragraphs 47-55 relate to delivering a wide choice of high quality homes. Paragraph 47 includes that LPA's should use their evidence base to ensure that the Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their requirements with an additional buffer of 5% to ensure choice and competition in the market, and for market housing and affordable housing illustrate the expected rate of housing delivery through a housing trajectory.
- 7.44 Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of development. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable sites.
- 7.45 Paragraph 50 states that to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, LPA's should plan for a mix of housing based on demographic and market trends and the needs of different groups, identify the type, tenure and range of housing needed to reflect local demand and where affordable housing is needed set policies for meeting the need on site unless off-site provision or a broadly equivalent financial contribution.
- 7.46 In respect of the noise issues, paragraph 123 of the NPPF identifies that planning policies and decisions should :
- aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
 - mitigate and reduce to a minimum other adverse effects on health and quality of life arising from noise from new development, including through the use of conditions
 - recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.
- 7.47 This guidance in the NPPF is supplemented by the National Planning Policy Guidance (NPPG) on Noise which was revised on 6th March 2014. This includes guidance on how to determine noise impact, how to recognise when noise could be a concern, and how the adverse effects of noise can be mitigated. This describes a 'Significant Observed Adverse Effect' as follows :

- The noise causes a material change in behaviour and/or attitude, e.g. avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in acoustic character of the area.

Noise Policy Statement for England

- 7.48 This document sets out the Government's current policies and practices to enable noise management decisions to be made within the wider context and applies to all forms of noise including environmental noise, neighbour noise and neighbourhood noise.
- 7.49 The noise policy vision is to promote good health and a good quality of life through effective management of noise within the context of Government policy on sustainable development. This long term vision is supported by the following aims :
- To avoid significant adverse effects on health and quality of life;
 - Mitigate and minimise adverse impacts on health and quality of life;
 - Where possible, contribute to the improvement of health and quality of life.

Loss of Industrial Land

- 7.50 The Council's approach to employment land seeks to ensure that an adequate supply of employment land is maintained to meet the forecasted demand for such sites while recognising that there will be cases when specific sites are no longer attractive for industrial development and that such sites can make a contribution by being developed for alternative uses. This is particularly important given the pressure on the City's brownfield land supply both for homes and employment. It has been acknowledged by the Inspector for the Birmingham Development Plan that the City cannot fully meet its housing need up to 2031, even with the release of Green Belt, and the Council are engaged with neighbouring authorities through the Duty to Cooperate to reach agreement on the distribution of this unmet need across the Greater Birmingham Housing Market Area. It is important to note that despite this unmet need for housing the Inspector supported the targets for employment land set out in policy TP16 of the BDP given the importance of Birmingham's role within the wider regional economy.
- 7.51 As of October 2015 there is a supply of housing land for 15,486 dwellings which is equivalent to 5.6 years of development on the basis of the trajectory set out in the BDP. Whilst it is acknowledged that the applicant is proposing to deliver affordable housing, this does not outweigh the loss of industrial land given the current supply and demand issues in the Good Quality category. The housing proposals identified in the BDP and the AAP for Perry Barr District Centre does not include the application site.
- 7.52 To avoid the need for long term allocations of sites that would not be developed until the end of the plan period a reservoir based approach is taken which allows for peaks and troughs in the demand for employment land. This is combined with regular monitoring to ensure that the reservoir is maintained. The relevant targets for readily available land in relation to the application site which is considered to be Good Urban/Quality are 30 hectares in the UDP and 31 hectares in the BDP. These targets

represent 3 years supply and 5 years supply respectively based on the forecasts of demand at the time of their production.

- 7.53 The move to a 5 year supply target in the BDP reflects both longer lead in times for industrial development and to provide flexibility to deal with peaks in demand such as the anticipated increase in demand created by HS2 relocations set out below. However, as of April 2016 there was only 19.66 hectares of readily available land in this category. Using the most recent forecasts for demand, this means that Birmingham only currently has approximately 3.2 years supply.
- 7.54 It is important to note that of the 19.66 hectares of readily available 'Good Urban' employment land that many sites are smaller than the appeal site and as such offer less development potential than the application site.
- 7.55 As well as the forecasted demand over the plan period reflected in the reservoir targets there is a particular demand likely to arise next year as land is acquired to facilitate the delivery of HS2 from 2017 onwards. The Council have an assurance from HS2 Ltd that when relocations are required that efforts will be undertaken to keep affected companies within Birmingham. Approximately 100 businesses are likely to require relocation. This is likely to generate increased interest in the application site in the immediate future, both from businesses that are acceptable in policy terms on employment land as well as developers seeking to accommodate the increased demand for units that can be developed on the application site.
- 7.56 As well as the general demand created by relocations due to HS2, the opening of the Wholesale Markets in March 2017 is also likely to generate increased demand from companies in the food production sector looking to locate near to the new Wholesale Markets.
- 7.57 Given this forecasted demand and the current very limited supply of employment land with Birmingham evidence is required to demonstrate that there is no reasonable prospect of a site being developed for employment purposes before permitting the loss of employment land to alternative uses. To demonstrate that a site has no reasonable prospect of development for employment purposes the Council's policy requires evidence of active marketing for industrial purposes, normally for a period of two years.
- 7.58 For the last application I advised that the applicant's evidence of the marketing of the site is not considered to provide the required evidence of two years active marketing for industrial use at an appropriate price. Firstly, the period of marketing undertaken between 2006 and 2010 cannot be considered as a means of demonstrating lack of demand as it resulted in Euro Foods Ltd (the current owner) acquiring the site and in fact demonstrates the value of active marketing in identifying an occupier, even during a time of recession when demand can be expected to be dampened. The fact that Euro Foods then decided that the site was not suitable for their specific purposes does not mean that it is unsuitable for all industrial occupiers.
- 7.59 The period of 'soft' marketing undertaken by Dobson Grey cannot be considered to count as active marketing and as such cannot be relied upon to demonstrate that there is no reasonable prospect of the site being developed for industrial purposes. Given the absence of key marketing materials such as brochures and boards until February/March 2014, that best and final offers were sought in April 2014, and the fact that the site was taken off the market in April 2015, it appears that at best a little over 12 months of active marketing was undertaken. Furthermore, during the limited

time that the site was actively marketed it was promoted as a mixed use/development opportunity and at a price not consistent with similar industrial sites in the local area.

- 7.60 In their additional evidence submitted with this application, the applicant has sought to claim that the site is non-conforming. I do not agree with the case put forward that complaints from surrounding occupiers about the unlawful use of the site by gypsies/travellers is evidence that the site is non-conforming in terms of the tests set out in the SPD and emerging BDP. The non-conformity test relates to the lawful use of the site as an industrial development and refers to complaints to address the issue where a small industrial site is for example located in an otherwise residential area and impacting on the amenity of surrounding residential occupiers. Given the presence of the Core Employment Area to the immediate north and other nearby industrial developments such as Tufnols, I do not consider the site to be non-conforming. Likewise for the same reason I do not consider the presence of Japanese Knotweed to demonstrate that the site is non-conforming.
- 7.61 The applicant also states that the site was placed on the Co-Star website in June 2012 though no evidence of this has been provided. Evidence provided with the previous application indicated that it was withdrawn from Co-star 4 days later. I do not consider the evidence provided in relation to Dobson-Grey's general subscription to Co-Star to be adequate in proving that the site was being promoted through Co Star until November 2013. In the absence of any additional evidence for the site being on Co Star between June 2012 and November 2013 I do not consider that this period of time can be considered as active marketing of the site.
- 7.62 Brochures for the site do not appear to have been produced until October 2013 and the first boards that actually indicated that the site was for sale do not appear to have gone up until February/March 2014, both of which are key elements of active marketing campaigns as set out in the loss of industrial land SPD. It should also be noted that the brochures for the site only removed reference to alternative uses in August 2015. Given the promotion of alternative uses in the earlier brochures I consider only the brochures from August 2015 to fully meet the tests set out in the SPD. This would give a period of one year's active marketing.
- 7.63 The further evidence provided does now indicate that appropriate agents and developers have been contacted in relation to the site, although as noted above the earlier marketing materials promoted alternative uses.
- 7.64 It has also been stated that since the last refusal there was a period between June 2015 and January 2016 where Westleigh were not under contract to buy the site, so other interested parties would have had opportunity to acquire the site in that time. However, the 'under offer' strip was not removed from the For Sale boards and I have concerns that the 'under offer' strip would have put off other potential purchasers, reducing the effectiveness of the marketing boards.
- 7.65 The presence of Westleigh's interest (both during the contractual periods and outside of these) mean that it is questionable as to whether or not the vendor would have accepted a lower offer from a prospective purchaser during the active marketing period. Both policy documents do highlight the need for the site to be marketed at a price which accords with other property of a similar type in an area, precisely to avoid the issue of hope value attached to non-policy compliant uses. Furthermore, I continue to have reservations about the price that the site was marketed at, as despite the assertion that no guide price was set or stated to interested parties the various marketing brochures before August 2015 indicate that a price was available upon request. From August 2015 the statement changes to "offers are invited for the

site as a whole". Earlier evidence provided suggested that the site was previously being marketed at a value well above industrial land values.

7.66 In summary, whilst there is evidence that appropriate agents and developers are being targeted, in my opinion at best a period of 12 months active marketing can be claimed between August 2015 and the present date, as prior to this date non-industrial uses were being promoted in the marketing materials. I continue to have reservations that both knowledge of Westleigh's interest and the fact that the 'under offer' strip was left on the boards, even when contractually this was not the case, could put off potentially interested industrial occupiers/developers. Fundamentally, whilst the land is under offer at a residential land value by a residential developer, there is little prospect that an industrial developer would be able to secure the site at an industrial land value.

7.67 For these various reasons, the Council considers that this development is contrary to the Council's industrial land policies in the UDP (paragraphs 4.13-4.32), BDP (TP16, TP18, TP19, TP27) and the Loss of Industrial land to alternative uses SPD, and the guidance in the NPPF in respect of building a strong competitive economy.

Impact of Noise

7.68 The application site adjoins a railway line (with the new Wholesale Market beyond) to the north, various commercial uses to the south (including Leacy Classics), industrial use on the far side of Wellhead Lane and shares a short boundary with longstanding residential properties to the east.

7.69 The submitted noise assessment comments specifically on the likely impact of the wholesale market and railway, and indicates that mitigation will be necessary to ensure indoor noise levels are acceptable for future residential occupiers of this development. The applicant's evidence considers that the most significant source of noise is from passing trains using the rail line. To address this, they are proposing the provision of acoustic glazing and mechanical ventilation, but with openable windows for purge ventilation. A 2 metre high noise barrier along the site boundary has been proposed. The intended purpose of this barrier is to protect the site from noise from the rail line and the wholesale markets.

7.70 Regulatory Services advise that they have no objection in respect of noise from the rail line as they consider that this is unlikely to cause significant adverse impacts to residents with the mitigation proposed. The character of the noise from the movement of trains is a significant factor, where the noise gradually rises as a train approaches from the distance and then gradually falls away as the trains passes the site.

7.71 However they remain concerned about noise from the wholesale markets which is to be a 24 hour operation. The market will commence trading each day at 03:30 hours, working through the night and early morning hours, with trading closing at 11:30 hours. The delivery of goods for the next day will then begin at 12:30 hours through to 03:00 hours the next day, shortly before trading commences. The working areas around the buildings provide the service yard for the various activities to take place. These activities, associated with the delivery, loading and unloading of produce, and the trading of produce will take place each day including during hours of sleep for the adjoining residents. There is significant potential for noise from these activities, and the character of these noisy activities will also be more varied.

- 7.72 The noise report for the development of the wholesale market recommended mitigation to protect the existing residential uses. This mitigation was included in the planning conditions attached to the consent for the wholesale market, which includes the erection of a 5 metre high noise barrier along part of the wholesale markets southern site boundary and the details have been discharged. No consideration was given to the appeal site as it is designated for industrial use. The location of some of the noisier market activities, including the recycling facility, were also allotted to the area adjoining the application site due to the less sensitive nature of the existing area, which can be used during the day without any noise restrictions.
- 7.73 A significant area of the application site would be situated in close proximity to the recycling facility. The application does not demonstrate that the proposed mitigation would be sufficient to protect against noise from the recycling facility, as it has not been considered.
- 7.74 The noise mitigation scheme proposed specifies high acoustic performance of glazing (up to 42 dB Rw+Ctr). This is considered suitable to provide an acceptable level of noise amenity internal to the proposed dwellings when the windows are fully closed. A fundamental issue with this planning application is the acceptability of the proposed mitigation scheme insofar as the future residents would have to keep windows closed and rely on mechanical ventilation 7 nights per week, 365 days per year in order to secure an environment that would not disturb their sleep. On occasions, such as warm summer nights, residents would reasonably expect to be able to open their windows for ventilation and cooling, without being exposed to noisy commercial activity at the wholesale markets through the night, and that the inability to do so without suffering sleep disturbance would constitute a significant adverse effect on their amenity.
- 7.75 This is consistent with World Health Organisation advice, e.g. the Guidelines for Community Noise state that “It should be noted that it should be possible to sleep with a bedroom window slightly open” and the Night Noise Guidelines for Europe state that “most European residents want to keep their bedroom windows slightly open at night”. With the windows open, the glazing attenuation would not be effective in protecting residents from noise. The proposed 2 metre high noise barrier at the site boundary that has been proposed would not protect bedrooms at first floor level as the noise from the wholesale markets would oversail the top of the fence. The mitigation proposed would not address the problems that have been identified.
- 7.76 In addition, Regulatory Services do not consider that the proposed site layout satisfactorily addresses the external noise climate. They advise that the screening effect of the buildings and barriers decreases with increasing distance of receptor and source from the barrier. The layout will therefore likely provide some improvement over the original indicative layout in terms of rail noise for some plots, but will do very little to reduce the impact of noise from the wholesale markets due to distance and size of the markets site. They consider that the difference in wholesale markets noise levels affecting external areas between the original indicative and the proposed current layout is unlikely to be perceptible, other than at a few very well shielded discrete locations on the site.
- 7.77 Regulatory Services also advise that they do not agree with the applicant’s assessment of noise from Leacy’s, and consider that there is a potential adverse impact on amenity of nearby occupiers, including their gardens from the activities of this business which from time to time involve working in the open yard area adjacent to the unit and from within the unit with the roller shutter door open.

- 7.78 The vibration assessment has concluded that no specific anti-vibration mitigation measures are required with the layout proposed and it is noted that Regulatory Services agree with this.
- 7.79 Paragraph 123 of the NPPF states that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development. The issues outlined above have identified that this aim would not be achieved if the proposal is implemented. WHO guidelines for community noise (Table 4.1) identify that external noise levels above about 55 dB LAeq cause serious annoyance and that internal night-time levels above 45 dB LAfmax cause sleep disturbance. Based on the noise report, external noise levels are expected to be up to about 65 dB LAeq and internal maxima up to around 70 dB LAfmax with windows slightly open. The adverse health impacts of exposure to excessive noise include increased stress and reduced ability to function and learn.
- 7.80 The Noise Policy Statement for England (NPSE) has been prepared to support the NPPF when noise factors are material considerations in planning applications. The issues set out above show that significant adverse impacts on health and quality of life due to the presence of the wholesale markets cannot be avoided if the development is implemented. This is despite minimisation of the adverse effects using mitigation as described in the noise report. There is no contribution to improvement of health and quality of life in terms of noise associated with this development. National Planning Practice Guidance (Noise) further reinforces principles in the NPPF and NPSE.
- 7.81 For these reasons, the Council considers that the proposal does not accord with the guidance in the NPPF and associated documents (PPG and the Noise Policy Statement for England).

Impact on existing businesses

- 7.82 The noisy activities undertaken at the neighbouring businesses, particularly the wholesale markets are likely to lead to complaints from residents of the proposed dwellings. Investigations into these complaints in respect of a statutory noise nuisance could lead to constraints having to be placed on the wholesale markets or Leacys to the detriment of the operation of those businesses.
- 7.83 The representation from the Birmingham Wholesale Fresh Produce Association to the appeal sets out there will be 24 hour activity that will take place on the site and that around 2400 vehicle movements will take place into and out of the site each 24 hour period. This is evidently an intensive operation with constant activity including vehicle movements into and around the site in the service yard close to the proposed residential development, with these activities taking place throughout the night time period.
- 7.84 The representation for the appeal gives an indication of the scale of the business by explaining that it will be the largest of its kind in the UK outside of London and will have in the region of 850 people directly employed, and many more served in the food & catering industries across the region. The markets are evidently concerned about how the proposed development might affect their operation and this is a concern I share. They comment that if the residential development were to proceed

that they are concerned that this would lead to potential costs of additional noise mitigation which would impact on the business costs of the tenants or through restrictions on their working operations, having negative employment consequences.

- 7.85 It is considered that the successful re-location of the wholesale markets and retention and growth of employment associated with this is dependent on the ability for this use to operate on a 24 hour basis. Complaints in respect of noise would be likely to undermine this. This is clearly contrary to the guidance in the NPPF, particularly the third bullet of paragraph 123 in respect of unreasonable restrictions being placed on businesses due to changes in nearby land uses. This would go against the benefits of locating such an important employer in the Core Employment Area as identified in the BDP. For these reasons, it is considered that the proposal does not accord with the policies referred to in the UDP, BDP and the guidance in the NPPF.

Section 106 obligations

- 7.86 The Council's planning policies clearly set out that such residential developments will be expected to provide affordable housing to contribute to meeting such needs in the City, and public open space contributions to meet the needs of the development. The applicant has not presented a case that the development would be unviable were it to meet these obligations.
- 7.87 In respect of affordable housing, the Council has identified a need for circa 19250 affordable dwellings (rounded to the nearest 50 dwellings) over the BDP plan period until 2031. In the event that consent were to be granted for the proposed development it would therefore be appropriate to secure affordable housing from the proposed development to contribute to the Council's overall affordable housing need for the plan period. The policies in the UDP and BDP both seek a contribution of 35% of the total number of dwellings to be affordable dwellings.
- 7.88 The applicant is agreeable to an obligation to secure 35% of the total number of dwellings as affordable dwellings, however due to the other considerations that result in refusal being recommended, I have not pursued this further. In the absence of a suitable section 106 agreement to secure affordable housing as explained above, the development would be contrary to policies 5.37-5.37G of the adopted UDP, and policy TP30 of the BDP.
- 7.89 In respect of public open space provision, the policies set out in the UDP, Public Open Space SPD and BDP sets out that new residential developments over 20 units will be expected to meet its own public open space needs to the standard of 2 hectares per 1000 population. These policies relate to improving the quantity, quality and accessibility of public open space in the City to meet resident's needs.
- 7.90 In this case, the site is located in a ward where the existing provision falls short of this standard and so it is imperative that this situation is not made worse by new developments not meeting their own public open space needs.
- 7.91 I note the advice from Leisure Services that the sum would be spent at Aston Park, which is considered to be the logical choice being the main public park in the ward. It is accessible from and reasonably close to the application site (10 minutes on foot). The investment would be spent on extending and updating children's play, improvements to paths, sport infrastructure as well as work to perimeters and

boundaries. This investment would benefit both existing and proposed residents. Such a requirement would accord with the CIL regulations, being necessary to make the development acceptable in planning terms, directly related to the development; and fairly and reasonably related in scale and kind to the development.

- 7.92 The provision of such public open space provision to meet the needs of the development would not be met through CIL as these works are not included on the Council's CIL Regulation 123 list.
- 7.93 The applicant's head of terms set out that they are agreeable to an obligation to secure an off-site contribution towards the provision of public open space and children's play, however due to the other considerations that result in refusal being recommended, I have not pursued this further. In the absence of a suitable section 106 agreement to secure public open space provision as explained above, the development would be contrary to policies 3.53-3.53B, 5.20B-5.20D of the UDP, the guidance in the Public Open Space SPD and policy TP9 of the BDP, because it would not provide any provision or enhancement of public open space to meet its own needs.

Design and Layout issues

- 7.94 My City Design Advisor has recommended refusal because the design quality of the proposed residential scheme is poor and does not meet the requirements for place-making set out in planning policy. The scheme fails to create a sense of place, through its buildings and spaces, there are no clear character areas and it appears over-dominated by roads and parking.
- 7.95 Streets and open spaces are poor quality. Houses are seemingly fitted in around the road layout that features curves and turning heads that do not reflect the grid-based character of local streets. Front building lines are inconsistent and do not define streets, there are long runs of frontage parking and unattractive parking courts, a lack of enclosed front gardens or defensible space and very limited opportunities for trees and other planting that could soften streetscapes. The most dominant features of the new estate are highways and parking.
- 7.96 The entrances to the estate are poor. The curved estate road from Wellhead Lane does not reflect and lacks enclosure, definition and overlooking from houses: it is fronted by a range of different house types at different angles and setbacks from the street, large gaps between houses, blank garden walls and blank gable end of plot 33, and expanses of parking. The entrance to the site from Aston Lane would be marked by the gable ends of plots 67 and 68 viewed across car parks of industrial units.
- 7.97 The pedestrian link between the two halves of the site is uninviting, indirect, not well overlooked and a potential nuisance to adjacent residents. The apartments, plots 68-79, have poorly defined public-private spaces that raise concerns about security and safety. Access to rear garden of plot 66 is too convoluted.
- 7.98 The house types are generally bland and lack variety. The design and access statement refers to subtle design details such as string courses and brick detailing as well as 'dormer windows' and creating character through applying render to walls and block paving to parking courts. However, it is more important to create interest and character through intrinsic details such as window proportions and projecting and

recessed features such as window reveals and sills, doors and roof eaves. The cranked house types are not typical of the local area.

- 7.99 Houses fronting Aston Lane and Wellhead Lane are set back only 1-3 metres, significantly closer than existing houses and commercial units along Aston Lane. This would result in lack of defensible space and poor amenity for occupiers and is a poor fit with local character. Ground levels in the northwest corner of the site suggest that retaining the existing boundary wall and backing houses on to Wellhead Lane may be a reasonable design response, although cross-sections should demonstrate how this would work, and this approach would need improved architecture to the rear elevations and roofscapes facing Wellhead Lane. The sub-station located on Wellhead Lane should be moved to a less prominent position on the site.
- 7.100 I also note the comments made by the Police in respect of the remoteness of some of the parking spaces for the proposed dwellings.
- 7.101 I share these concerns and consider that the shortcomings of the design and layout warrant refusal as the proposed layout and design of the proposed development is considered to be contrary to paragraphs 3.14-3.14D, 5.20 of the adopted UDP, Policy PG3 of the draft BDP and the guidance on good urban design in Places for Living and the NPPF.

SUD's drainage matters

- 7.102 I note the Lead Local Flood Authority objects to the proposed SUD's recommending refusal. It is considered that the proposals submitted are particularly poor with limited attempt made to accommodate the Council's SUD's requirements. Were this to be the only issue, I would have sought to negotiate amended proposals, however given the wider concerns I have recommended refusal on this issue also.

Other matters

- 7.103 The City ecologist considers that the ecological appraisal is acceptable, demonstrating that there is likely to be a minimal impact given the condition of the site, and that the proposal is acceptable subject to securing a suitable package of ecological/biodiversity enhancement measures.
- 7.104 My tree officer comments that a climbing inspection of the TPO tree is recommended in the tree report, though given the broader issues this has not been pursued further.
- 7.105 The comments from the Environment Agency in respect of ground contamination and ground water are noted, which are matters that could be addressed through appropriately worded conditions.
- 7.106 The comments raised by Transportation Development are also noted, but have not been pursued given that the proposal is unacceptable on other grounds.
- 7.107 Whilst the comments made by a resident regarding an added burden on medical, education and traffic management services are noted, I do not consider that there is evidence that would substantiate a reason for refusal.

Conclusion

- 7.108 There would be a loss of 'Good Quality' industrial land, for which there is a shortage of supply compared to the City's portfolio requirement of 31 hectares in the BDP.

This equates to 5 years supply (6.2 hectares per year). The current supply is only 19.66 hectares which equates to just over 3 years supply, set against the BDP policy.

- 7.109 Demand for employment land in Birmingham has fluctuated in the past, and is expected to increase as a result of the displacement of businesses affected by HS2, and the potential benefits from the clustering of food related uses in the vicinity of the wholesale markets. The Council's 5 year reservoir set out in the BDP is therefore intended to manage supply in this context.
- 7.110 The site has not been adequately marketed to meet the requirements of the Council's policy for two years active marketing. Some marketing that has been described by the applicant as 'confidential' and 'soft' marketing does not meet the requirements of the policy. By the time a 'For Sale' board was erected on the site, and the site had been advertised on the co-star and showcase websites, it was also being marketed for residential use and other non-policy compliant uses. Best and final offers were sought too quickly. The site was therefore not properly exposed to the industrial land market in accordance with the policy. The requirement for two years marketing has been supported by the Plan Inspector who considered that this is an appropriate period of time for the Industrial Land market in Birmingham. The marketing of the site for residential use has generated an unrealistic hope value for the site that industrial investors could not be expected to meet. The marketing undertaken does not meet the minimum requirements in the SPD and the BDP and the loss of industrial land is contrary to guidance in the NPPF regarding building a strong competitive economy.
- 7.111 The proposed development would be unacceptably exposed to noise, particularly from the wholesale markets to the north of the site which is to be a 24 hour operation, with activity in the service yard throughout the night time period each day. The mitigation proposed in the form of acoustic glazing would be ineffective with an open window. It is not considered to be appropriate to be designing these houses to be sealed shut with non-openable windows as this would unacceptably harm the amenities of occupants who might reasonably expect to be able to open their windows for purge ventilation from time to time. There would also be issues with noise impact in outside garden areas. This is contrary to guidance on noise in the NPPF and associated guidance in the PPG and Noise Policy Statement for England.
- 7.112 The wholesale markets employs over 850 people and is important to the City and the region as the major supplier of fresh produce to the food and catering industries. There are concerns that approval of this development would lead to complaints from occupants of the proposed development regarding noise from the wholesale markets and Leacy's, and that this could give rise to measures having to be undertaken at the expense of these businesses to mitigate this impact, or to constrain their businesses to detriment of their operations, and a risk of local employment. This would be contrary to the Council's industrial land policies which identify the wholesale markets as part of a Core Employment Area.
- 7.113 The Council's policies require the completion of a section 106 agreement to secure contributions to affordable housing and public open space and children's play provision. A section 106 agreement has not been agreed given the other refusal reasons. Refusal is recommended to ensure that this matter can be pursued in the event of appeal.
- 7.114 The design and layout of the development is poor and does not accord with the Council's urban design policies in the UDP, draft BDP, Places for Living and the guidance in the NPPF.

7.115 The submitted SUD's proposals are also unacceptable as they do not accord with the Council's requirements.

8 Recommendation

8.1 Refusal for the reasons set out below.

Reasons for Refusal

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- 1 The application has failed to demonstrate that the site has been adequately marketed for industrial use in accordance with the Council's adopted planning policies for industrial land, and is therefore contrary to paragraphs 4.13-4.32 of the adopted Birmingham Development Plan 2005, policies TP16, TP18, TP19, and TP27 of the draft Birmingham Development Plan 2013, the Loss of Industrial land to alternative uses SPD, and the guidance contained in the NPPF.
 - 2 The application has failed to adequately demonstrate that noise from the development of land to the north for proposed wholesale markets under application 2015/05235/PA, and noise from existing neighbouring businesses have been adequately assessed and appropriately mitigated (including the impact on habitable rooms and on outside amenity spaces), to the detriment of the occupants of the proposed development, contrary to the guidance in the NPPF and associated Planning Practice Guidance, and the guidance in the Noise Policy Statement for England.
 - 3 The impact of noise on proposed residents could result in complaints being made by proposed residents and give rise to actions having to be taken to restrict or curtail the activities of existing neighbouring industrial uses having a consequential detrimental impact on the continuing operation of these established businesses and on local employment, contrary to paragraphs 4.13-4.32 of the adopted Unitary Development Plan 2005, policies TP16, TP18, TP19 and TP27 of the draft Birmingham Development Plan 2013, the Loss of Industrial land to alternative uses SPD, and the guidance contained in the NPPF.
 - 4 The design quality of the proposed development is poor, failing to create a sense of place, through its buildings and spaces, with no clear character areas and it appears over-dominated by roads and parking. The development would therefore be contrary to the paragraphs, 3.8, 3.10, 3.14-3.14D, 5.20-5.20A of the adopted UDP, policy PG3 of the draft Birmingham Development Plan, the guidance contained in Places for Living which has been adopted as supplementary planning guidance and the guidance contained in the NPPF.
 - 5 The submitted Sustainable Urban Drainage assessment is unacceptable as the proposed surface water discharge rate and proposed SuD's scheme are not satisfactory, and no drainage plans (including attenuation volumes, SUD's features and discharge locations), calculations (including discharge rates, storage requirements and evidence of performance of the proposed drainage network), details of exceedence flows or an operation & maintenance plan have been provided. The application is therefore contrary to the requirements outlined in the National Planning Policy Framework (including ministerial statement 18th December 2014), paragraphs 3.71-3.76 of the adopted Unitary Development Plan 2005, Policy TP6 of the draft Birmingham Development Plan, Sustainable Drainage - Birmingham City Council Guide to Design, Adoption and Maintenance and Sustainable Management of
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Urban Rivers and Floodplains SPD.

- 6 In the absence of a completed section 106 planning agreement to secure the provision of affordable housing and a financial contribution towards the provision or improvement of public open space and children's play in accordance with the formula set out within the Council's adopted Supplementary Planning Guidance entitled Public Open Space in new Residential Development (2007), the development is contrary to paragraphs 3.53-3.53B, 3.61, 5.20B-5.20D, 5.37-5.37G and 8.51-8.54 of the adopted Birmingham Unitary Development Plan 2005, Policies TP9 and TP30 of the draft Birmingham Development Plan, the guidance contained in the aforementioned Public Open Space in New Residential Development SPD, and the guidance contained in the NPPF.
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Case Officer: Stuart Morgans

Photo(s)

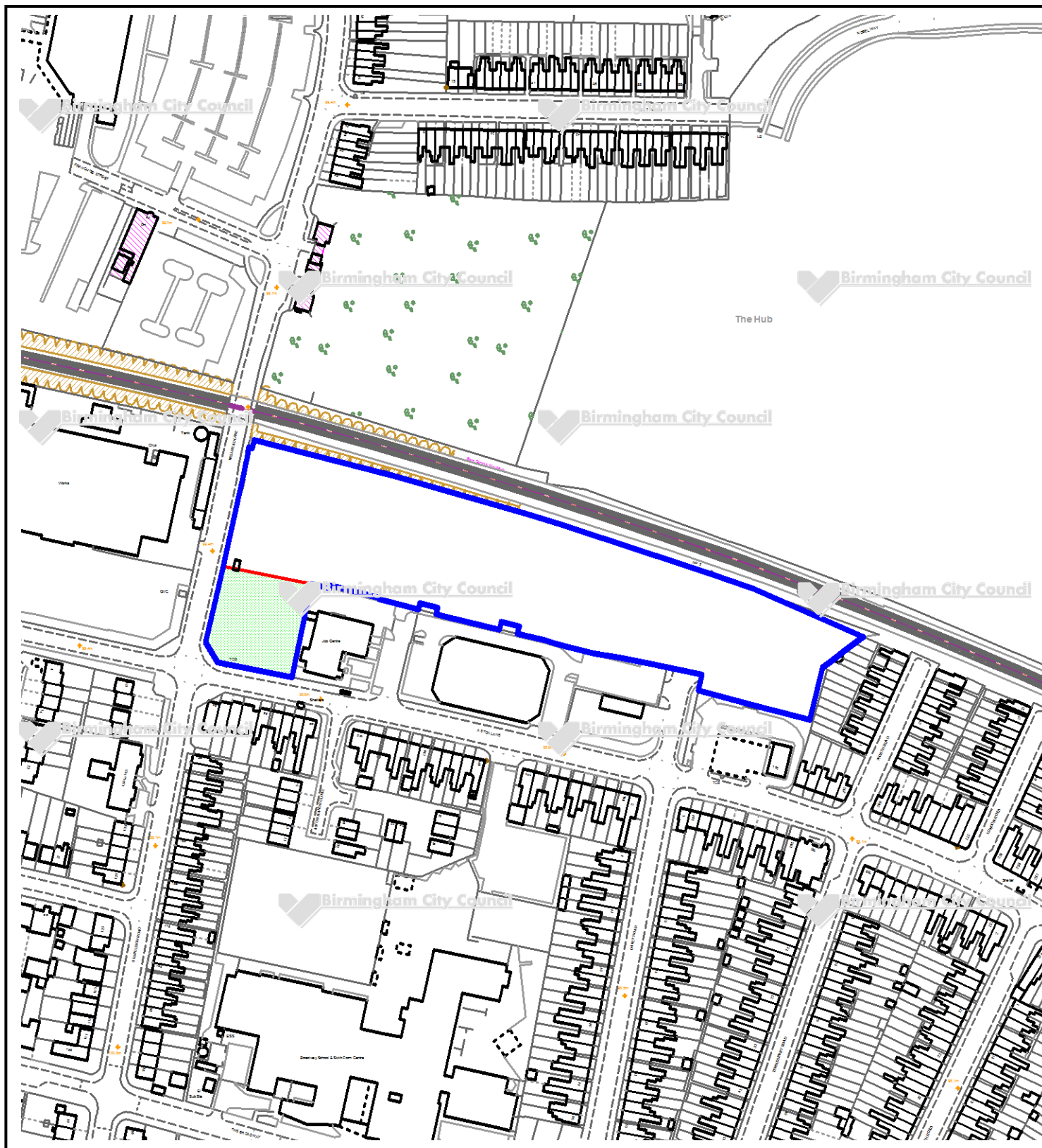


Figure 1 : View across the site towards new school and wholesale markets



Figure 2 : View towards wholesale markets and associated 5 metre high acoustic barrier

Location Plan



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Birmingham City Council

Planning Committee

18 August 2016

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Defer – Informal Approval	10	2015/08695/PA 120 Alcester Road Birmingham B13 8EE Erection of two buildings comprising a ground floor commercial unit to Alcester Road (Use Classes A1-A4/B1/D1/D2), with 46 residential apartments above comprising 14 x 1 bed, 31 x 2 bed and 1 x 3 bed units with associated vehicular access and parking.
Approve - Conditions	11	2016/04369/PA St Andrews Healthcare 70 Dogpool Lane Stirchley Birmingham B30 2XR Demolition of existing building and development of site with erection of 2 storey health care building and other work including new access; car parking; landscaping and ancillary development
Approve - Conditions	12	2016/04625/PA Land at the River Rea Corridor Dogpool Lane Stirchley Birmingham B30 2XR The construction of a flood defence wall, flood defence bunds, incorporating a realigned cycle path and maintenance access ramp, along with a landscaping scheme at Selly South Park.

Approve - Conditions	13	<p>2016/04490/PA</p> <p>214 Alcester Road South Kings Heath Birmingham B14 6DE</p> <p>Outline planning application for 1 no. dwelling and garage with access and layout to be determined</p>
Approve - Conditions	14	<p>2016/03860/PA</p> <p>56 Somerford Road Birmingham B29 5LP</p> <p>Change of use of existing outbuilding into a dog grooming salon (Use Class Sui Generis).</p>

Committee Date:	18/08/2016	Application Number:	2015/08695/PA
Accepted:	20/10/2015	Application Type:	Full Planning
Target Date:	31/08/2016		
Ward:	Moseley and Kings Heath		

120 Alcester Road, Birmingham, B13 8EE

Erection of two buildings comprising a ground floor commercial unit to Alcester Road (Use Classes A1-A4/B1/D1/D2), with 46 residential apartments above comprising 14 x 1 bed, 31 x 2 bed and 1 x 3 bed units with associated vehicular access and parking.

Applicant:	Moseley Central Ltd 172 Edmund Street, City Centre, Birmingham, B3 2HB,
Agent:	PJ Planning Regent House, 156-7 Lower High Street, Stourbridge, West Midlands, DY8 1TS,

Recommendation

Approve Subject To A Section 106 Legal Agreement

1. Proposal

- 1.1. The proposal is for the erection of two linked buildings on the site, both orientated parallel to Alcester Road, to accommodate 46 residential apartments and a ground floor commercial unit, with associated vehicular access and parking.
- 1.2. The proposed smaller front building would face immediately on to Alcester Road and would measure 19.8m in length, 16.4m in depth and 15m in height, being developed over five storeys. The proposed larger rear building would measure 43.8m in length, 15.9m in depth and a maximum of 15m in height, being developed predominantly over five storeys. It would extend to four storeys in height behind No. 132 Alcester Road, and the Applicant states that the buildings would be constructed from existing land levels. The two buildings proposed would be located 11.7m apart but would be linked at ground floor via a covered residents' car parking area. The front building would be sited to follow the established building line along Alcester Road, and so would be slightly set back from the front elevation of the neighbouring Prince of Wales Public House.
- 1.3. The fourth floor of the front building would be set in 2.8m from the remainder of the building along its Alcester Road frontage, creating a roof terrace area. The fourth floor of the rear building would also be set in from the remainder of the building along its eastern edge by 1.8m and along its southern edge by 7.1m, creating roof terrace areas.
- 1.4. The proposed development would be of a simple, yet contemporary design, with strong lines and vertical definition. It would be predominantly constructed of facing brickwork, with rainscreen cladding used as a facing material for fourth floor facades. Windows would be aluminium framed and each installed within a

projecting concrete surround. The ground floor of the front building would comprise of glazed, aluminium framed, shop windows and doors. A glazed balcony balustrade would be installed along the Alcester Road elevation of the front building at fourth floor, whilst metal railing balustrades would be installed to the private terraces of the centre and rear of the development.

- 1.5. A commercial unit of 238sqm floorspace is proposed to be accommodated on the ground floor of the front building. It would accommodate a use falling within Use Classes A1 (retail), A2 (financial and professional services), A3 (restaurants and cafes), A4 (drinking establishments), B1 (business), D1 (non-residential institutions) or D2 (assembly and leisure). An entrance lobby providing access for the flats above would also be accommodated at ground floor within the front building. The ground floor, both within the rear building and linking element, would accommodate a residents' car park, refuse storage, substation and separate entrance lobby providing access for the flats above.
- 1.6. The first, second, third and fourth floors of both buildings would accommodate, in total, 46 apartments comprising a mix of 14 x one bed units, 31 x two bed units and 1 x three bed unit. The internal layout of these units would be repeated on the first, second and third floors, with the fourth floor layout varying because of the smaller size of this top floor. Each apartment would comprise of a kitchen/lounge/diner, bedroom(s), bathroom, and hallway with storage space. Throughout the proposed development first double bedrooms would range in size from 12.6sqm to 19.8sqm, second double bedrooms would range in size from 10.3sqm to 15sqm, and single bedrooms would range in size from 6.9sqm to 8.1sqm.
- 1.7. Ten of the first floor apartments would have access to an external decked terrace, which would be divided up to provide individual private space for each of these units (each terrace area ranging in size from 15.9sqm to 71.2sqm). Six of the fourth floor apartments would also have access to an external roof terrace, again divided up to provide individual private space for each of these units (each terrace area ranging in size from 9.4sqm to 88sqm – the latter allocated to the three bedroom unit). In total there would be an amenity space provision of some 556sqm, an average of 12sqm amenity space per unit.
- 1.8. A covered car park to serve the occupiers of the proposed apartments would be provided underneath, and in front of, the rear building. Access to the car park would be via an existing vehicular access located between the proposed front building and No. 128 Alcester Road. The car park would provide 32 spaces in total (including 7 disability spaces) equating to an on-site parking provision of 70%. The proposal includes secure cycle storage in the form of 46 cycle spaces, equating to 100% cycle parking provision.
- 1.9. The Applicant is proposing a £50,000 commuted sum to be spent on off-site affordable housing, and secured through a Section 106 Agreement. No public open space contribution, or education contribution, is to be provided. This matter is addressed by a Financial Viability Appraisal.
- 1.10. The site area is 0.17 hectares in size. The density of development on the site would be 270 dwellings per hectare.
- 1.11. A Design, Access and Planning Statement; Noise Assessment; Sustainable Drainage Assessment; Transport Assessment; and a Financial Appraisal have been submitted by the Applicant in support of their application.

- 1.12. The proposed development does not attract a CIL contribution.

[Link to Documents](#)

2. Site & Surroundings

- 2.1. The site has been vacant since 2007 but was previously occupied by an unsympathetic 1960's office building with retail space at ground floor level. The concrete floor slab of this building remains. The site is L-shaped and extends to the rear of Nos. 128-132 Alcester Road. There is an approximate 2m difference in ground levels across the site, with the site sloping up from the front (west) to the rear (east). The ground floor of No. 128 accommodates a retail unit, with upper floors in residential use; the ground floor of No. 130 accommodates a hot food takeaway, with upper floors in residential use; and both the ground floor and first floor of No. 132 accommodate a dance studio. The site is located within Moseley Neighbourhood Centre, and within Moseley Conservation Area.
- 2.2. Adjoining the site to the north is the Grade A Locally Listed Prince of Wales Public House and its beer garden, to the south there is a row of commercial properties which front on to Alcester Road. The site adjoins Woodbridge Road Police Station to the rear, which faces on to Woodbridge Road. There are views of the site both from Alcester Road and Woodbridge Road to the rear (through the Police Station site which accommodates two-storey buildings).
- 2.3. The immediate surrounding area is made up predominantly of a variety of commercial local centre uses accommodated within three storey Victorian buildings, with residential flats accommodated opposite to the north west within these buildings. The wider area is predominantly residential, with Victorian terraced properties in Trafalgar Road and large detached and semi-detached properties in Chantry Road.

[Site Location Map](#)

3. Planning History

- 3.1. 10th August 2007 – 2007/02961/PA – Demolition of buildings and development of two buildings comprising of a ground floor unit fronting Alcester Road with use as A1 (retail) and 50 residential apartments above, comprising 32 no. two bedroom units and 18 no. one bedroom units, associated access and parking – Approved subject to conditions
- 3.2. 10th August 2007 – 2007/02960/PA – Conservation area consent for demolition of buildings to enable development of two buildings comprising of a ground floor unit fronting Alcester Road with use as A1 (retail) and 50 residential apartments above, comprising 32 no. two bedroom units and 18 no. one bedroom units, associated access and parking – Approved
- 3.3. 5th April 2011 - 2010/04473/PA - Application for a new planning permission to replace an extant planning permission 2007/02961/PA in order to extend the time limit for implementation for the demolition of buildings and development of two buildings comprising of a ground floor unit fronting Alcester Road with use as A1 (Retail) and 50 residential apartments above, comprising 32 no. two bedroom units

& 18 no. one bedroom units, associated access & parking – Approved subject to conditions

- 3.4. 21st September 2011 – 2011/04113/PA - Application for variation of conditions 1-9, 11 and 18 attached to planning approval 2010/04473/PA 'demolition of buildings and development of two buildings comprising of a ground floor unit fronting Alcester Road with use as A1 retail and 50 residential units above with associated access and parking' to allow details to be submitted either following demolition and foundation work, prior to installation or prior to occupation – Approved subject to conditions

4. Consultation/PP Responses

- 4.1. Transportation Development – No objection – Subject to condition requiring amended access to be constructed to City specification with redundant crossing reinstated with full height kerbs, under appropriate agreement at the Applicant's expense.
- 4.2. Regulatory Services – No objection – Subject to conditions requiring the development to be in accordance with the measures set out in the noise report, submission of a scheme of noise insulation between ground floor retail and first floor apartments, restriction on north facing windows within both the front and rear buildings being non-opening, mechanical ventilation on windows being restricted to a specified noise level, submission of commissioning noise report, restricting cumulative noise from plant and machinery, submission of a detailed lighting scheme, restricting delivery hours to 0800-1800 Monday-Saturday and 1000-1600 hours on Sundays, and restricting opening hours to 0800-1900 Monday-Saturday and 1000-1600 on Sundays/Public Holidays.
- 4.3. Leisure Services – No objection – The scheme would be subject to a public open space and play area contribution of £113,200 in accordance with the UDP policy to be spent on the provision, improvement and or maintenance of public open space and play facilities at Highbury Park within the Moseley and Kings Heath Ward.
- 4.4. Lead Local Flood Authority – No objection - Recommend conditions requiring submission of a sustainable drainage scheme and sustainable drainage operation and maintenance plan
- 4.5. Education - This development is for at least 20 dwellings and would impact on the provision of places at local schools. Request a financial contribution of £167,961 through a Section 106 Agreement.
- 4.6. West Midlands Police – Object - There have been material changes in circumstances since the last approval in 2011 e.g. the NPPF, the Moseley SPD and the Birmingham Development Plan. There are also changes to the design and layout of the proposed scheme. The Council are statutorily required to consider crime and disorder and community safety in the exercise of its duties with the aim of achieving a reduction in crime. The submitted proposal fails to accord with prevailing planning policy and the statutory duty of the Police and the Council and should be refused. The objections to the current proposal are centred on the impact of the proposal on the adjoining Woodbridge Road Police Station site in terms of a) implications for operational policing; b) security of the police station; and c) potential blight of the Police's site.

- 4.7. West Midlands Fire Service – No objection – Subject to dry riser being installed so all parts within the apartments can be reached within 45m.
- 4.8. Conservation and Heritage Panel – No objection - The panel strongly supported the proposal and wished to support it in order to see this site in the Moseley Conservation Area developed. Some debate was held over the reduction in height of the shop fronts which altered the proportions of the building.
- 4.9. Birmingham Public Health – No response received
- 4.10. Severn Trent Water – No objection – Subject to condition requiring submission of drainage details
- 4.11. Historic England – The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.
- 4.12. Local residents, Ward Councillors, Residents Associations and M.P. notified. Advertised by press and site notice.
- 4.13. 136 letters of objection received from local residents (some of which are duplicate letters created by the Prince of Wales PH but individually sent by local residents). The following concerns were raised and can be summarised as:
- Prince of Wales PH is an independent, community focused pub and local landmark and asset which is renowned for its live music and beer garden. Any residential located next door would generate noise complaints from occupiers and may lead to loss/closure of Public House or prevent live music taking place
 - Future residential occupiers should have to sign contract to say that they rescind the right to complain about the Public House
 - Local community wants there to be more mixed use, less residential, more offices or hotel – this was initial proposal which has now been abandoned
 - Overlooking of Police Station represents a high security risk
 - Would blight any future development on Police Station site
 - Architecture would not be in keeping with Edwardian style and would ruin aspect of high street - its square design, its large windows and the style of the roof simply does not look good.
 - Too many units – over-intensive use of site
 - Wrong location for residential flats
 - Scheme does not meet the requirement for social housing
 - Height of the development would overpower surrounding properties
 - Frontage does not respect scale, massing, height or features of Conservation Area
 - Would detract from the setting of the Grade A Locally Listed Public House
 - Potential smoke nuisance for future occupiers of residential from Pub beer garden
 - Moseley SPD references the strategy to encourage independent retailers. Developer has a track record of favouring multiple operators and rejecting independents
 - Not enough off-street parking would result in additional parking problems for Moseley
 - Use of Right of Way adjacent to No. 128 cannot carry additional volume of cars using car park
 - Inadequate pedestrian visibility splay at entry/exit to Right of Way – danger to pedestrians
 - Submitted noise report is deficient/inaccurate

- Some of apartments do not meet Nationally Described Space Standards in terms of size
- Limited fire access would put future occupiers at high risk
- Apartments should have access for disabled persons in line with Building Regs
- Should be developed to Sustainable Homes Level 4 and Building Regs Level 2

- 4.14. Prince of Wales Public House – Object - The Prince of Wales is well-established and central to many community events. Material changes in planning policy since previous approval e.g. Moseley SPD, NPPF and Shopping and Local Centres SPD. Principal objection to the scheme relates to the potential for future conflict between the occupants of the proposed residential development and the Public House, as a result of noise generated by the pub. This has been seen repeatedly in several other locations within Birmingham. The main concerns relate to the summer months, the time of year when the beer garden is at its busiest and when residents of the proposed development are most likely to be using the outside amenity space at the apartments and having living room and bedroom windows open throughout the evening. Should the Council look to reduce the opening hours of the beer garden, as a result of future complaints, this would have a critical impact on the Pub's viability. With regards to the occasional events held in the beer garden, these are also extremely important to the ongoing viability of the business and help to generate new trade. Our own noise survey sets out a number of significant concerns with the noise assessment and the mitigation proposed.

Other concerns raised by the Prince of Wales PH are summarised as:

- Overbearing size and bland design does not make a positive contribution to the Conservation Area
- Lack of any interest, details or finesse in the design of the residential and retail frontage onto Alcester Road
- The scheme would result in over-development of a very constrained site
- Would result in parking problems and further exacerbate problems caused by a lack of on-street parking in the surrounding area.

Online petition "Help Save the Prince of Wales in Moseley" has had 18,512 signatures (as of 19th July 2016).

A petition of objection submitted by the Prince of Wales PH comprising of approximately 190 individually signed letters of three standard letter types.

- 4.15. Councillor Spencer - The policy context for this application has changed since the Moseley SPD was approved. Given that policies aim to enhance the viability and vitality of the centre and increase daytime economic activity, a mixed use development of this site with offices or a hotel at the upper levels would be a very suitable use of this site. Also very keen that the Applicant is compelled to ensure that any residential elements to the development do not have an adverse impact on the Prince of Wales pub. In the event that the developer is wedded to a residential development and the current design, permission should be granted on the condition that all windows are triple-glazed, with the whole building insulated to 300mm (Passivhaus standard), which will achieve the soundproofing whilst also lowering bills for the residents within. If possible, an amended design which has a solid wall to the north would help to mitigate such issues.
- 4.16. Moseley Society – Since this design was given approval there have been several significant changes in Moseley which alter the planning context for this proposal and which should have led to a major rethinking of the plans. These are the adoption of

the Moseley SPD 2014 - the aim to enhance the viability and vitality of the centre and increase daytime economic activity would be met by a mixed use development of this site with offices or a hotel at upper levels. Another significant change is the effect that the smoking ban has had on the operation of the Prince of Wales PH. A great deal of the Pub's trade is now dependent on use of the beer garden and plans should have been altered so as to minimise the possible conflict of interest between the users of the new site and the Pub. The plans are for a higher rear building than in previous proposals and wonder if overlooking of the police station has been considered. Concerned about the reduction in parking spaces although we note that many of the proposed flats are small and we appreciate the encouragement that will be given to residents to own cycles rather than cars.

4.17. Two letters of support received from local residents raising the following comments as summarised:

- Site as it stands is an eyesore
- More retail space would add to the growing vibrancy of Moseley
- Would bring much needed quality housing to the centre of Moseley

5. Policy Context

5.1. The following local policies are applicable:

- Birmingham Unitary Development Plan (UDP)
- Pre-Submission Birmingham Development Plan (BDP) 2031
- Moseley SPD
- Shopping and Local Centres SPD
- Car Parking Guidelines SPD
- Places for Living SPG
- Moseley Conservation Area Character Appraisal and Management Plan SPG
- Strategic Housing Land Availability Assessment Site (SHLAA) 2015 Ref.S383
- Affordable Housing SPG
- Public Open Space in New Residential Development SPD

5.2. The following national policies are applicable:

- National Planning Policy Framework (NPPF)

6. Planning Considerations

6.1. I consider the main planning issues to be assessed under this application are the principle of the proposed development; its siting, scale, appearance and impact upon Moseley Conservation Area; the adequacy of living conditions for future occupiers; the noise impacts associated with the proposal; the impact of the commercial use on the vitality and viability of Moseley Centre; planning obligations; and the impact of the proposal on the Police Station site.

Background and Principle

6.2. The National Planning Policy Framework (NPPF) confirms that there is a presumption in favour of sustainable development (Para. 14). Paragraph 17 promotes high quality design and a good standard of amenity for all existing and future occupants of land and buildings. It encourages the effective use of land by utilising brownfield sites and focusing development in locations that are sustainable and can make the fullest use of public transport, walking and cycling. The NPPF, at

Paragraphs 47-50, also seeks to boost housing supply and supports the delivery of a wide choice of high quality homes, with a mix of housing (particularly in terms of type/tenure) to create sustainable, inclusive and mixed communities.

- 6.3. Planning permission was granted by your Committee on the application site in 2007 under 2007/02961/PA for a retail unit at ground floor and 50 apartments on upper floors accommodated over two buildings. This consent was subsequently renewed in 2011 under an extension of time application 2010/04473/PA. The scheme as currently proposed is very similar to the two previously approved schemes on the site, with relatively minor modifications.
- 6.4. The Pre-Submission BDP identifies that a figure of around 51,800 dwellings needs to be found within Birmingham during the Plan period (ending 2031). The recent Inspector's Report into the BDP found that a five-year supply of housing land will be available when the Plan is adopted, and can be maintained. The figures for 2015-20 are a five-year requirement of 13,860 dwellings, and a deliverable five-year supply of 14,536 dwellings (5.2 years' supply). The application site is identified as a housing site within the Council's Strategic Housing Land Availability Assessment (SHLAA) 2015, and as such a site which could help meet the City's housing requirement over the Plan period. The site is also identified in the Moseley SPD (Paragraph 1.3.27) as being one of two significant housing sites in the area, which together with the other similar sized site, could accommodate around 102 housing units.
- 6.5. The Birmingham UDP supports a more sustainable pattern of development by re-using brownfield sites in suitable locations. The UDP requires that new housing developments should provide an appropriate environment (Paragraphs 5.20-5.20A), a suitable housing density and mix (Paragraph 5.40) and encourages a full range of housing types and sizes including those for people with disabilities and other specific needs (5.35 and 5.37). Paragraph 5.38 (and Policy TP29 of the Pre-Submission BDP) identifies that densities of at least 50 dwellings per hectare would be required in this location.
- 6.6. Policy TP26 of the Pre-Submission BDP explains that new housing in Birmingham is expected to contribute to making sustainable places. With respect to the location of new housing, Policy TP27 of the Pre-Submission BDP explains that proposals for new residential development should be located in low flood risk zones; be adequately serviced by existing or new infrastructure which should be in place before the new housing is provided; be accessible to jobs, shops and services by modes of transport other than the car; be capable of land remediation; be sympathetic to historic, cultural or natural assets; and not conflict with any other specific policies in the BDP.
- 6.7. Whilst I note the concerns of objectors that a more mixed use, with less residential on the site would be preferable, this is not what the Applicant is proposing and the application must be assessed on its own merits. This brownfield site has now been vacant for nine years and represents poor amenity and a wasted resource at the heart of the local centre. Therefore, as with previous consents, I consider a mixed use commercial and residential scheme on this highly sustainable site within Moseley Neighbourhood Centre would be acceptable in principle.

Siting, Scale, Appearance and Impact on Conservation Area

- 6.8. Chapter 7 of the NPPF focuses on good design as a key element of sustainable development. Paragraph 56 states: "The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable

development, is indivisible from good planning, and should contribute positively to making places better for people.” Paragraphs 3.14-3.14D of the Birmingham UDP, Policy PG3 of the Pre-Submission Birmingham Development Plan, and the Council’s Places for Living SPG, set out the good urban design principles that any new development should follow.

- 6.9. Paragraph 131 of the National Planning Policy Framework (NPPF) states that in determining planning applications, local planning authorities should take account of:
- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - The desirability of new development making a positive contribution to local character and distinctiveness
- 6.10. Paragraph 3.27 of the Birmingham UDP states “development should preserve or enhance the character or appearance of the Conservation Area” and “development should respect the character of the existing architecture, in scale, grouping and materials, and should generally reflect the character and appearance of the area”.
- 6.11. The Moseley SPD has a number of policies relating to design. Policy UD1 requires that all new development should enhance or improve the quality of the built environment. In the village centre, designs should enhance the predominantly Victorian/Edwardian street scene (UD3), particularly in respect of the scale and design of any new development (EA8). Policies UD2 and HE4 seek to ensure that any new development within the conservation areas and the Village centre respects their character and is of the highest design standard. Policy UD5 specifies that for new housing, building plots should reflect the typical form in the area, as should frontage width, depth, height and massing, and established building lines should be respected. The importance of vistas is also noted, where appropriate. Policy HE3 supports “new architectural styles and innovative design that bring unique qualities and integrate with the historic environment.”
- 6.12. Your Committee previously considered that the proposed development would be of a scale, siting and appearance in keeping with the surrounding area, and would enhance the character and appearance of Moseley Conservation Area. The City’s Conservation and Heritage Panel have also raised no objection to the proposal. I consider that this longstanding derelict site is currently a blight on the Conservation Area, and that the proposed development would enhance the character and appearance of the Conservation Area compared to its current state, and when compared to the previous unattractive building that occupied the site.
- 6.13. Whilst I note the concerns of objectors in terms of the height of the proposed building at five storeys, it would only appear slightly taller than the adjoining buildings and I consider it would not appear out of keeping or unusual in the context of natural height variation in the streetscene along Alcester Road. It would have a similar roof ridge height to the Prince of Wales Public House, and given the set back of both the proposed front building from the Public House and the top storey of the building from the floors below it would not detract from the setting or prominence of the Prince of Wales Public House as a Locally Listed building, ensuring that historic views of the side of this building are maintained within the street scene.
- 6.14. The design of the proposed development would be contemporary, contrasting with the Victorian facades of adjoining properties, yet still employing some architectural

techniques such as a traditional material palette (i.e. brickwork) and windows which provide a strong vertical emphasis to respect the local vernacular and Conservation Area status. The use of projecting window surrounds would add articulation and interest to the building facades. The City's Conservation Officer has raised no objection to the proposed development, but does recommend conditions be attached to any consent to ensure a high quality finish to the building e.g. materials, cross section drawings through facades, balcony detail, rainwater goods details, and brick bonding.

- 6.15. Whilst there will be views of the proposed rear building from Alcester Road and Woodbridge Road care has been taken to ensure that the proposed building does not disturb historic views through the Conservation Area. The development creates a clear definition between public and private realm, with the main street presence being from the frontage building. The parking has been designed to be out of view within the site ensuring that the site is not dominated by parking provision.
- 6.16. Paragraph 5.38 of the Birmingham UDP and TP29 of the Pre-Submission BDP both recommend a housing density of 50 dwellings per hectare in this location. Whilst the proposal is for a much higher density scheme of 270 dwellings per hectare, the UDP explains that "higher densities should not be confused with poorer quality development". Whilst I note the concerns of objectors that this would represent an over-development of the site I do not share this view. As with previous schemes I am satisfied that this scheme would be of good quality and therefore a higher density can be justified in this sustainable Neighbourhood Centre location which benefits from good public transport links and easy access to facilities.

Living Conditions

- 6.17. The proposed development would exceed the recommended bedroom sizes for first double bedrooms and single bedrooms (but not second double bedrooms) as set out in the Government's Nationally Described Space Standard document. However, 39 of the proposed apartments would fall short of the recommended apartment sizes set out in this document (generally between 3sqm-12sqm short). Two of these apartments, fourth floor one-bed apartments, would fall short by 16sqm and 20sqm respectively, but these are studio apartments with a single sleeping/kitchen/living area, rather than conventional apartments. In balancing out this shortfall, 7 of the apartments would meet or exceed recommended apartment sizes, four of these apartments exceeding the recommended size by 20sqm. The Nationally Described Space Standard document is not yet adopted planning policy in Birmingham and can only be used for indicative purposes. Given that an indicative furniture layout has been provided for each apartment which shows how internal space could be satisfactorily used, and that your Committee approved similar such sized apartments under the previous consents, I am satisfied that adequate living conditions for future occupiers would be provided.
- 6.18. Places for Living SPG recommends communal private amenity space provision in the order of 1380sqm for a development of 46 flats. Although the proposed development would only provide 556sqm of amenity space, and not all occupiers would have access to amenity space, this is often typical of higher density residential development within local centres and the application could not be justifiably refused on this basis.
- 6.19. Whilst the separation distance between the rear elevation of the front block and front elevation of the rear block is only 11.7m and would not meet the recommended separation distances as set out in Places for Living SPG (21m between building

faces), any prospective apartment purchaser will be aware of this and I do not consider it would adversely affect their privacy to such an extent as to warrant refusal of the application. A similar relationship existed on the previous consents.

- 6.20. Local objectors have noted that the apartments should have disabled access. These are issues that are most appropriately dealt with by Building Regulations.

Noise

- 6.21. Paragraph 123 of the NPPF states that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development, and that decisions should aim to mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions. It also explains that decisions should aim to recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.
- 6.22. The Prince of Wales, which immediately adjoins the site to the north, is a well-established public house and is popular, particularly during the summer months, in part, because of its large beer garden to the rear of the property. The Public House has been nominated as an Asset of Community Value and a decision on whether it is designated or not will be made in due course by the Council. It is central to many community events, including the Moseley Festival, Moseley Jazz Festival, Moseley Folk Festival and the Moseley Beer Festival. It is also home to the Prince of Wales Players.
- 6.23. Since the approval of Planning Application 2007/02961/PA the beer garden has grown in popularity and now accommodates rather substantial structures including an external bar and marquee. I note that planning permission was never obtained for these larger structures, but by virtue of them being in situ for more than four years enforcement action cannot be taken to remove them. This external bar facilitates the extensive use of the beer garden area, particularly during the summer months. The garden is a venue for watching events such as World Cup football and Rugby matches, when two large screens are used to provide entertainment for audiences of around 300 people. Live music is on occasion played within the beer garden.
- 6.24. The current licensed operating hours of the Public House are 10.00-23.30 Sundays to Thursdays and 10.00-01.00 (the next morning) on Fridays/Saturdays. In respect of the beer garden the licence requires that this is closed to patrons consuming alcohol and food at 23.30 and must be empty of patrons consuming alcohol and food by 00.00 hours.
- 6.25. The premises licence provides for live music Sunday to Thursday 1000-2300 and Friday to Saturday 1000-0000, but is at all times limited to 'indoors only'. The premises is not licensed for live music in the garden. However, the Public House will, on occasion, use a Temporary Events Notice (TEN) which enables the running of music, drama or other entertainment events within the beer garden. The premises may apply for up to 12 TENs per calendar year. Each TEN may cover a maximum of 21 days, but no more than 21 days can be covered for the premises in question within a calendar year.

- 6.26. The noise report originally submitted has been revised following discussions with Regulatory Services and the Prince of Wales' noise consultants. It was agreed that additional measurements were carried out over the period 12th-15th February 2016 to include a live amplified band event within the beer garden on a Friday evening, and Six Nations rugby matches on a Saturday afternoon and Sunday afternoon.
- 6.27. The noise report confirms that the general noise climate around the site is attributable to traffic flows on Alcester Road and other nearby roads (this was also found to be the dominant noise source within both the 2006 and 2010 noise reports for the site). The report confirms that noise from the Prince of Wales PH has a local effect upon the northern application site boundary during periods when the beer garden is in use, the measurement data indicating a noticeable increase in noise levels on the Friday, Saturday and Sunday when the beer garden was in use.
- 6.28. From the licensing restrictions and use pattern of the beer garden, there is no music or entertainment noise during the night time period for the greater part of the week and that extension of this activity beyond 23.00hrs occurs only on Friday/Saturday evenings, the two busiest evenings when it would be reasonable to expect that there would be other late evening activity in the vicinity of the site. Given the levels of traffic noise that occur across the site, it must be considered that this will provide a significant degree of masking for any noise that is generated by the public house and the police station site. With regard to the police station, there appears to be no significant noise generation given its low level use.
- 6.29. The noise report recommends that rooms overlooking Alcester Road should be fitted with glazing with a minimum manufacturer's rating of $R_w + C_{tr}$ 35dB; that living rooms to dwellings adjacent to the pub boundary be provided with window systems with a minimum manufacturer's rating of $R_w + C_{tr}$ 35dB; that bedrooms which directly overlook the beer garden be provided with external double glazed windows and internal secondary glazing to achieve a minimum rating of R_w 50dB; and that windows to all other habitable rooms throughout the development should have a minimum manufacturer's rating of R_w 33dB.
- 6.30. It recommends that all habitable rooms throughout the development should also be provided with trickle vents which when open, have a minimum rated sound reduction of $D_{n,e,W}$ 41dB for rooms overlooking Alcester Road, and $D_{n,e,W}$ 31dB for rooms on the eastern and southern elevations. For living rooms overlooking the Prince of Wales Public House, it recommends vents to living rooms and bedrooms should have ratings of $D_{n,e,W}$ 42dB and $D_{n,e,w}$ 46dB respectively. The report also recommends that these rooms be provided with mechanical ventilation to avoid the use of open windows during periods when the pub beer garden is in use.
- 6.31. In terms of the potential impact of noise on external amenity areas of the proposed development the noise report demonstrates how the provision of solid barrier fencing of a minimum of 2m in height along the northern façade line at first floor level to the central courtyard and rear amenity areas would achieve a noise reduction of at least 10dB to these residential seating areas. I consider details of such fencing could be submitted by way of condition, as could details of solid balustrading along the northern façade line to amenity areas at fourth floor also.
- 6.32. It is understood that there is no history of noise complaints from any of the existing residential properties adjacent to the Public House site relating to the use of the beer garden. Regulatory Services are satisfied with the results of the noise report and have raised no objection to the proposed development subject to conditions requiring the development to be in accordance with the measures set out in the

noise report, submission of a scheme of noise insulation between ground floor retail and first floor apartments, restriction on north facing windows within both the front and rear buildings being non-opening, mechanical ventilation on windows being restricted to a specified noise level, submission of a commissioning noise report, a restriction on cumulative noise from plant and machinery, submission of a detailed lighting scheme, a restriction on delivery hours to 0800-1800 Monday-Saturday, a and a restriction on opening hours to 0800-1900 Monday-Saturday and 1000-1600 on Sundays/Public Holidays.

- 6.33. Given the recommendation to attach a condition to any consent requiring submission of a commissioning noise report prior to the occupation of the proposed apartments in order to ensure that the noise mitigation measures proposed achieve the required noise reduction, I am satisfied that living conditions for future occupiers would not be demonstrably harmed by traffic noise and that the proposed development would be unlikely to generate noise complaints that would affect the viability of the Prince of Wales PH as a business. Therefore, I do not consider that the community benefits the Public House site provides would be adversely affected by the proposed development.

Traffic and Parking

- 6.34. Paragraph 32 of the NPPF explains that plans and decision should: take up opportunities for sustainable transport modes, that safe and suitable access to the site can be achieved for all people, and that improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. It goes on to explain that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.35. Although limited, parking options are available along the stretch of Alcester Road fronting the application site. During peak hours (Monday-Friday 07:45-09:15 and 16:30-18:45) parking is not permitted and between these periods it is limited to a one hour stay. Beyond this the parking areas are unrestricted. When compared to the previously approved scheme this application proposes four less apartments, and parking at the site has reduced from 47 spaces (94% parking provision) down to 32 spaces (70% parking provision). The Council's Car Parking Guidelines SPD recommends a maximum of 92 spaces for this location, and the proposed development with 32 spaces would therefore comply with the SPD.
- 6.36. Transportation Development have raised no objection to the proposal. They do not consider that traffic and parking demand generated by this development would be notably different to that of the previously approved schemes. Whilst they note that parking levels within the site would be reduced, they acknowledge that the site is within a local centre, served by very good public transport links. Whilst I note the concerns of objectors I concur that the scheme would not generate a material increase in level of traffic or material difference in parking availability in Moseley, particularly when compared to the previous office building on the site. The proposal would provide no parking provision for the commercial element of the scheme. However, this would have a relatively small floorspace and given the location of the site within an existing local centre I do not consider that lack of parking provision for this element of the scheme is a concern. With secure and sheltered cycle storage being offered at one cycle per apartment and located within the rear car park, it is hoped that a number of future residents would travel via this alternative mode. Those residents without allocated parking are less likely to consider owning a car, with parking options beyond the site being limited.

- 6.37. Servicing for the proposed commercial unit would take place on street, as with other commercial uses within Moseley. Similarly, whilst vehicle tracking has been detailed for a refuse vehicle servicing the residential units, the on-street option is also available with bin stores provided adjacent to the car park and within carry distance of the public highway. Transportation Development have requested that a condition be attached to any consent to ensure that the access into the site is constructed to City specification with redundant crossing reinstated with full height kerbs, under an appropriate agreement at the Applicant's expense. They are satisfied that the access would provide an adequate pedestrian visibility splay.

Commercial Use

- 6.38. The Applicant is proposing to accommodate a use falling within either Use Classes A1-A4, B1, D1 or D2 within the ground floor commercial unit, and this is in line with the Government's view on flexible uses. The application site is located within the Primary Shopping Area of Moseley Neighbourhood Centre, as identified in the Council's Shopping and Local Centres SPD. As of November 2015 the Council's own survey of the Centre showed that 50% of all ground floor units were in retail use (Use Class A1).
- 6.39. Policy 1 of the SPD (and Policy EA2 of the Moseley SPD) requires that 50% of all ground floor units in the Centre should be retained in A1 use and that applications for change of use out of A1 will normally be refused if approval would have led to these thresholds being lowered. If a new A1 retail was created this would create an improved balance between the types of uses within the Centre. On the other hand, if a non-retail use is created, it would decrease the percentage of retail use below the 50% threshold, but would still be policy compliant because Policy 1 is clear that this relates to loss or change of an *existing* retail use.
- 6.40. Policy 5 of the SPD encourages applications for new A3, A4 and A5 uses within the Centre boundary of Neighbourhood Centres, subject to avoiding an over-concentration or clustering of these uses that would lead to an adverse impact on residential amenity. Only 4 out of 17 of the units located within the frontage between Woodbridge Road and the local centre boundary (No. 94 Alcester Road) are within A3/A4/A5 uses and therefore I do not consider there would be an overconcentration or clustering effect of such uses which would lead to an adverse impact on residential amenity if a further A3 or A4 unit use was approved at the application site. I consider B1, D1 or D2 uses would be unlikely to have material adverse effects on such matters as local amenity and highway matters.

Planning Obligations

- 6.41. Paragraph 5.37B of the Birmingham UDP, Policy TP30 of the Pre-Submission BDP, and the Council's Affordable Housing SPG, all require 35% of the total residential accommodation to be affordable. Paragraph 50 of the NPPF explains that where LPAs have identified that affordable housing is needed, they should set policies of meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified...such policies should be sufficiently flexible to take account of changing market conditions over time. The 2007 application proposed that six of the 50 units were to be affordable (equating to £346,500 towards affordable housing). The current application proposes a £50,000 commuted sum to be spent on off-site affordable housing. The Applicant has explained that the main reason why they cannot provide a similar level of

contribution to that which was provided in 2007 is that during the intervening years build costs have risen rapidly, whilst sales values are not dissimilar to those in 2007.

- 6.42. The Applicant has submitted a Financial Appraisal, which has been independently assessed on behalf of the Council. The Appraisal explains that the consented scheme with six affordable housing units would be unviable reflecting a profit on cost of 12.97%. The Council's Viability Consultant concurs that the scheme would not be viable on this basis. The Appraisal shows that with a Section 106 contribution of £50,000 to be spent on off-site affordable housing, a profit on cost of 17.20% would be achieved. Having undertaken their own development appraisal, the Council's Viability Consultant advises, that a not dissimilar profit margin would be achieved. They conclude that the proposed Section 106 contribution of £50,000 would therefore be considered reasonable in order to make the scheme viable and represents an appropriate risk adjusted level of return. Given these findings, the Council's Housing Officer is also satisfied with the level of off-site affordable housing contribution proposed. If affordable housing were to be provided on-site rather than off-site it would equate to so few affordable units that the offer would be unattractive to providers (e.g. Registered Social Landlords).
- 6.43. Paragraph 5.20C of the Birmingham UDP, Policy TP9 of the Pre-Submission BDP, and the Council's Public Open Space in New Residential Development SPD, all state that on sites of over 20 dwellings or more, provision of new public open space will normally be required. Leisure Services, whilst raising no objection to the application have requested a Section 106 contribution of £113,200 to be spent on the provision, improvement and or maintenance of public open space and play facilities at Highbury Park, within the Moseley and Kings Heath Ward. Under the 2007 consent the previous Applicant did not propose to provide any public open space contribution. The Applicant has explained that they are unable to provide a contribution under this current application because this would make the development unviable. Given the levels of public open space in the locality and the greater need to provide an affordable housing contribution, I concur that such a contribution should not be sought in this particular instance.
- 6.44. Education have requested a financial contribution of £167,961 through a Section 106 Agreement to mitigate against the impact that the proposed development would have on the provision of places at local schools. However, no such contribution was provided under the 2007 consent, and I do not consider a contribution would be appropriate in this instance given any such contribution would impact on the level of affordable housing contribution. In addition there is less likelihood of families with children occupying the apartments.

Impact on Police Station Site

- 6.45. The application site is located adjacent to Woodbridge Road Police Station. There is an existing 4.5m high brick wall in very poor condition which defines the site boundary between the two, and which falls under the Applicant's ownership. The Applicant is proposing its demolition and erection of a replacement 3m high wall to be finished in facing brickwork.
- 6.46. The NPPF at Paragraph 156 advises that the strategic priorities for local planning authorities when Plan-making includes, 'the provision of health, security, community and cultural infrastructure...' The Moseley SPD confirms at Paragraph 1.0.7 that the Community's Vision includes it becoming a neighbourhood where people feel secure. The Police Station site is identified as an "employment use to be retained" within the SPD, although there are no specific policies relating to this.

- 6.47. West Midlands Police have objected to the application on the basis that the future use of this Station is under review and may result in it being used to accommodate additional officers and emergency vehicles stationed at, and accessing the site, in the future. They raise concerns that the proposed development could constrain the ability of the Police to respond to new initiatives/operations and could generate noise complaints raised by future residential occupiers which could subsequently prejudice the longstanding operational use of the adjoining police station site and potentially curtail future activities. They explain that with the inclusion of balconies and terraces on the development's east elevation, it would not be possible to introduce noise mitigation measures.
- 6.48. The Station site is currently a low key use, and whilst I accept that there is a possibility that the use of the site could intensify in the future, there is also an equal possibility that the use may remain the same or less, or that the site be sold. I do not consider that the proposed development would restrict or limit the intensity or operation of the Station site because a) the Station site is large in size and the majority of it is currently occupied by car parking areas rather than buildings - easily allowing for any future re-development/re-arrangement, and b) if noise were to emanate from the Police Station it is likely to be less than that generated by the Prince of Wales Public House for which, as has been discussed earlier, I am satisfied that the proposed development can be adequately mitigated against. I consider access to the Station site from the application site would actually be more secure under this proposal than is currently the situation were the site to remain long term vacant. This is because intruders would have to firstly gain access into and through the internal security of the proposed building and then secondly gain access onto a private residential terrace before scaling the new boundary wall. The new boundary wall would still achieve a higher level of security than the Station site achieves along its other boundaries to residential properties, typically defined by timber garden fencing.
- 6.49. West Midlands Police have objected on the basis that the proposed development would result in direct overlooking of the Police Station premises from the proposed apartments and that the security of the Station would be severely compromised by the proposed lowering of the existing boundary wall. Originally, plans showed that the proposed new boundary wall between the application site and Police Station site would be built 1.4m above the finished floor level of the first floor external terrace. However, plans have subsequently been submitted which show the new boundary wall increasing in height to 1.8m above the finished floor of the first floor external terrace. I am satisfied that this now prevents overlooking down into the Police Station site for a person of average height, and so adequately resolves the concerns raised by the Police.
- 6.50. Windows above first floor positioned on the rear façade of the proposed rear building would be located only 4.1m distant from the Police Station site. However, the edge of the Station site nearest the application site accommodates an access road, car parking and landscaped bed (the latter located immediately adjacent to the application site) – the two Police Station buildings are orientated on the site at right angles to the proposed development with their flank walls facing the application site. There is only one first floor window located on the flank wall of each Police building facing the site. Angles between windows between the two sites are oblique and at some distance. Whilst I note the concerns of the Police, I do not consider that issues of overlooking could be substantiated if this application were refused on those grounds.

- 6.51. West Midlands Police have also objected on the grounds that the proposed development would blight any future redevelopment of the Police Station site because the proposal relies on outlook and views from the Police's site over which it has no control. Whilst I appreciate the issue, there are no windows located immediately on the boundary and as previously discussed the Police site is a large site which affords space to achieve layouts which could respond positively to surrounding development. I do not consider the proposed development would place unreasonable constraints on possible future redevelopment of the Police site. Should the Police wish to develop their site in the future then this would be considered on its own merits through a formal planning process. Development at this site could not be refused on the basis that the Police may one day wish to further develop their site and there are no local or national planning policies that prevent residential premises being developed adjacent to police stations.

Other Matters

- 6.52. West Midlands Fire Service have raised no objection to the proposed development and a dry riser inlet is incorporated within the scheme at their request.
- 6.53. The Lead Local Flood Authority have requested further information in respect of sustainable drainage of the site and are satisfied that this can be achieved through conditions requiring submission of a revised sustainable drainage assessment and sustainable drainage operation and maintenance plan.
- 6.54. As with the previously approved schemes I am satisfied that the proposed development, by way of its building siting and orientation, has been designed to minimise overlooking of any commercial or habitable room windows at Nos. 128-132 Alcester Road. There are four units within the rear building that would front onto the rear elevation of the commercial premises at Nos. 128-132 Alcester Road. These units would achieve a minimum separation distance of 7m from the rear of these buildings. Whilst such a relationship is not ideal between buildings, I consider that there is sufficient merit in the scheme overall to support such a shortfall in separation distance.

7. Conclusion

- 7.1. I consider that the proposed development on this brownfield site would be of a siting, scale and appearance that would make a positive contribution to improving the streetscene along Alcester Road and enhancing the character and appearance of Moseley Conservation Area. The proposal would be sited close to good public transport links and local centre facilities. It would provide a mix of residential units that would assist in meeting the City's housing need and demand, and the commercial uses are acceptable at this in-centre location. The Applicant has demonstrated that future occupiers would not be materially affected by noise and disturbance from the adjacent Public House and therefore the important community functions of the Public House could continue without prejudice. Whilst the level of contribution received through planning obligations does not meet the recommended levels, the Applicant has been able to demonstrate that the scheme would otherwise not be viable.
- 7.2. Your Committee previously twice approved similar such schemes on this site and I do not consider any changes in planning policy in the intervening years has been so significant as to warrant reaching a different conclusion on the current scheme. I consider the proposal would constitute sustainable development and therefore I

recommend that planning permission is granted subject to completion of a Section 106 Agreement to secure an off-site affordable housing contribution.

8. Recommendation

8.1. I. That consideration of Application No. 2015/08695/PA be deferred pending the completion of a suitable Section 106 Legal Agreement to require:

a) A contribution of £50,000 (index linked to construction costs from the date of the committee resolution to the date on which payment is made) to be paid prior to the implementation of the approved development. The fund would be used to provide off site affordable housing.

b) Payment of a monitoring and administration fee associated with the legal agreement of £2953.

II. In the event of the above Section 106 Agreement not being completed to the satisfaction of the Local Planning Authority on or before 29th August 2016 planning permission be REFUSED for the following reason:-

a) In the absence of the financial contribution towards affordable housing the proposal would conflict with Paragraphs 5.37A-G of the Birmingham UDP 2005, Policy TP30 of the Pre-Submission Birmingham Development Plan, the Affordable Housing SPG, and the National Planning Policy Framework.

III. That the City Solicitor be authorised to prepare, seal and complete the appropriate Section 106 legal Agreement.

IV. In the event of the Section 106 legal Agreement being completed to the satisfaction of the Local Planning Authority on or before 29th August 2016 favourable consideration be given to Application Number 2015/08695/PA, subject to the conditions listed below;

1	Requires the scheme to be in accordance with the listed approved plans
2	Requires the prior submission of a sustainable drainage scheme
3	Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan
4	Requires the prior submission of sample materials
5	Requires the prior submission of boundary treatment details
6	Requires the prior submission of a lighting scheme
7	Requires the prior submission of sample panel brickwork
8	Requires the prior submission of cross section drawings through front facade
9	Requires the prior submission of details of balconies
10	Requires the prior submission of details of rainwater goods

-
- 11 Requires the prior submission and completion of works for highways agreement
 - 12 Requires the prior submission of plans detailing the mitigation measures set out in the noise report
 - 13 Limits the noise levels for Plant and Machinery
 - 14 Requires the prior submission of noise insulation between ground floor commercial and first floor residential
 - 15 Requires that north facing windows are non-opening
 - 16 Limits noise levels on mechanical ventilation of non-openable habitable room windows
 - 17 Requires the prior submission of a commissioning noise report
 - 18 Limits delivery time of goods to or from the site to 0800-1800 Mondays-Saturdays, and 1000-1600 hours on Sundays
 - 19 Limits the hours of use of ground floor commercial premises to 0800-1900 Mondays-Saturdays and 1000-1600 on Sundays/Bank Holidays.
 - 20 Limits the approval to 3 years (Full)
-

Case Officer: Andrew Conroy

Photo(s)

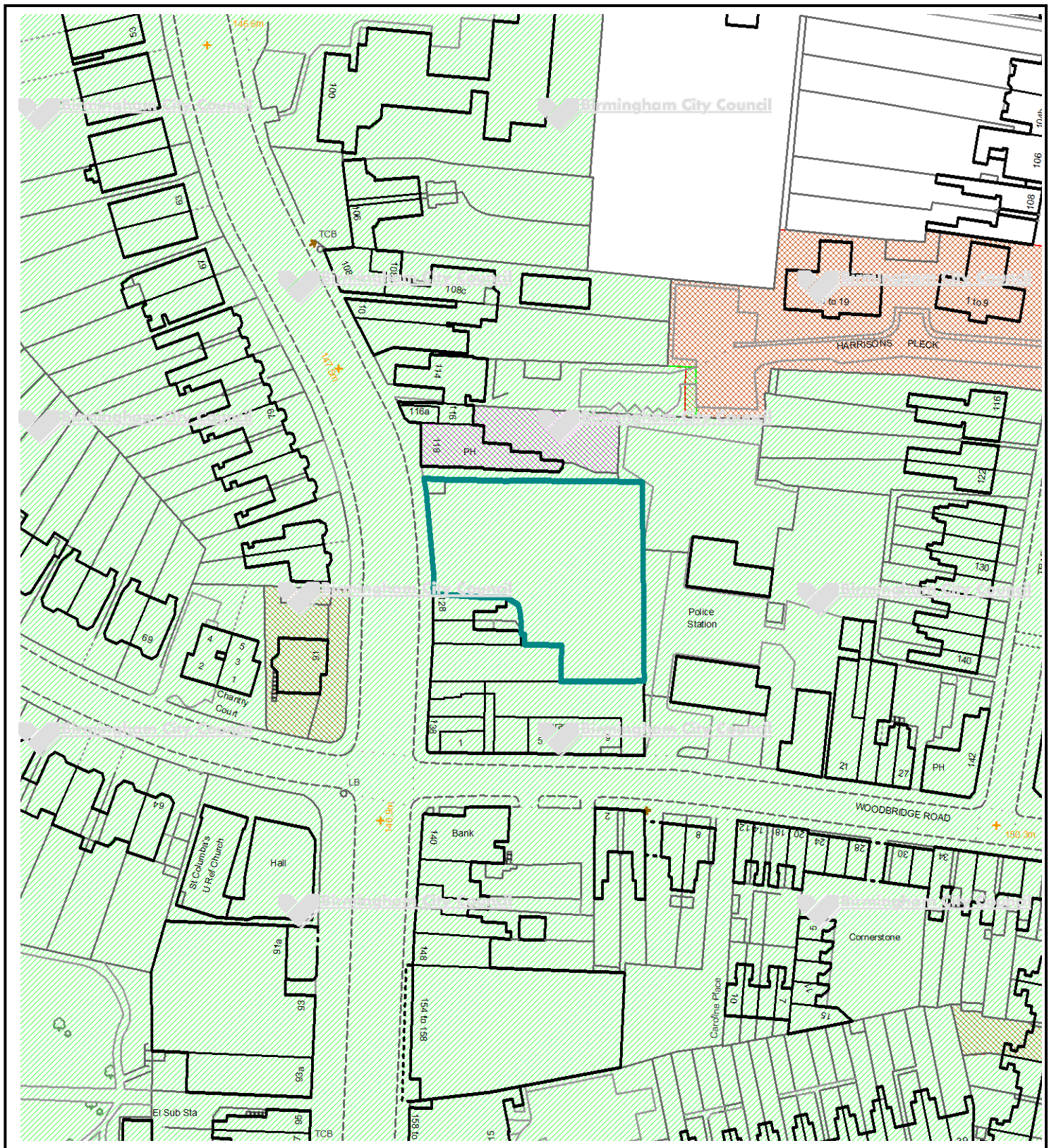


Figure 1 – Site viewed between Prince of Wales PH (left) and No. 128 Alcester Rd (right)



Figure 2 - Site viewed from Alcester Road looking east

Location Plan



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Committee Date:	18/08/2016	Application Number:	2016/04369/PA
Accepted:	03/06/2016	Application Type:	Full Planning
Target Date:	02/09/2016		
Ward:	Selly Oak		

St Andrews Healthcare, 70 Dogpool Lane, Stirchley, Birmingham, B30 2XR

Demolition of existing building and development of site with erection of 2 storey health care building and other work including new access; car parking; landscaping and ancillary development

Applicant:	St Andrews Healthcare c/o The Agent
Agent:	Turley 9 Colmore Row, City Centre, Birmingham, B3 2BJ,

Recommendation

Approve Subject To Conditions

1. Proposal

- 1.1. This application seeks consent for the development of new Class C2 healthcare building on land to the north east of the existing St Andrews Healthcare facility, along with the demolition of some existing buildings within the site on Dogpool Lane, Stirchley.
- 1.2. This full and detailed planning application follows recent outline approvals for healthcare facilities on this site, which are not now anticipated to be implemented, hence the new set of proposals.
- 1.3. The proposal would form an extension to the existing St Andrews facility and would provide specialist healthcare facilities designed to accommodate the specific operational requirements of patients with Huntington's disease and dementia patients.
- 1.4. The new building would be located centrally within the site, with its nearest element set back approximately 26m from the road. It would be predominantly two storeys in height above ground level with shallow pitched roofs to a total height of approximately 12.9m. Operational requirements would result in high floor to ceiling heights. It would have a total length across the site of approximately 113m and depth of 91m, however would be split into two distinct sections.
- 1.5. The new building would have a relatively simple, but modern design, with white rendered elevations and aluminium powder coated recessed windows and bays with contrasting render colours to provide interest. The front entrance to the Dogpool Lane elevation has been designed with high level glazing, with an entrance canopy to provide legibility. Internally, the visitor entrance would comprise of a double height

reception area, waiting room, small café with courtyard and shared staff and administration offices.

- 1.6. The building would provide 6 new patient wards arranged in three blocks off a central circulation spine, across the ground and first floor levels. This would provide 76 new bed spaces in total (48 beds, Huntington's disease and 28 beds for dementia care). The spaces between the blocks would provide a series of courtyards for use by patients, with access points at either end of the circulation spine. There would also be a number of ancillary staff offices, visitor facilities and operational facilities spread across both the ground and first floors.
- 1.7. A new vehicular access would be created off Dogpool Lane via a one way only entrance. This would be for use by staff and visitors. This would then exit onto the existing internal road, with egress taken via the existing two way access onto Dogpool Lane, which is to be retained.
- 1.8. The proposal includes the provision of 216 car parking spaces, the majority of which are provided through a basement car park (196 in total) accessed via a dedicated vehicular ramp between the two sections of the building. The remaining 20 car parking spaces would be located within the site to the Dogpool Lane frontage. The car parking proposed is for use by the whole site including the existing St Andrews facility.
- 1.9. The majority of the site falls within the floodplain of the River Rea (Flood Zone 2 and 3). It is proposed to effectively enclose this land to provide flooding attenuation. This would involve raising the site ground level by some 2m to create a plateau, protected from River Rea flooding by the creation of a bund across an area of undeveloped land to the south east of the site, linked to a new flood wall along the boundary with the Lemar Trading Estate to the north east, tying into the proposed new parapet wall at Dogpool Lane Bridge, and a further grassed bund along the eastern bank of the River Rea corridor to the rear of houses on Ashbrook Road. These flood defence works are being considered separately under planning application 2016/04625/PA, elsewhere on this agenda and are being funded by St Andrews Healthcare in conjunction with the Environment Agency.
- 1.10. Substantial new landscaping would be provided across the site, including new tree and shrub planting across the Dogpool Lane frontage. Each area of landscaping has been designed to have its own unique characteristics which are set out in the Landscape Strategy submitted.
- 1.11. The development would create 150 new full time jobs.
- 1.12. Site area is approximately 2.64 hectares; a total of 17,715sqm of new floorspace would be created.
- 1.13. The submission includes a Topographical Survey, Air Quality Assessment, Noise Assessment; Geo-environmental Report; Flood Risk Assessment; Sustainable Drainage Statement; Ecological Assessment; Transport Statement and Travel Plan, Landscape Strategy; Planning Statement and Design and Access Statement.
- 1.14. [Link to Documents](#)
2. Site & Surroundings

- 2.1. The application site relates to the existing, adjoining St Andrews mental health care facility to the south east of the application site.
- 2.2. The site is located within a built up mixed-use area containing residential terraced and semi-detached properties to the north of the site; a number of industrial units to the south west; and the Lemar Industrial estate to the north east. There is an agglomeration of local shops around the Pershore Road/Dogpool Lane/St Stephens Road junction. The New Dogpool Hotel public house, a locally listed building and prominent local landmark, is on the corner of St Stephens Road/Pershore Road opposite the existing St Andrews development.
- 2.3. The existing facility comprises two medium secure units, one enhanced low secure unit, three low secure units, and two rehabilitation and recovery facilities, giving a total of 128 beds (112 for men and 16 for women). The majority of the site is grassed over following its previous clearance as part of the derelict Ten Acres site.
- 2.4. The site is approximately 2.64 hectares including 0.4 hectares of land designated as flood plain amenity land. It is bordered to the south and east by the River Rea and its associated linear open space walkway. The river corridor is densely vegetated in places. Two footpaths/cycle paths follow the line of the River Rea on each bank. The area surrounding the River Rea is designated as a Site of Local Importance for Nature Conservation (SLINC) and is a Wildlife Corridor.
- 2.5. The site is accessed from Dogpool Lane, which forms the northern boundary of the site.

[Location map](#)

3. Planning History

- 3.1. 26/11/2015 – 2015/07356/PA Outline application for class C2 and D1 Health care development (maximum 18,280 sqm Gross Internal Area) (including demolition of some existing buildings), with associated parking and external works, including flood defence works. All matters reserved. Approved subject to conditions.
- 3.2. 23/11/2012 – 2012/06034/PA Outline application for class C2 and D1 Health care development, (including demolition of some existing buildings) with associated parking and external works, including flood defence works. All matters reserved. Approved subject to conditions.
- 3.3. 28/06/2010 - 2010/02312/PA Erection of boundary wall. Refused due impact on surrounding streetscene.
- 3.4. 02/03/2007 – 2006/07518/PA Excavation of near surface obstructions/ground slabs, replacement of topsoil, subsoil materials to restore site to original ground level and grass seeding on site. Approved subject to conditions.
- 3.5. 09/10/2006 – 2006/04354/PA Reserved matters application for detailed siting, design, appearance, access and landscaping, in connection with the erection of class C2 and D1 health care buildings, pursuant to outline permission S/00644/04/OUT. Approved subject to conditions.
- 3.6. 13/05/2004 – 2004/00644/PA Outline application for the construction of class C2 and D1 health care buildings. Approved subject conditions.

- 3.7. 26/02/2004 – 2006/05287/PA Variation of condition C1 of permission 2000/04725/PA to extend the period for the submission of reserved matters for three years to (renewal of earlier outline planning permission for industrial development). Approved with conditions.
- 3.8. 23/08/2001 – 2001/02626/PA Outline application for the construction of new health care buildings to provide mental health inpatient/community and primary health care with associated car parking. Approved subject to conditions.
- 3.9. Also relevant to this application;
2016/04625/PA The construction of a flood defence wall, flood defence bund, incorporating a realigned cycle path and maintenance access ramp, along with a realigned section of the River Rea and landscaping scheme at Selly Park South. Being considered elsewhere on this agenda.
4. Consultation/PP Responses
 - 4.1. Regulatory Services – No objection, subject to conditions to control noise levels from plant and machinery and for the provision of electric car charging points.
 - 4.2. Lead Local Flood Authority (LLFA) – Overall, the LLFA are content with the current proposal and suggest conditions are added to allow the development to progress to the next stage.
 - 4.3. Transportation Development – No objection subject to conditions in respect of cycle parking, provision of a travel plan co-ordinator, construction management plan, vehicular visibility splays and S278 agreement.
 - 4.4. Environment Agency – No objection subject to an appropriate condition to ensure works are undertaken in accordance with mitigation measures set out in the submitted Flood Risk Assessment.
 - 4.5. Severn Trent – Advise that there is a public sewer located within the application site which may not be built close to, directly over or be diverted without consent; however there are no objections to the proposal subject to suitable drainage condition.
 - 4.6. West Midlands Fire Service – No objection.
 - 4.7. West Midlands Police – No objection, recommended the proposed is developed to enhanced security standards set by Police Crime Reduction initiative 'Secured by Design'.
 - 4.8. Letters of notification have also been sent to surrounding occupiers; local residents associations; Selly Oak Councillors and the MP for Selly Oak. A site and press notice has also been posted.
 - 4.9. The Selly Park Neighbourhood Forum - Welcome the application, as a community we have had very good relations with the applicants and appreciate their help with flooding and other situations that have arisen locally. The plans take consideration of anticipated pressures on the environment, traffic and other issues arising from such a significant building and its staff, occupants and services. We have been minimally affected by the present buildings and expect that St Andrews will continue in a good relationship during the new development, building & occupation of this second phase.

4.10. In addition a further letter in support of the application has been received from a local occupier, their reasons for supporting the application are as follows;

- The development will help to facilitate the creation of the proposed Selly Park South Flood Management Scheme.
- The proposed buildings have been well designed and will further improve the local built urban environment.
- It will provide much needed local care and treatment.
- It will provide increased local employment opportunities in a range of specialised and less specialised jobs.
- The site is well placed in terms of public transport routes along the Pershore Road corridor.
- It will utilise currently unused brownfield land and replace an existing building with a much more attractive development.
- St Andrews Healthcare, have proved to be a very good neighbour, supporting the local community.

4.11. A further letter of comment from a local resident states that plans were not available to view online due to a technical issue and the consultation period should be extended. I have investigated the matter and found no technical issues with the plans available on the Council's website. Notwithstanding this, any comments made beyond statutory 21day consultation period would still have been taken into account.

5. Policy Context

5.1. The following local policies are relevant.

- The Birmingham Unitary Development Plan (2005)
- Pre Submission Birmingham Development Plan
- Stirchley Framework SPD (2016)
- SPD: Proposals Involving the Loss of Industrial Land to Alternative Uses (2006).
- SPG: Places for All (2001)
- SPG: Specific Needs Residential Uses (1992)
- SPD: Car Parking Guidelines (2012)

5.2. The following national policy is relevant

- The National Planning Policy Framework (2012)

6. Planning Considerations

6.1. **Policy**

National Policy - The National Planning Policy Framework includes a presumption in favour of sustainable development, requiring consideration of economic, social and environmental matters. It encourages the re-use of previously developed land, requires that full advantage should be taken of sustainable locations (with access to public transport, walking and cycling) and refers to the promotion of a wide choice of high quality homes, and the need for high quality design.

6.2. Local Policy - The UDP encourages the redevelopment of previously developed sites. Paragraphs 2.14a and 2.14b state that the Council will offer particular support

to the Health Authority, Hospital Trusts, Primary Health Care Groups and others, where there is a need for new facilities such as a new hospital or health centre. Support will also be given for specific initiatives such as delivering Healthy Living Centres and implementing local Primary Health Care Group strategies. Paragraph 2.14c states that 'Developments which contribute to creating a healthier environment will be encouraged'.

- 6.3. Policy TP36 of the Draft Birmingham Development Plan also states that proposals for the development of new and the improvement of existing health care infrastructure required to support Birmingham's growing population will in general be promoted.
- 6.4. Policies 3.14 A-E of the UDP relate to the design of new development, the key principles for consideration being:
 - impact on local character,
 - scale and design of new buildings and spaces (to respect the surrounding area),
 - the need for free, easy and safe movement, and importance of links,
 - the encouragement of mixed uses in centres and areas where they can contribute towards meeting an identified local need,
 - creation of safe, pleasant and legible places,
 - the requirement for integral landscaping,
 - Retention of trees and new tree planting.
- 6.5. Policy 3.16A emphasises the importance of landscaping and provides a commitment to tree protection.
- 6.6. Policy 4.31 seeks to resist the loss of existing industrial land to ensure that a suitable portfolio of employment land covering different qualities is maintained, unless the site is a non-confirming use. This approach is further supported within the Supplementary Planning Document: Loss of Industrial Land to Alternative uses.
- 6.7. Policies 8.28 and 8.29 relate to residential care homes. Consideration is to be given to impact on residential amenity, cumulative impact, impact on the safety and free-flow of traffic in the adjoining highway, adequacy of access/parking provision, and provision of outdoor amenity space.
- 6.8. Specific Needs Residential Uses SPG includes guidance on assessing proposals for residential care and nursing homes and reflects the considerations contained in policies 8.28 and 8.29 of the UDP.
- 6.9. 'Places for Living' SPG encourages good quality accommodation in attractive environments. It contains a series of urban design principles and makes reference to minimum design and amenity standards. Particular emphasis is given to assessing context and responding positively to local character.
- 6.10. 'Places for All' SPG also emphasises the importance of good design, high quality environments, again with an emphasis on context.
- 6.11. **Principle of Use**

The majority of the application site is allocated within the UDP under Policy I67 as a site for industrial development within the good urban category.

- 6.12. Notwithstanding this, planning permission was granted in 2001 for 0.8ha of the site to be used for a new mental health care facility and a further outline application to allow the current St Andrews facility on a site of 1.9ha to be developed was approved in 2004. It was accepted at the time that whilst the erection of healthcare buildings was contrary to UDP policy in respect to land allocation, the proposal was acceptable as a local community use which would generate employment. I consider that the same principle would apply here. Notwithstanding Policy I67 and related UDP employment policies, it is considered that the development of a new healthcare building would be a compatible employment generating use that can, within a short period of time, provide local and City wide economic and community benefits. This proposed Phase II of the St Andrews Healthcare facility is of the same nature as the Phase I development previously supported by the Council, and would provide a further substantial amount of health care related jobs for Birmingham which would promote economic growth in accordance with national planning policy. It is noted that two previous outline applications for healthcare development on this site were approved in November 2012 and November 2015. In addition the recently adopted Stinchley SPD supports the growth and expansion of the healthcare provisions here.
- 6.13. Beyond employment land policy considerations, St. Andrew's Birmingham is a registered charitable health care provider with an established successful operation within the City, with an identified need to expand to provide additional facilities for men and women. This development would help achieve a greater level of local care and would accord with the provision of policies 2.14A-C of the UDP and will help the City achieve an improved healthier environment.
- 6.14. The application site is previously developed land located on the edge of a predominantly residential area, with good links to public transport and local services. It is considered that the economic benefits, the employment generation, the improved healthcare facility and positive impact to for the local community resulting from this development outweigh the loss of industrial land issue, and so the principle of the redevelopment of this site as a health care facility would therefore be acceptable.
- 6.15. **Design and Layout**
- UDP policy, Places for All and the NPPF seek a high standard of design that responds to its context and takes available opportunities to improve the character and quality of an area. The design and layout has been developed through a series of pre-application meetings with City Officers and in consultation with local residents and businesses.
- 6.16. The building would have a simple design, with predominantly white rendered elevations, to emulate the existing Phase I buildings. The overall mass of the building is broken with simple recessed bays and windows with a contrasting colour render, with feature windows provided too add interest and articulation. The front elevation onto Dogpool Lane contains a legible front entrance with a large glazed entrance and canopy feature. Courtyard areas between buildings would also accommodate soft and hard landscaping features and any required boundary features, or means of enclosure for defining external spaces.
- 6.17. The Design and Access Statement highlights the operational requirements associated with a facility of this nature and the implication of these in developing the design of the scheme. It sets out a rationale for the massing of the proposal, recognising that minimum height requirement for facilities such as this are required, therefore whilst being 2 storey structures, their intended use would result in buildings

equating to the height of 3 storey residential buildings. Careful treatment of the massing and of the materials selected has helped to create a scale in keeping with that of the surrounding area.

- 6.18. The Council's Urban Design officer has reviewed the proposal and is satisfied with overall design approach, noting this is a good scheme and an interesting building, a view with which I concur. It is considered, that the site could be comprehensively developed, to accommodate this scale and mix of care uses in a well laid-out and attractive setting. I consider that in the layout, massing and scale, the proposal responds well to its context, based on sound design principles, and is acceptable.

6.19. **Transportation and Highway Matters**

The current two way access into the existing site would be retained as existing. In addition, a new one way in-only entrance would be provided along the site frontage and would provide access to staff and visitor car parks, as well as the ambulance bay. This would then exit onto the existing site road. This is the only new access into the site swept path analysis has demonstrated that it would be suitable for ambulances and refuse vehicles.

- 6.20. Parking provision has been made in line with parking standards set out in 'Car Parking Guidelines SPD (2012)', with consideration of future proofing the site for when a possible new Phase 3 building may be built on the western area of the site, where current external parking is provided. The SPD suggests for hospitals a maximum of one space per two members of staff, plus one space per two beds. A visitor car park would be provided to the north of the building comprising 20 spaces a further 196 spaces would be provided within a basement car park, for use across the whole facility. Cycle and motor cycle parking would also be provided within the basement area.

- 6.21. The facility is well-located to encourage trips by sustainable modes. The site is located within walking distance of the nearby bus stops, with frequent services and 1km to Bournville Train Station. The site lies in very close proximity to National Cycle Route no. 5, the Rea Valley Millennium Route, and the Birmingham Greenway pedestrian route.

- 6.22. Your Transportation Development Officer concurs with the conclusion of the submitted Transport Assessment, which states that the development proposals adhere with policy guidance; the site being accessible and it being demonstrated that no material impact upon the operation, safety or environment of the local highway network would occur. The contents of the Travel Plan submitted are also noted and a condition for the development to adhere to this is recommended.

6.23. **Flood Risk**

A large portion of the application site is located within Flood Zones 2 and 3 of the River Rea on the indicative Environment Agency Flood Zone Map. The NPPF and accompanying Technical Guidance seek to direct new development to areas with the lowest probability of flooding through the application of a sequential approach. Only where there are no reasonably available sites in lower areas of flooding (Flood Zone 1 and 2), should the suitability of sites in Flood Zone 3 be considered. Development proposals in Flood Zone 3 should only be permitted if the Exceptions Test (where appropriate) is passed, where it needs to be shown that the development provides wider sustainability benefits and that it will be safe and will not increase flood risk elsewhere.

- 6.24. Sequential Test: A comprehensive search has previously been undertaken of potential redevelopment sites which has been scoped and agreed in consultation with City Council Officers. The search area for alternative sites was limited to a very local level on the basis that St. Andrews needs to be able to maximise the synergy between the existing and proposed care facilities. Each of the identified sites has been assessed in terms of its availability and suitability for the proposed development and in terms of its susceptibility to flood risk. Sites considered include
- Birmingham Battery Site, Off Harborne Lane.
 - Land bounded by Chapel Lane, Harborne Road and Bristol Road
 - The Dingle, between Bristol Road, Elliott Road and Selly Wharf
 - Selly Oak Industrial Estate, Elliott Road
 - Selly Oak Industrial Estate, Elliott Road
 - Selly Oak Hospital, Raddlebarn Road
 - Land at Raddlebarn Road
 - Land at Hazelwell Lane
 - Former Arvin Meritor, Fordhouse Lane
- 6.25. The results of this assessment confirmed that there are no other sites which are either suitable or available to the applicants, which would represent viable alternatives to the site currently under consideration.
- 6.26. Exception Test: Consideration of the Exception Test has to demonstrate that the proposal would contribute to achieving sustainable development by meeting the three identified dimensions stated within the NPPF through the creation of jobs and economic investment at the site and in the local areas; the provision of much needed health care facilities which will help achieve healthy communities and wider health objectives of the City Council; and the delivery of flood risk benefits to those currently at risk of flooding in the local area.
- 6.27. The assessment has demonstrated earlier in this report that the development would encourage economic investment, employment and provide much needed health care facilities. It is also noted that a flood defence concept that would provide the appropriate level of mitigation to allow the principle of development upon Flood Zone 3 is proposed under planning application 2016/04625/PA (also being considered on this agenda). The Flood Risk Assessment confirms that the Flood Defence Concept is predicated around the creation of a raised plateau (bund) across the undeveloped land to the south-east of the site; a new flood wall being installed along the boundary with the Lemar Trading Estate, tying in to the proposed new parapet wall at Dogpool Lane bridge and a further grassed bund along the eastern bank of the River Rea corridor behind the properties on Ashbrook Road. The detailed flood modelling associated with this mitigation demonstrates that development upon the new plateau would be at a level that would not put occupiers at risk and that the scheme in its entirety would create a better situation for the local area by either removing or reducing their property from risk of flooding.
- 6.28. It has been demonstrated through the accompanying Flood Risk Assessment that the proposed development can be accommodated safely without giving rise to increased flood risk, either to the site itself or to the surrounding area – outside of the immediately adjacent parkland which forms part of the flood defence scheme proposed under the sister application 2016/04625/PA.

- 6.29. The Environment Agency have confirmed that they have no objection to the proposal stating that the developer working in partnership with the EA and the Council will offer protection from flooding to residents on roads downstream of the site. The scheme would remove the developable area from the 1 in 1000 year flood event and would provide wider flood risk reduction benefits to the Selly Park South residential area. A condition to ensure development is carried out in accordance with the Flood Risk Assessment is recommended.
- 6.30. It is also considered necessary to attach a condition to require the Flood Defence scheme the subject of planning application 2016/04625/PA to be completed before this development is occupied.
- 6.31. **Ecology and Trees**
- The River Rea and adjoining land SLINC is located on the southern/eastern boundary of the site and may be affected by these works. The river corridor is also identified as a Wildlife Corridor in the Nature Conservation Strategy for Birmingham.
- 6.32. An Ecological Assessment has been completed. The site comprises a mosaic of habitats, mostly recently established following remediation works at the site a few years ago. The Council Ecologist notes these habitats are generally of limited ecological value although the balancing pond and associated ditch and grassland are of greater interest. The redevelopment of the site would result in the loss of these habitats. The proposal does however include the creation of new habitats as part of the flood mitigation works and other landscape planting.
- 6.33. Of the buildings proposed for demolition, the Ten Acres centre was assessed as having some potential for roosting bats, but no evidence was found. Foraging and commuting bats were however present. None of the site's trees were found to contain features which could be used by roosting bats.
- 6.34. The pond and ditch to the rear of the Ten Acres building are not considered likely to support great crested newts or other amphibians, due to their relative isolation from other suitable habitats and their recent construction. The river corridor provides suitable habitats for water vole, otter and kingfisher. Further surveys for these species are recommended within the ecological assessment.
- 6.35. Two invasive plant species, Japanese knotweed and Himalayan balsam, have been recorded on the site. As recommended in the ecology report, a mitigation strategy should be prepared to ensure these species are appropriately dealt with.
- 6.36. The Council's Planning Ecologist concludes that no significant protected species constraints have been identified, however, a number of good practice mitigation measures are recommended. A condition to require implementation of the various construction-phase mitigation measures recommended in the ecology report should be attached to any approval.
- 6.37. In order to facilitate the development, a number of trees on the site would need to be removed. All of the trees to be removed to facilitate the proposal have previously been assessed as being of low quality and value and their removal was agreed with previous consents. New planting within the site would be dealt with as part of an appropriate condition. A Landscape Strategy Report submitted with the application sets out a commitment for new planting across the site, which includes a significant amount of tree planting.

6.38. **Noise**

A noise assessment has been submitted with the application. The assessment concludes that, providing appropriate building fabric materials are used, the internal noise levels should be suitable for the proposed use. Where building services plant is proposed, noise limits are suggested that comply with Birmingham City Council's requirements. On this basis, it is considered that noise should not pose a material constraint to the proposed development.

- 6.39. Regulatory Services do however recommended a condition to ensure mitigation measures to ensure cumulative noise from plant and machinery would accord with BCC standards.

6.40. **Drainage**

Severn Trent has advised that there may be a public sewer within the application site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. An appropriate informative for the Applicant is recommended. Severn Trent have also confirmed that there is no objection to the proposal, subject to a condition to secure the approval of drainage plans for the disposal of foul and surface water.

- 6.41. In addition, the Lead Local Flood Authority (LLFA) confirms that they are happy with the current proposals noting that further information regarding discharge rates; connection points between existing site drainage and proposed drainage; proposed phasing regarding connection and the removal of the balancing pond; exceedance flow routes and operation and maintenance plans will need to be secured through an appropriate condition.

6.42. **Contaminated Land**

- 6.43. The Environment Agency note that the geo-environmental data available suggests that soil and groundwater contamination is not significant on this site and there is little potential impact on Controlled Water receptors. However hydrocarbon contamination is known to be present locally in groundwater and part of the site known as 'Ten Acres' has not been investigated as it was previously inaccessible. A site assessment and if necessary a remediation strategy is recommended to be secured through an appropriate condition.

- 6.44. Other matters: The Police requested the scheme be developed to Secured by Design standard. I do not consider this a necessity, but of course it could well be useful and so I will pass on the comments to the Applicant for their own consideration. Common with other stretches of the River Rea, there are mill-related archaeological remains that may affect the site. The Conservation Officer has therefore requested a watching brief condition, which I have attached.

7. **Conclusion**

- 7.1. I consider that the proposed re-development of this site, in a sustainable location, for Class C2 healthcare would be acceptable, bringing site and area regeneration, economic benefits, employment generation, improved healthcare facility and positive impacts for the local community. In addition, the local flooding situation would be improved.

- 7.2. The submission demonstrates that the proposals could be satisfactorily accommodated with no significant impact on the highway network, adjacent occupiers or the visual amenities of the surrounding area.
- 7.3. I consider that the proposed development would result in the creation of an attractive environment and that the development would sit comfortably within its surroundings and make a positive contribution to the streetscene along this key route into the City.
- 7.4. The proposal is therefore considered acceptable subject to the attached conditions.
8. Recommendation
- 8.1. Approve subject to conditions.

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| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Requires the implementation of the Flood Risk Assessment |
| 3 | Requires the prior submission of a contamination remediation scheme |
| 4 | Requires the prior submission of a contaminated land verification report |
| 5 | Requires the prior submission of a sustainable drainage scheme |
| 6 | Requires the prior submission of a drainage scheme |
| 7 | Requires the prior submission of a method statement for the removal of invasive weeds |
| 8 | Requires the submission prior to occupation of the properties of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan |
| 9 | Requires the implementation of the submitted ecological mitigation/enhancement plan |
| 10 | Limits the noise levels for Plant and Machinery |
| 11 | Requires the prior submission of hard and/or soft landscape details |
| 12 | Requires the prior submission of hard surfacing materials |
| 13 | Requires the prior submission of earthworks details |
| 14 | Requires the prior submission of boundary treatment details |
| 15 | Requires the prior submission of a landscape management plan |
| 16 | Requires the prior submission of a lighting scheme |
| 17 | Requires the prior submission of sample materials |
| 18 | Requires the prior submission of level details |
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| 19 | Requires the implementation of tree protection |
| 20 | Arboricultural Method Statement - Submission Required |
| 21 | Requires provision of charging points for electric vehicles. |
| 22 | Requires the prior submission of a commercial travel plan |
| 23 | Requires the prior submission of cycle storage details |
| 24 | Requires the prior submission and completion of works for the S278/TRO Agreement |
| 25 | Requires vehicular visibility splays to be provided |
| 26 | Requires the prior submission of investigation for archaeological observation and recording |
| 27 | Limits the approval to 3 years (Full) |
-

Case Officer: James Mead

Photo(s)

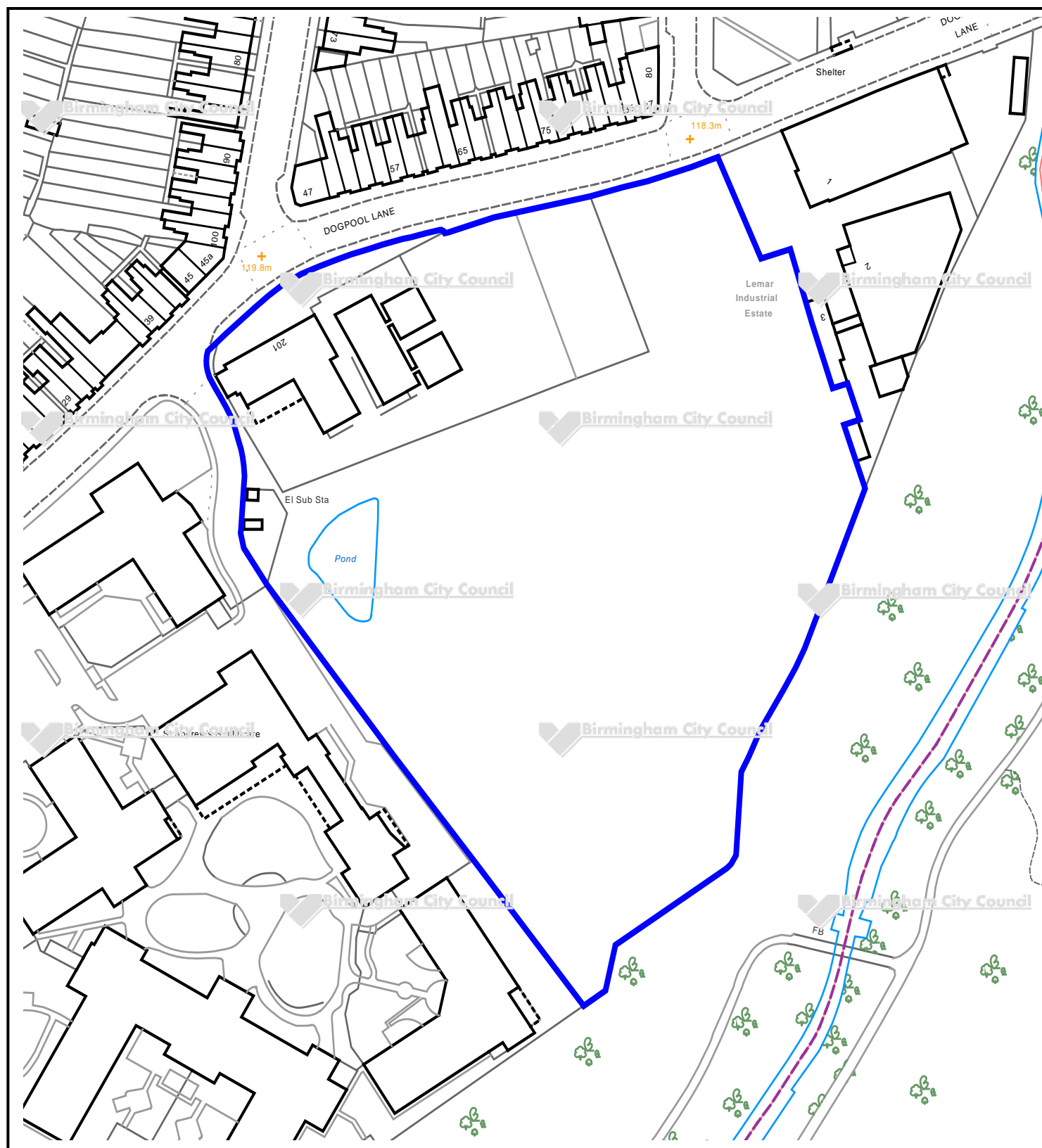


Photograph 1: Dogpool Lane frontage looking east.



Photograph 2: Existing building to be demolished

Location Plan



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Committee Date:	18/08/2016	Application Number:	2016/04625/PA
Accepted:	01/06/2016	Application Type:	Full Planning
Target Date:	31/08/2016		
Ward:	Selly Oak		

Land at the River Rea Corridor, Dogpool Lane, Stirchley, Birmingham, B30 2XR

The construction of a flood defence wall, flood defence bunds, incorporating a realigned cycle path and maintenance access ramp, along with a landscaping scheme at Selly South Park.

Applicant: Environment Agency
Sapphire East, 550 Streetbrook Road, Solihull, Birmingham, B91 1QT

Agent: Arcadis (UK) Ltd
Arcadis House, Fortran Road, St Mellons Business Park, Cardiff, CF3 0EY,

Recommendation

Approve Subject To Conditions

1. Proposal

1.1. The application seeks consent for the construction of a flood defence wall, flood defence bund, incorporating a re-aligned cycle path and maintenance access ramp, along with a re-aligned section of the River Rea and landscaping scheme at Selly Park South, off Dogpool Lane, Stirchley.

1.2. The key elements of the flood defence works are;

- Flood defence wall to be constructed to the rear of Lemar Industrial Estate to tie into a parapet wall at Dogpool Lane Bridge; it would be 116m in length and 2.5m high decreasing to 1.9m where it adjoins the embankment. A 40m section from the existing bridge would be brick built to match the existing wall. For the rest of its length it would be concrete clad with dense vegetation between it and the river channel. It would have a concrete capping along its length.
- Re-alignment of a cycle path which crosses through Selly Park South; it would be 3.8m wide with a grey asphalt surface to match the existing. Handrails of 1.4m in height along the length of the ramped part are to be provided.
- Creation of a flood defence bund to the rear of properties on Ashbrook Road and adjacent to Dogpool Lane; this would be a 333m long earth embankment with a grassed slope and 2.5m wide crest and would be 1.9m high at its highest point.
- Creation of a bund to carry the realigned cycle path over the flood defence bund;

- Creation of a flood defence bund from the end of the new flood defence wall at Lemar Industrial Estate across the rear of the St Andrew's Healthcare land tying into an existing retaining wall at high ground; this would be an earth embankment 127m in length, up to 1.7m high with a 2.5m wide crest
 - Landscaping proposals. Trees and vegetation would be retained in most locations to screen significant parts of the works. Where trees are removed, they are to be replaced with similar species.
 - The Applicant has also indicated construction access points and routes.
- 1.3. The Proposed Development also incorporates works which comprise 'permitted development' by virtue of The Town and Country Planning (General Permitted Development) (England) Order 2015. This includes;
- Increasing the height of the existing river wall located to the rear of properties on Cecil Road and Moor Green lane;
 - Re-alignment of a section of river channel to the rear of Lemar Industrial Estate;
 - Re-profiling of the river channel under Dogpool Lane Bridge;
 - Access routes and temporary compound.
- 1.4. The proposed development forms part of a wider scheme involving an extension to the existing facilities for St Andrews Healthcare located to the west of the application site. (Planning application 2016/04369/PA, elsewhere on this agenda). St Andrews are contributing towards the flood defence works that would provide the appropriate level of mitigation to allow development within the area.
- 1.5. The submission includes a Design and Access Statement; Planning Statement; Ecological Appraisal; Geo-Environmental Assessment Report; Water Framework Directive Compliance Assessment; Flood Risk Assessment and Landscaping Report
- 1.6. The area of the application site extends to approximately 15.75 hectares.

[Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site includes the southern section of Selly Park in Stirchley, and is bisected by the River Rea between Ashbrook Road and the Lemar Industrial Estate.
- 2.2. The application site is currently maintained as a park with some grassed areas for amenity and bound by residential properties to the east in the form of Ashbrook Road and the existing St Andrew's site and Lemar Industrial Estate is to the west
- 2.3. The park is owned by Birmingham City Council and includes a cycle way which is part of the Rea Valley National Cycle Route (Route 5) and a public footpath which goes through the park and links the park to Kings Norton to the south. Immediately to the north is Dogpool Lane and a number of residential streets.
- 2.4. The area surrounding the River Rea and forming part of the application site is designated as a Site of Local Importance for Nature Conservation (SLINC). The river corridor itself is identified as a Wildlife Corridor. However, there are no other statutory designations affecting the application site, or trees subject to Tree Preservation Orders.

- 2.5. The vast majority of the site lies within Flood Zone 2 and 3.

[Location map](#)

3. Planning History

- 3.1. 02/03/2007 – 2006/07518/PA Excavation of near surface obstructions/ground slabs, replacement of topsoil, subsoil materials to restore site to original ground level and grass seeding on site. Approved subject to conditions.
- 3.2. 23/11/2012 – 2012/06034/PA Outline application for class C2 and D1 Health care development, (including demolition of some existing buildings) with associated parking and external works, including flood defence works. All matters reserved. Approved subject to conditions.
- 3.3. 26/11/2015 – 2015/07356/PA Outline application for class C2 and D1 Health care development (maximum 18,280 sqm Gross Internal Area) (including demolition of some existing buildings), with associated parking and external works, including flood defence works. All matters reserved. Approved subject to conditions.
- 3.4. Also relevant to this application is;
- 3.5. 2016/04369/PA Demolition of existing building and development of site with erection of 2 storey health care building and other work including new access; car parking; landscaping and ancillary development. Being considered elsewhere on this agenda.
- 3.6. 2016/04450/PA A hybrid planning application consisting of: full planning permission for the construction of a flood risk management scheme on land off Harborne Lane and at Plot 6 on the Pebble Mill Medical Park, alteration of an existing and the provision of new highway access onto Pershore Road with outline permission for ancillary mixed use facilities on Plot 6 comprising student accommodation (Sui Generis) and food and drink facilities (A3/A4 & A3 with ancillary A5) and the construction of two pedestrian bridges. Awaiting determination.

4. Consultation/PP Responses

- 4.1. Regulatory Services – No objection.
- 4.2. Transportation Development – No objection.
- 4.3. Leisure Services - No objections. This scheme has been developed in close conjunction with colleagues in Parks Management who have been involved in the scheme from its outset. There would be a slight change to the land ownership boundary which currently runs down the middle of the river, the applicant will have to go through the proper legal process with BCC to regularise this. In terms of the ramp/ realigned cycle path this will need to be reinstated to BCC cycle route standards.
- 4.4. Lead Local Flood Authority (LLFA) - Consideration should be given to the potential to enhance the management of surface water in this area. The scheme should be completed and be operational prior to the occupation of the adjoining proposed development (St Andrews Healthcare).

- 4.5. Environment Agency – No objection subject to appropriate conditions regarding a method statement/construction environmental plan and land contamination report.
- 4.6. Canal and River Trust – No comments to make.
- 4.7. Severn Trent – Advise that there is a public sewer located within the application site which may not be built close to, directly over or be diverted without consent; however there are no objections to the proposal subject to suitable drainage condition.
- 4.8. Letters of notification have also been sent to surrounding occupiers; local residents associations; Selly Oak and Bournville Councillors and the MP for Selly Oak. A site and press notice has also been posted.
- 4.9. Three letters in support of the application have been received from surrounding occupiers and the Selly Park South Neighbourhood Forum. Comments made include;
- This will lead to the creation of the proposed and much-needed Selly Park South Flood Management Scheme (FRMS).
 - The FRMS as designed will successfully prevent further flooding of the neighbourhood.
 - Flood defence walls and bunds will prevent river water reaching Dogpool Lane, Fashoda Road, Cecil Road, lower Hobson Road and lower Kitchener Road.
 - Further SUDs at St Andrews site will further reduce the local threat of flooding.
 - The FRMS as designed will not have a negative visual effect on the location and surrounding area. It will not result in a loss of open recreation land.
 - Careful attention has been paid to safeguarding the local ecology.
 - Appreciation of measures taken by the city & the Environment Agency is given.

5. Policy Context

5.1. The following local policies are relevant.

- The Birmingham Unitary Development Plan (2005)
- Pre Submission Birmingham Development Plan (2031)
- SPD: Stirchley Framework (2016)
- Places for All SPG (2001),
- Nature Conservation Strategy for Birmingham SPG,

5.2. The following national policy is relevant

- The National Planning Policy Framework (2012)

6. Planning Considerations

Background

- 6.1. As part of the River Rea Catchment Partnership, the Environment Agency has carried out a significant amount of strategic assessment work throughout the River Rea catchment to identify the existing flood risk with an aim to develop sustainable flood risk management solutions. This work included modelling of mitigation options

at a strategic scale throughout the catchment. Selly Park South is the focus of this planning application and is an area that has suffered regular flooding in recent years. Key risk areas have been identified downstream of Dogpool Lane Bridge, along Fashoda Road, Cecil Road, Hobson Road and Kitchener Road.

- 6.2. A further application which includes flood defence works at Plot 6 Pebble Mill and Harborne Lane (Application 2016/04450/PA, awaiting determination) forms part of the wider strategic approach to dealing with flood risk in the Selly Park area. However, it is intended that the works the subject of this application could be implemented independently to address flooding issues in the immediate vicinity of the site.
- 6.3. The recently upgraded Dogpool Lane Bridge immediately to the north of the application site carries a main road across the River Rea. The Bridge was replaced in 2012 due to necessary highway modifications and with a future scheme in mind; the Bridge was designed to allow embankments/walls to tie in as part of any future flood defence works.
- 6.4. St Andrews Healthcare (see planning application 2016/04369/PA also on this agenda) is proposing an extension to their existing facility on land immediately to the west of the application site. As this development extends into Flood Zone 3, St Andrews are contributing towards a flood defence concept that would provide the appropriate level of mitigation in order that the principle of development within Flood Zone 3 can be accepted, whilst at the same time providing betterment to the local community through wider flood protection.
- 6.5. An initial assessment of high level options for the area has recommended that the preferred flood risk management option for Selly Park South should be linked to the proposed development of St. Andrews Healthcare, due to the potential for significant partnership funding contributions.
- 6.6. Accordingly, the proposals put forward would provide a flood alleviation scheme that would ensure that appropriate flood mitigation is in place to mitigate the impact of development within the floodplain and reduce the risk of flooding to residential and commercial properties in the wider area outside of the planning application boundary.

Policy

- 6.7. National Policy - The National Planning Policy Framework at paragraph 100-103 states that Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk and require a site-specific flood risk assessment to accompany relevant development proposals.
- 6.8. The Birmingham Unitary Development Plan – particularly paragraph 3.74, seeks the reduction of flood risk through a variety of measures.
- 6.9. Policies 3.14 A-E of the UDP relate to the design of new development, the key principles for consideration being:
 - impact on local character,
 - scale and design of new buildings and spaces (to respect the surrounding area),
 - the need for free, easy and safe movement, and importance of links,
 - creation of safe, pleasant and legible places,
 - the requirement for integral landscaping,

- retention of trees and new tree planting.

- 6.10. Policy 3.16A emphasises the importance of landscaping and provides a commitment to tree protection.
- 6.11. Draft Policies TP2 and TP6 of the Birmingham Development Plan (Pre-Submission Draft), which promotes adaptation to climate change, including managing flood risk, are also a material consideration of relevance.
- 6.12. In addition, Policies 4, 8 and 9 of the Birmingham Sustainable Management of Urban Rivers and Floodplains SPD are a material consideration. These policies seek a reduction (or at least no net gain) in surface water run off where possible as a result of new development, and seek the restoration and maintenance of the floodplain, and development that is appropriate to the relevant flood zone.

Flood Risk

- 6.13. Essentially, a flood defence concept has been designed that would provide the appropriate level of mitigation to allow the principle of development upon Flood Zones 2 and 3 for the adjacent St Andrews development, whilst providing additional mitigation for a wider residential area around the site. The Flood Risk Assessment confirms that the Flood Defence Concept is predicated around the creation of a raised plateau across the land in the south-eastern part of the St Andrew's site. A new flood wall installed along the boundary with the Lemar Trading Estate, tying in to the proposed wall at Dogpool Lane bridge, along with a further grassed bund on either side of the Rea. The detailed flood modelling associated with this mitigation demonstrates that the St Andrew's development upon the new plateau would be at a level that would not put occupiers at risk and that the scheme in its entirety would create a better situation for the local area by either removing or reducing their property from risk of flooding. The scheme would have a permanent major positive impact on reducing flood risk in the areas.

Visual Amenity

- 6.14. With regard to the visual impact of the proposed works, due to the largely suburban character of the surrounding area, the nature of the proposal alongside the river and within an existing park, I do not consider there would be any significant detrimental impact to the visual amenity of the area. The flood defences would largely be in the form of earth embankments, with crested tops for ease of maintenance and to reduce their overall height. The embankments would be sown with a grass seed mix to help provide a more naturalised appearance and to blend the scheme into its wider setting, as well as allowing general recreational use. The new defence wall would be brick and concrete clad with a concrete capping along its length. The brick clad section of the wall would span from Dogpool Lane Bridge towards the St Andrew's Healthcare boundary for approximately 40m, this stretch of brick cladding would tie into and match with the materials of the Bridge and is located where the vegetation would be sparse and therefore would be partially visible in the public realm, however would not cause any detrimental visual impact.
- 6.15. The existing cycle path is to be realigned over the earth embankment immediately to the east of the River corridor, connecting to the existing cycle path to the south and Dogpool Road to the north. The cycle path would be 3.8m wide, with a grey asphalt surface to match the existing. Handrails would be provided along the length of the ramped cycle path access, comprising black vertical bar handrails 1.4m above ground level. Officers from Leisure services raise not objection to these proposal,

noting that the scheme has been developed in close conjunction with colleagues in Parks management.

Landscaping

- 6.16. Trees and vegetation would be retained in most locations to screen the flood defence works. The layout of the scheme has been designed to retain as many trees as possible. However, where vegetation and trees are to be removed they would be replaced with similar species. None of the trees are protected and your Tree Officer has been consulted on the proposals. An appropriate landscaping condition is therefore recommended.

Ecology

- 6.17. The River Rea and adjoining land is part of a SLINC and could be affected by works to construct the proposed flood wall along the boundary with Lemar Industrial Estate. The river corridor is also identified as a Wildlife Corridor in the Nature Conservation Strategy for Birmingham.
- 6.18. An Ecological Assessment has been completed. The site comprises a mosaic of habitats, mostly recently established following remediation works at the site a few years ago. The Council Ecologist notes the applicants have been comprehensive in their undertaking ecological surveys and have set out best practice methods of working to minimise or eliminate environmental impact. A condition to ensure the scheme is implemented in accordance with the mitigation and enhancement suggested is recommended.

Drainage

- 6.19. Severn Trent has advised they have no objection to the application, however, note that there may be a public sewer within the application site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent.
- 6.20. In addition, the Lead Local Flood Authority (LLFA) confirms that as the scheme is led by the Environment Agency they have no further comments to make, however suggest that this scheme is completed before the occupation of the adjoining proposed development at St Andrews.

Land Contamination

- 6.21. The geo-environmental data available suggests that soil and groundwater contamination is not significant on this site and there is little potential impact on Controlled Water receptors. However hydrocarbon contamination is known to be present locally in groundwater and part of the site known as 'Ten Acres' has not been investigated as it was previously inaccessible. A site assessment and if necessary a remediation strategy is recommended to be secured through an appropriate condition.

7. Conclusion

- 7.1. The proposed development would fully accord with UDP policies and supplementary planning guidance. It would also be consistent with the objectives of national planning policy guidance.
- 7.2. The applicants have demonstrated through the submission of a detailed Environmental Statements and Flood Risk Assessment that the proposal would have no significant adverse environmental effects and the local flooding situation would be improved.

7.3. In conclusion, I recommend the application be approved, subject to conditions.

8. Recommendation

8.1. Approve subject to conditions.

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- | | |
|---|---|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Requires the implementation of the submitted mitigation/enhancement plan |
| 3 | Requires the prior submission of hard and/or soft landscape details |
| 4 | Requires the prior submission of hard surfacing materials |
| 5 | Requires the prior submission of earthworks details |
| 6 | Requires the prior submission of sample materials for the flood defence wall. |
| 7 | Requires the prior submission of a contamination remediation scheme |
| 8 | Requires the prior submission of a contaminated land verification report |
| 9 | Limits the approval to 3 years (Full) |
-

Case Officer: James Mead

Photo(s)

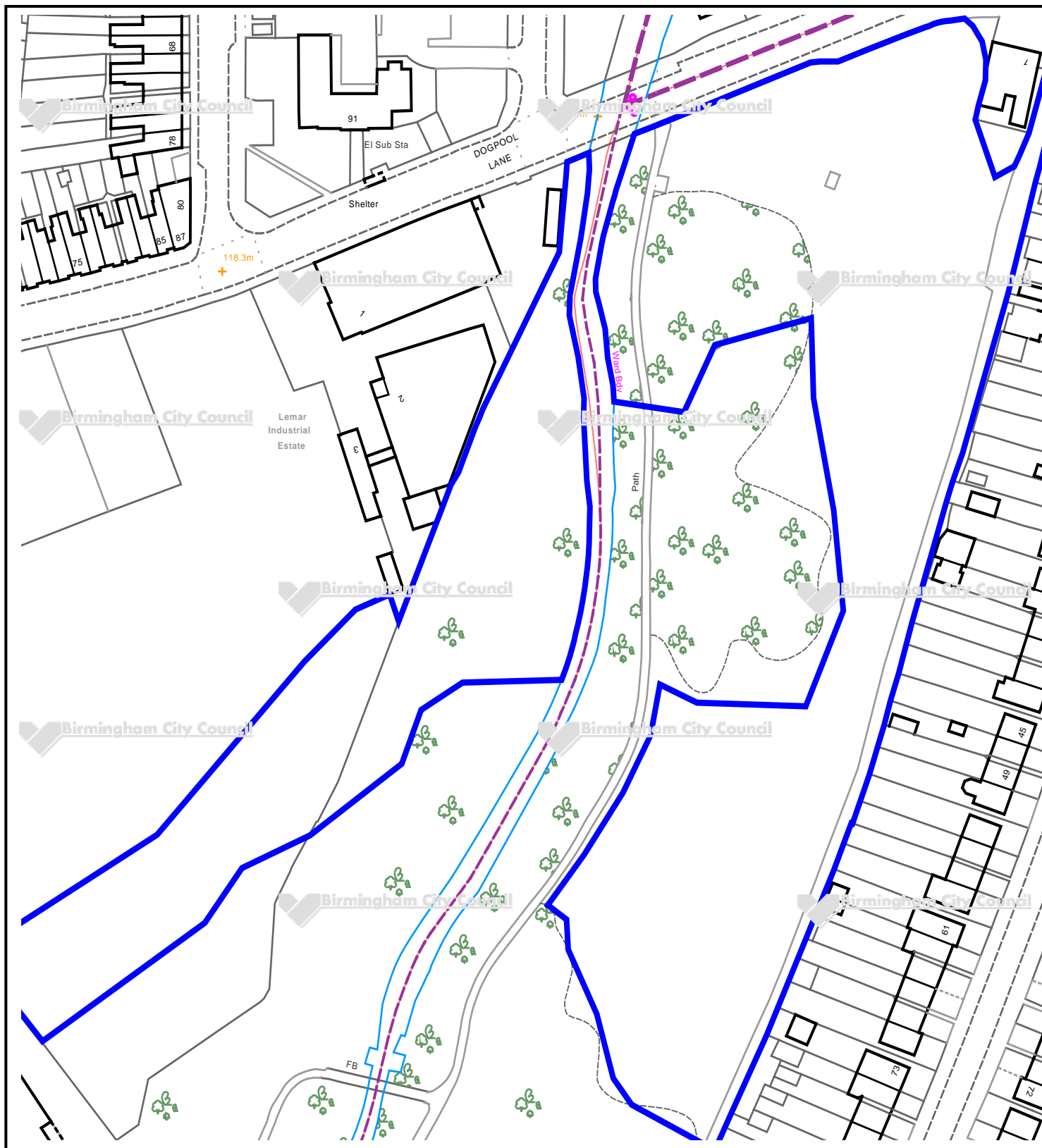


Photograph 1: View of eastern boundary with rear of properties on Ashbrook Road.



Photograph 2: View of western boundary with Lemar Industrial Estate.

Location Plan



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Committee Date:	18/08/2016	Application Number:	2016/04490/PA
Accepted:	25/05/2016	Application Type:	Outline
Target Date:	20/07/2016		
Ward:	Brandwood		

214 Alcester Road South, Kings Heath, Birmingham, B14 6DE

Outline planning application for 1 no. dwelling and garage with access and layout to be determined

Applicant: Mr John Walley
123 Little Sutton Road, Sutton Coldfield, Birmingham, B75 6PU
Agent: Timothy R Armstrong Architect
11 Cross In Hand Lane, Lichfield, Staffordshire, WS13 8EA,

Recommendation

Approve Subject To Conditions

1. Proposal

- 1.1. The application is for outline approval for the erection of a two storey detached dwelling with separate double garage to the rear of 214 Alcester Road South. The application is for all matters reserved apart from Access and Layout.
- 1.2. The proposed dwelling would occupy part of the rear garden of 214 Alcester Road South. It would face South East with two pedestrian access points from Livingstone Road and Fernwood Croft respectively.
- 1.3. The proposed dwelling would have a footprint of 84sqm and measure approximately 8.8m by 8.6m, with a 2m by 4m projecting front gable to the Livingstone Road frontage. It would be set back 9.4m from Livingstone road and 2.7m from Fernwood Croft.
- 1.4. The proposed double garage (measuring 6m x 6m) to the rear would be accessed using the existing gate off Fernwood Croft to the north of the site. This access would be shared with 214 Alcester Road South to provide access / egress to the rear garden.
- 1.5. The site area is 0.05ha in size and the density of development on the site is 22 dwellings per hectare.
- 1.6. This application does not attract a CIL contribution.

1.7. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site is to the rear of 214 Alcester Road South at the junction of Livingstone Road and Fernwood Croft within the existing garden boundary. The rear

/ side garden to 214 is largely grassed with a number of mature trees on the boundary of the curtilage. The boundary is defined by a close boarded fence.

- 2.2. No 214 is on a large, level, corner plot with Livingstone Road and backs on to Fernwood Croft. The plot has a similar depth to those further north on Alcester Road South but is considerably wider.
- 2.3. The surrounding area is predominantly residential with dwellings of various sizes and scales.

[Site Location Map](#)

3. Planning History

- 3.1. None

4. Consultation/PP Responses

- 4.1. Local residents, residents associations, Councillors and MP consulted. Advertised by Site notice.
 - 4.2. No comments received from the local councillors or MP.
 - 4.3. Ten letters of objection have been received from local residents raising the following comments
 - Concerns over the potential loss of mature trees
 - Concerns with “high density” housing and that once the principle of development is set that the number of plots could be increased.
 - Concerns with back garden development “Garden Grabbing”.
 - Increase in vehicular movements, increase in demand for on street parking causing problems for the residents of Fernwood Close including emergency access.
 - Concerns that the existing access onto Fernwood Croft has fallen into disuse over a number of years and that the road is too narrow to support its use.
 - Concerns of disruption and noise for existing residents during the construction of the property. Restricted access to rear for construction vehicles and safety concerns due to the width of Fernwood Close.
 - 4.4. West Midlands Police - no objection
 - 4.5. Severn Trent Water - no objection subject to drainage conditions.
 - 4.6. Transportation Development - no objection subject to conditions on access improvements
 - 4.7. Regulatory Services - no objection subject to conditions on noise insulation.
- ### 5. Policy Context
- 5.1. The following local policies are applicable

- The Birmingham Plan UDP (2005)
- Pre -Submission Birmingham Development Plan 2031 (BDP)
- Places for Living SPG
- Mature suburbs - guidelines to control residential intensification SPD (2008)

The Following National policies are applicable

- The National Planning Policy Framework (NPPF)

6. Planning Considerations

- 6.1. The planning considerations that would be relevant in this proposal are; the principle of development on this rear garden site, loss of amenity space, access, overlooking, privacy and impact on existing trees.
- 6.2. Rear Garden Development – The NPPF at paragraph 53 advises that Local Authorities can set out policies to resist inappropriate development of residential gardens. These policies have been set out in the UDP, Places for Living SPG, and the Mature Suburbs SPD. The UDP policies 3.10 and 3.14D-E, on the quality of the built environment and 3.19 on backland development, are of particular note as they both address this issue. Places for Living seeks to build on local character. While rear garden development is not common in the locality, the large size of the rear garden to 214 does not preclude subdivision. Also the site's dual aspect, fronting onto Livingstone Road and Fernwood Close, is more suitable for further residential development.
- 6.3. The Mature Suburbs SPD identifies a number of factors by which local character can be assessed. These are: built form, spatial composition, density, enclosure, degree of landscaping and the character of the public realm.
- 6.4. Built form / Spatial Composition – The built form of the area varies from large detached dwellings to smaller semi-detached and terraced dwellings and bungalows in various sized plots. The proposed dwelling would fall within the range of building footprints, plot sizes and plot shapes that exist in the immediate area locally and therefore would not be out of character. For example plot sizes vary between 160sqm and 1447sqm, and the proposed plot of 441sqm would fall within this range. The position of the proposed dwelling would also maintain the building line on the north side of Livingstone Road and would front the public realm.
- 6.5. Enclosure, degree of landscaping – while these are not possible to ascertain accurately from the detail provided, the proposal intends to retain the boundary trees and would therefore inherit a garden with mature planting, in keeping with the area. Any boundary treatment between the proposed development and No 214 and fronting the highway would be secured by condition to ensure a treatment in keeping with the area and to secure residents privacy.
- 6.6. Whilst No 214 has a large rear garden / plot (befitting a large corner property) and this has a positive contribution on the character of the surrounding area, I do not consider that subdivision in itself could form a substantive reason for refusal when in all other respects the proposal would comply with the policies in the Mature Suburbs SPD and the proposed dwelling would sit comfortably on the site and would be in keeping with the character of the surrounding area.
- 6.7. Loss of Amenity Space - The proposed new plot would occupy approximately 440sqm of the rear garden of 214. However, with a retained plot size in excess of 1,000sqm and a proposed rear amenity space of 470sqm for 214 Alcester Road

South this would be well in excess of the 70sqm for family accommodation set out in Places for Living. The proposed dwelling would have a private amenity space of 126sqm and would therefore also comply with policy.

- 6.8. Overlooking and privacy – The existing dwelling at 214 has an unusual configuration in that the primary frontages are on the East and South elevations; facing Alcester Road South and Livingstone Road respectively. The proposed dwelling would be situated 10.5m from the rear (West) elevation of No 214, while this is short of the 12.5m separation set out in Places for Living the West elevation (which would overlook the proposed dwelling) is at an angle to the proposed dwelling and is clearly subservient to the East and South Elevations. The West elevation has much smaller windows to the upper floor (one of them obscured) and only one ground floor window facing the rear; this is clearly a secondary window to the room on the South-West corner and is currently boarded over and partly obscured by a garden shed placed in front of it.
- 6.9. The side windows of the proposed dwelling could be secured as obscurely glazed and un-opening in planning conditions (at reserved matters stage) to prevent overlooking into the rear garden of No. 214.
- 6.10. Given the above I am satisfied that there would be no overlooking or loss of privacy to adjoining occupiers.
- 6.11. Trees - There are a number of mature trees on the rear and side boundary of no 214, including a mature Lime on the highway at the corner of Livingstone Road and Fernwood Croft, with a mixture of Laurel, Larch, Sycamore, Cherry and conifers identified on the supplied plans. These trees are located away from the proposed dwelling and garage and should not be adversely affected. The Applicant seeks to retain all but one of the trees, a Sycamore (T6) which could, acceptably, be affected by development. Other, large, deciduous trees along the Livingstone Road frontage (not identified on the plans) would be approximately 9m from the front of the proposed dwelling and while they would be fairly dominant and would cast shadows this would not be to an unreasonable degree. These trees (both on and off site) make a positive contribution to the public realm, therefore the loss of these trees (or others on site but not noted on the submitted plans) would not be encouraged and they would need to be retained in any future scheme, where possible.
- 6.12. Access – Three points of access are proposed; a pedestrian access off Livingstone Road and separate pedestrian and vehicular accesses of Fernwood Croft. These access arrangements would not be out of keeping with a corner plot. Care would need to be taken with the construction of any hard landscaping (paths etc) in order to minimise disturbance of the boundary trees but this could be secured by planning conditions.
- 6.13. Regulatory Services have requested a condition for noise attenuation to windows. However, given that the new dwelling would be sited and orientated away from the Alcester Road, and that Building Regulations secure a reasonable sound reduction anyway, I do not propose to attach such a condition.

7. Conclusion

- 7.1. I consider that the proposed development would make a positive contribution to the City's housing supply, it would be in keeping with the character of the surrounding area and would not have an adverse impact on the amenity of adjoining occupiers

and access is acceptable. As such I consider the proposal would constitute sustainable development and recommend that outline planning permission be granted.

8. Recommendation

8.1. Approve with conditions

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- | | |
|----|--|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Requires the prior submission of hard and/or soft landscape details |
| 3 | Requires the prior submission of boundary treatment details |
| 4 | Requires the prior submission of sample materials |
| 5 | Requires the prior submission of a sustainable drainage scheme |
| 6 | Requires pedestrian visibility splay to be provided |
| 7 | Arboricultural Method Statement - Submission Required |
| 8 | Requires the retention of trees during and after development |
| 9 | No-Dig Specification required |
| 10 | Requires the submission of reserved matter details following an outline approval |
| 11 | Limits the approval to 3 years (outline) |
-

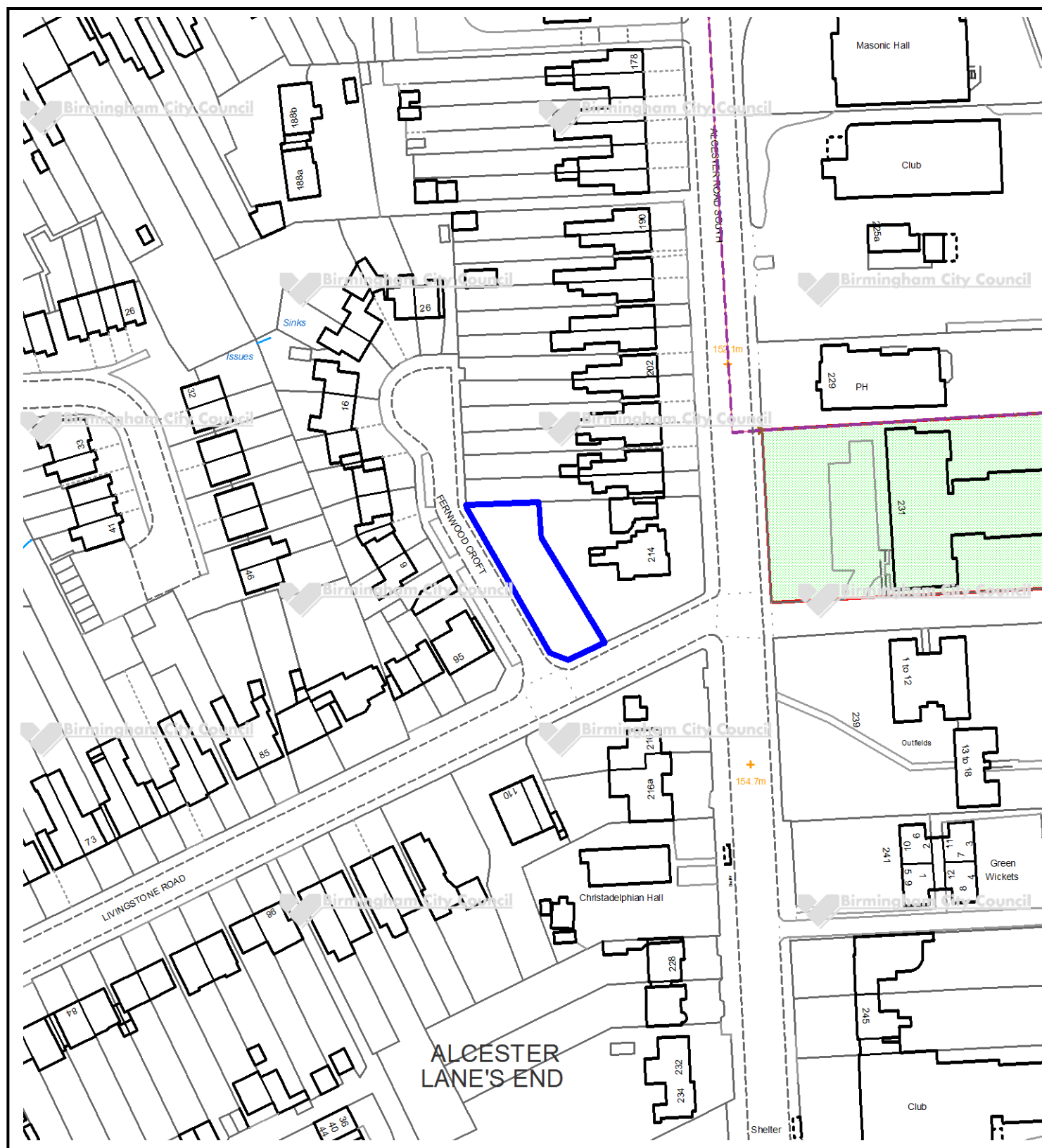
Case Officer: John Richardson

Photo(s)



Figure 1: Site from the south

Location Plan



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Committee Date:	18/08/2016	Application Number:	2016/03860/PA
Accepted:	03/06/2016	Application Type:	Full Planning
Target Date:	29/07/2016		
Ward:	Weoley		

56 Somerford Road, Birmingham, B29 5LP

Change of use of existing outbuilding into a dog grooming salon (Use Class Sui Generis).

Applicant: Ms Linda Cole
56 Somerford Road, Birmingham, B29 5LP
Agent:

Recommendation

Approve Subject To Conditions

1. Proposal

- 1.1. Consent is sought to change the use of a residential outbuilding within the rear garden of 56 Somerford to a dog grooming salon (Use Class Sui Generis).
- 1.2. No.56 Somerford Road is a residential dwelling and would remain as such. The outbuilding is sited within the rear garden, approximately 8m away from the rear elevation of the dwelling, adjacent to the boundary with No.54 Somerford Road. It measures 4m in length, 2m in width and has a maximum height of 2.5m with a shallow dual pitched roof. The outbuilding is constructed from wood panels and has windows in the north-eastern elevation.
- 1.3. Internally the outbuilding is currently vacant but proposes a bath/shower unit, a grooming table, and holding cages.
- 1.4. The proposed business would be operated by the applicant only on a part time basis, three days a week operating between 8am – 5pm on weekdays and 8am – 1pm on Saturdays. Only one customer would visit at a time and will accommodate up to 2 dogs at any one time, however, a maximum of 3 dogs could be on the premises if an owner is late to collect. No dogs are proposed to be kept in the salon overnight and dogs are to be kept in cages within the salon while awaiting collection.
- 1.5. Visitors to the salon will be by appointment only and will access the salon via the existing side gate. No advertisement signage is proposed.

[Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site comprises of a traditional styled end-terraced residential dwelling that has been extended with a modest single storey side extension. The

property has a modest rear amenity area that is set up from the building level by approximately 400mm and is enclosed by 1.8m high fencing along all boundaries. The rear garden is well maintained and contains two small wooden outbuildings and a green house. The larger of the two outbuildings is a new addition and is currently unoccupied awaiting the outcome of this application.

- 2.2. The neighbouring properties and the surrounding area is residential in nature. There are other outbuildings visible with the rear gardens of neighbouring gardens.

[Site Location](#)

3. Planning History

- 3.1. 30/04/2008 (2008/01638/PA) - Erection of single storey side extension – Approved subject to conditions.
- 3.2. 05/04/2016 (2016/02578/PA) – Enquiry regarding the conversion of a log cabin into a dog grooming parlour – Confirmed planning permission would be required.
- 3.3. 15/04/2016 (2016/03045/PA) - Pre-application advice for the erection of a shed to be used as a dog grooming parlour – Further information required.

4. Consultation/PP Responses

- 4.1. Councillor Douglas Osborn has requested the application be reported to Planning Committee.
- 4.2. Transportation – No objections subject to an appropriate condition to seek an increase in width of the existing footway crossing.
- 4.3. Regulatory services – No objections subject to a condition to restrict the hours of operation between 7am - 9pm Monday to Sunday.
- 4.4. Severn Trent – No objection subject to appropriate drainage condition (foul and surface water).
- 4.5. Neighbours, local ward Councillors, and residents associations notified and a Site Notice displayed. No objections have been received.

5. Policy Context

- 5.1. The following local policies are applicable:
 - Birmingham Unitary Development Plan (UDP) (2005).
 - Pre-Submission Birmingham Development Plan (2031).
- 5.2. The following national policies are applicable:
 - NPPF- Delivering Sustainable Development (2012).

6. Planning Considerations

- 6.1. The main considerations in the determination of this application are the impact of the proposal on visual amenity, residential amenity, and the impact on highway safety and parking.
- 6.2. *Policy:*
- 6.3. The NPPF seeks a presumption in favour of sustainable development (Para. 14) and promotes high quality design and a good standard of amenity for all existing and future occupants of land and buildings. It recognises (Para. 109) that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.
- 6.4. Policies 3.8 and 3.10 of the UDP recognises the need to protect and enhance what is good in the city's environment and improve what is less good; and states that proposals which would have an adverse impact on the quality of the environment will not normally be allowed.
- 6.5. *Visual Appearance:*
- 6.6. The proposed dog grooming salon within the rear garden of the residential garden conflicts from the overriding character and appearance of the surrounding area which comprises of traditional styled residential dwellings with private gardens. However, the outbuilding is modest in scale and does not form an overbearing dominant addition within the rear garden. Given that the proposed use does not propose any external alterations to be made I consider that the proposal would have no further impact than the existing situation and would have no detrimental impact on the visual amenity of the area.
- 6.7. *Residential amenities:*
- 6.8. The proposed change of use within a predominantly residential area could have a significant impact on adjacent residential amenities. However, the proposed noise and disturbance that could be associated with the proposed change of use to a dog grooming salon would be contained within daytime hours only. Furthermore, the site would only accommodate a small number of dogs at any one time. As such, I do not consider that the proposal would generate a significant noise impact that would be detrimental to the adjacent residential amenities. This is further supported by Regulatory Services who raise no objection to the proposed change of use.
- 6.9. I consider it would be appropriate to attach a condition to ensure that the salon is used within specified time restrictions, to protect the amenities of adjacent occupiers. Although the application proposes three days per week, I must consider the possibility of the Applicant seeking to extend the number of days. I do not consider that the same hours on three more weekdays would be unacceptable. I consider the hours (including Sundays) suggested by Regulatory Services to be somewhat too relaxed, instead I propose to follow the Applicant's times, albeit with a 9am start on Saturdays, as follows: 0800 - 1800 hours Monday to Friday, 0900 - 1300 hours Saturdays.
- 6.10. *Highway issues:*
- 6.11. The proposal would retain the existing parking provision to the front of the dwelling and a good level of unrestricted on street parking is offered should the need for

overspill parking be required. It is acknowledged by Transportation that the salon would not generate a significant increase in traffic or parking demand associated with the change of use than that of the residential dwelling. Therefore I do not consider that the proposed use would have any detrimental impact on the highway safety or parking provision as a result of the use. I do not consider that the proposed condition, recommended by Transportation, to seek the increase in width of the existing footway crossing is necessary in this instance.

6.12. *Drainage*

- 6.13. Severn Trent have requested a drainage condition, but neither foul water nor surface water run-off would appear to be affected by this proposal. I would not expect the cleaning products to be used would differ materially from those of normal domestic use, so I have not attached a drainage condition.

7. Conclusion

- 7.1. The proposed salon would not result in harm to visual amenities, residential amenities, highway safety, and accords with policy. As such, I consider that the proposal would constitute sustainable development and there are no reasons to refuse the application.

8. Recommendation

- 8.1. Approved subject to conditions.

-
- | | |
|---|--|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Limits the hours of use: 0800 - 1800 Monday to Friday, 0900 - 1300 Saturdays |
| 3 | Prevents the use of the garden as part of the dog grooming use |
| 4 | Doors and windows to remain shut (apart from gaining access to the building) |
| 5 | Maximum of three dogs |
| 6 | Limits the approval to 3 years (Full) |
-

Case Officer: Catherine Golightly

Photo(s)



Figure 1: Rear Garden – Proposed use would be in the first outbuilding to the left.



Figure 2: 56 Somerford Road Rear Elevation.



Figure 3: Boundary with 54 Somerford Road – Outbuilding on the right hand side.

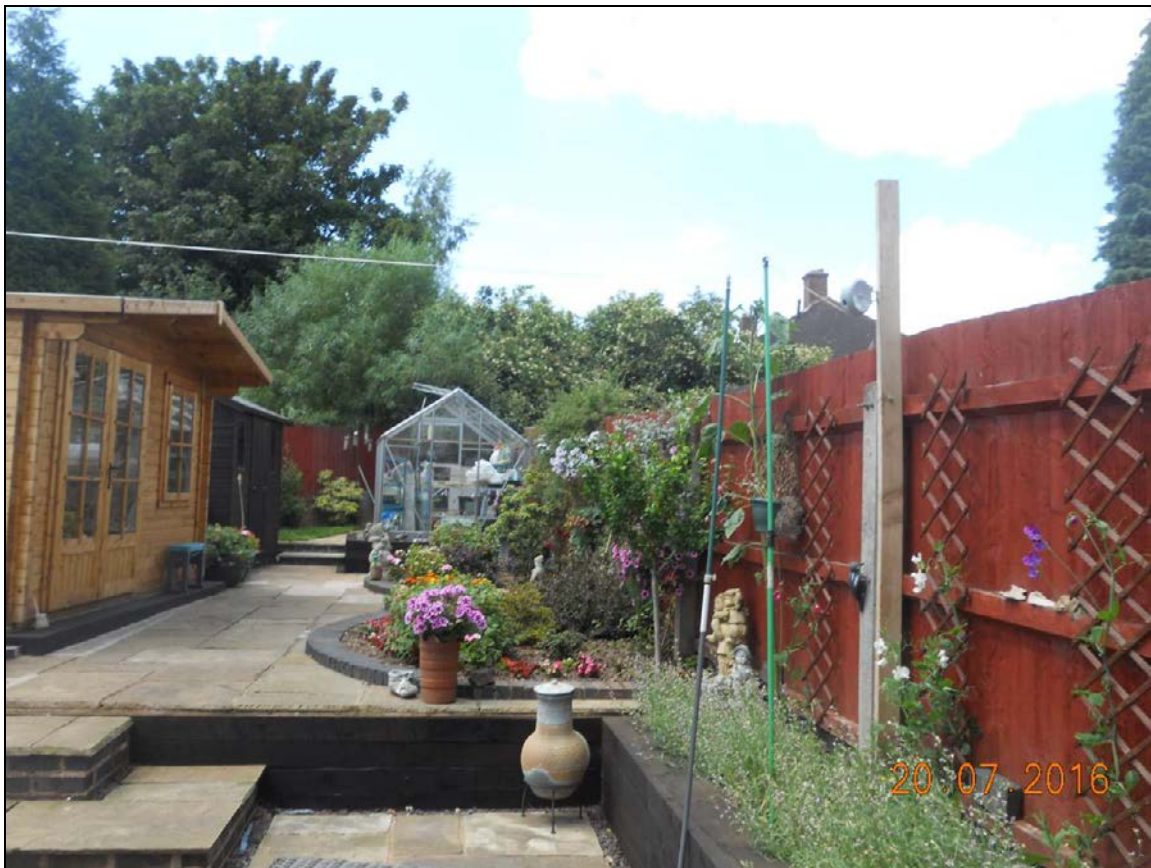
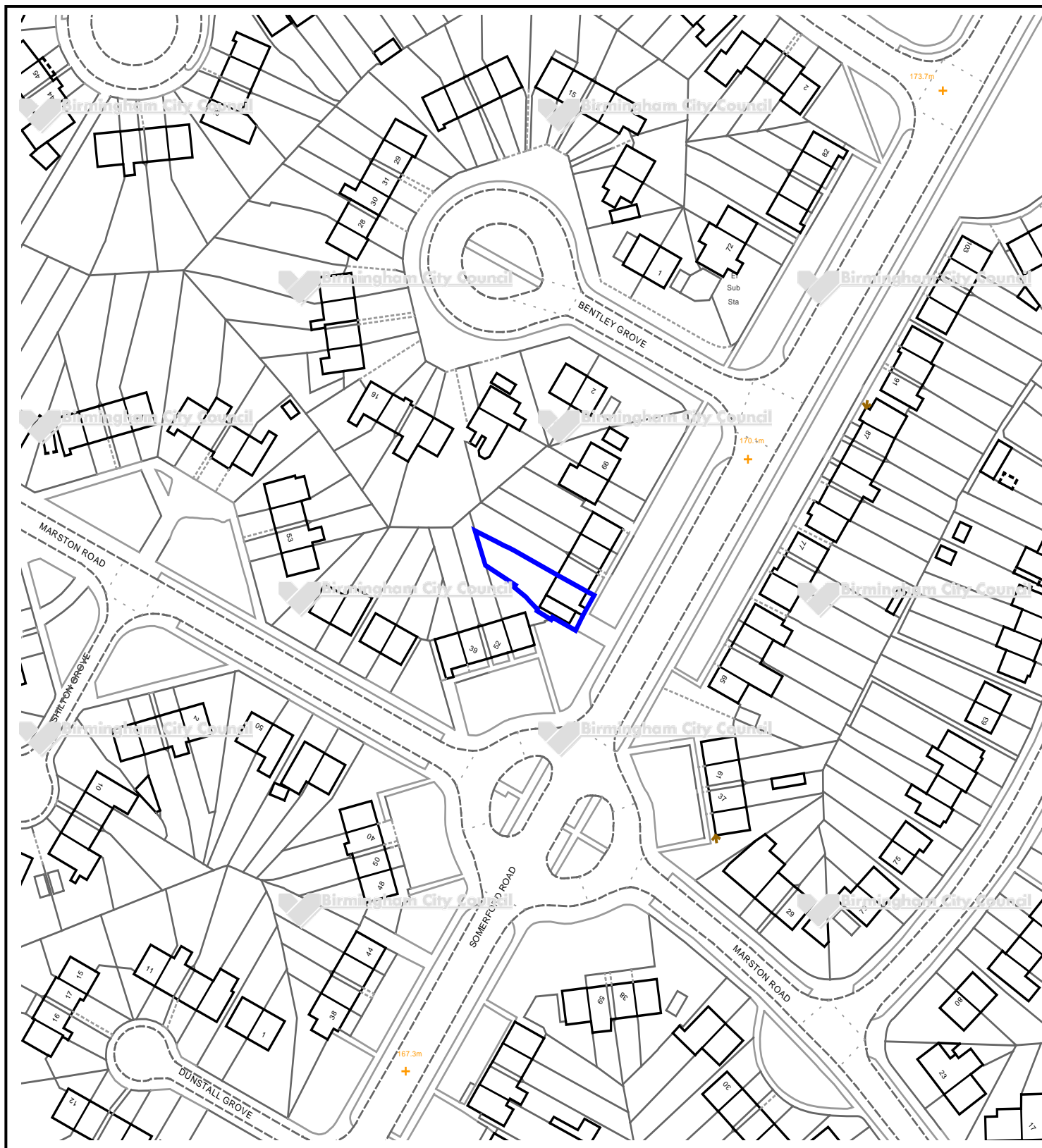


Figure 4: Boundary with 58 Somerford Road to the right, and outbuilding to the left.

Location Plan



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Birmingham City Council

Planning Committee

18 August 2016

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 - Conditions	15	2016/04149/PA 10-12 Barwick Street City Centre Birmingham B3 2NT External alterations to the Barwick building, including modified elevation and shop front details
Approve - Conditions	16	2016/04197/PA 10-12 Barwick Street City Centre Birmingham B3 2NT Listed Building Consent application for internal and external alterations to the Barwick building, including modified elevation and shop front details
Determine	17	2016/04486/PA Centenary Square Broad Street City Centre Birmingham B1 2 ND Remodelling and resurfacing of Centenary Square to provide a new civic space including hard and soft landscaping, reflecting pool, fountains, feature lighting poles and associated development
Determine	18	2016/04549/PA Hall of Memory Centenary Square Broad Street City Centre Birmingham B1 2 ND Listed Building Consent for works to plinth including resurfacing and creation of access ramps over existing staircases

Committee Date:	18/08/2016	Application Number:	2016/04149/PA
Accepted:	17/05/2016	Application Type:	Full Planning
Target Date:	12/07/2016		
Ward:	Ladywood		

10-12 Barwick Street, City Centre, Birmingham, B3 2NT

External alterations to the Barwick building, including modified elevation and shop front details

Applicant:	Horton's Estates Ltd c/o Agent
Agent:	CBRE 55 Temple Row, Birmingham, B2 5LS

Recommendation

Approve Subject To Conditions

1. Proposal

1.1 This application seeks planning consent for external alterations to the Barwick Building, which at ground floor includes a restaurant, Primitivo. A report about the accompanying Listed Building Consent application, which also includes internal alterations, appears elsewhere on your Committee's agenda. The proposals are part of the wider renovation works to the Grand Hotel.

1.2 Externally the Barwick Building comprises 4 distinct bays; Bays 1 & 2 would remain as the Primitivo Shopfront. Bay 3 would become an entrance to a commercial unit (as included in previously approved Application), and Bay 4 would provide an entrance to the above offices. In detail:-

- Bays 1 & 2 (Primitivo) - shopfront surround to remain and restored including replacing any damaged sections and preparing the area for a new paint finish;
- Bays 1 & 2 (Primitivo) - 2 new solid timber hardwood framed bi-fold entrance doors installed;
- Bay 3 (new commercial unit) – new solid timber framed entrance doors and new fixed pane windows to replace existing;
- Bays 1,2,3 – doors and surrounds to be painted RAL 7022 – 'Umbra Grey' to match Colmore Row shop fronts;
- Bay 4 (office lobby) – new timber framed wood panelled door with new timber framed fixed pane window above;
- removal of paint from Barwick Street elevation at street level and return to exposed brick, and;
- doors to offices and canopy above and rain water pipes to be painted RAL 7021. (the canopy has consent to be removed but would now be retained).

1.3 [Link to Documents](#)

2 Site & Surroundings

- 2.1 The Barwick Building forms part of the Grand Hotel complex. The Grand Hotel site covers 0.4 hectares, is a primarily French Renaissance style collection of what are essentially five buildings built between 1879 and 1895. This collection of buildings exhibits a range of materials and architectural styles and varies in height from eight storeys on Colmore Row to a four storey element on Barwick Street. The building makes extensive use of roof space with dormer windows on all three elevations. The building is undergoing significant restoration, with works to the façade and roof near completion.
- 2.2 The buildings are arranged in a 'U' shape in plan with the longer elevations to Colmore Row and Barwick Street. The Grand forms the majority of this street block which is completed by the modern building occupied by Barclays on the corner of Livery Street.
- 2.3 The building forms an important historic backdrop to St Philip's Cathedral and churchyard and whilst being within the Colmore Row Business District it is also in close proximity to the civic and retail cores of the city. The Square is characterised by historic buildings (typically 6-8 storeys high) to the north and west, with more modern buildings to the south and east.

[Site Location](#)

3 Planning History

- 3.1 In 2004 the building was Grade II* listed in recognition of its impact on the character and appearance of the Conservation Area and special qualities such as the survival of the Grosvenor Suite ballroom and an early shop interior (Anatomical Boot Co.).
- 3.2 26 April 2012. Application 2012/01148/PA. Listed Building Consent granted for selective demolition, internal & external alterations and extension of existing hotel building to include replacement external roof to Colmore Row, and extensions to the upper floors at rear of Barwick Street elevation and restoration of building facades.
- 3.3 27 April 2012 Application 2012/01147/PA. Planning consent granted for selective demolition and minor extension of existing hotel with partial change of use to include: replacement extended roof to Colmore Row for hotel (C1) use, selective change of use from hotel (C1) to office (B1a) use including rear extension to Barwick Street building, change of use at ground and lower ground floor (Colmore Row) from retail (A1) use to hotel (C1) use, change of use at lower ground floor (Barwick Street) from hotel (C1) to retail (A1), extension of pavement at Church Street to accommodate new entrance canopy and vehicle drop off facility, installation of plant and machinery at roof level, creation of terraced area within courtyard and associated development.
- 3.4 7 February 2014 Application 2013/09384/PA. Listed Building Consent granted for amendments to approved Listed Building Consent 2012/01148/PA to allow for a reduction in demolition and new build as well as changes to the internal layout.
- 3.5 14 March 2014 Application 2014/01435/PA. Planning consent granted for minor material amendment to planning permission ref:- 2012/01147/PA to allow for internal reconfiguration of the building in line with Listed Building Consent ref:- 2013/09384/PA, change of use at lower ground floor (Barwick Street) from hotel (Use Class C1) to drinking establishment (Use Class A4) and minor extension of the pavement at Barwick Street.

- 3.6 3 March 2016 Application 2015/08508/PA. Planning consent granted for the change of use at basement, lower ground and ground floor from hotel (C1) to restaurant/cafe (A3), drinking establishment (A4) and the change of use on first and second floor from hotel (C1) to office (B1).
- 3.7 6 May 2016 Application 2016/03898/PA/ Listed Building consent application for minor amendments to application 2015/008604/PA to allow internal alterations to the retail and offices areas of the Grand Hotel – awaiting determination.
- 3.8 17 May 2016 Application 2016/04197/PA. Listed building consent application for internal and external alterations to the Barwick building, including modified elevation and shop front details – a report about this application appears elsewhere on the agenda.
- 3.9 3 August 2016 Applications 2016/03897/PA and 2016/03932/PA. Planning and Listed Building Consent granted for amendments to approved scheme to reflect design development resulting in the rationalisation of space and less demolition.

4 Consultation/PP Responses

- 4.1 Colmore Business Improvement District, Birmingham City Centre Management, residents associations, amenity societies local ward councillors and MP notified. Site and press notices displayed. No comments received.
- 4.2 BCC Regulatory Services – no objections.
- 4.3 Historic England – they are not convinced by the extent of demolition proposed in this part of the Grade II* listed hotel and they recommend refusal of the application or seek amendments to it. (Historic England have been consulted on additional information submitted and any further comments will be reported).

5 Policy Context

- 5.1 Birmingham Unitary Development Plan 2005 Saved Policies; Pre- Submission Birmingham Development Plan 2031; Colmore Row and Environs Conservation Area Character Appraisal and Management Plan SPD and the National Planning Policy Framework 2012 (NPPF).
- 5.2 The Grand Hotel is Grade II* listed and within the Colmore Row and Environs Conservation Area. The hotel fronts the Grade I listed St Philip's Cathedral and is close to the Grade II listed 55 Colmore Row.

6 Planning Considerations

- 6.1 The key consideration for this application is the impact of the proposals upon the fabric, setting and significance of this Grade II* listed building.

Policy

- 6.2 Guidance in relation to the conservation of a historic environment is provided for through the UDP Policy 3.25. It states that any development affecting a listed building should preserve or enhance its character, with special regard given to the desirability of securing retention, restoration and continued use of the buildings of special historic interest. Furthermore it states that consent for demolition or partial demolition will not

be granted, unless reasonably demonstrated that every possible effort has been explored in order to preserve the structure of the building.

- 6.3 The UDP also provides guidance on development within Conservation Areas. Policy 3.27 states that new development should respect the character of existing architecture in scale, grouping and materials.
- 6.4 The NPPF para 131 states that local planning authorities are required to take account of the desirability of sustaining and enhancing the significance of the heritage asset, the contribution that conservation of heritage assets can make to sustainable communities, the desirability of new development making a positive contribution to local distinctiveness and character and that, wherever possible, such assets should be put to an appropriate and viable use that is consistent with their conservation. Further guidance is provided by paras 132 and 134.
- 6.5 The Draft Birmingham Development Plan, Policy TP12 states that great weight will be given to the conservation of the City's heritage assets and that such features will be valued, protected, enhanced and managed for their contribution to the character, local distinctiveness and sustainability of the City.

Objection from Historic England

- 6.6 Historic England have commented that 10-12 Barwick Street forms part of the Grand Hotel, currently undergoing extensive renovation, conservation and extension works. This part of the building dates from circa 1880 and has been described in the Assessment of Significance as having more the character of a warehouse than a hotel, with few architectural interior features. It is listed at Grade II* as part of the hotel site.
- 6.7 The proposal affecting the Barwick Street Buildings includes substantial demolition which they are concerned about. They do not see the justification for demolishing existing windows, timber architraves and panelled doors for the insertion of replicas, and they do not see the justification for lowering the sills here, therefore they cannot support this aspect. They recommend this joinery be retained and repaired. They also do not support double-glazing as proposed in the windows.

Additional Background Information

- 6.8 In response to the objections raised by Historic England the applicant has submitted a report providing further background information and justification for the proposed works.
- 6.9 The Barwick Building has been included in previously approved applications for the Grand Hotel covering both Planning Permissions and Listed Building Consents. The differences between the previously approved scheme and the current proposals reflect a more detailed assessment to bringing both the restaurant use and the upper floors of the building back into beneficial use. As with the wider approach to the Grand Hotel scheme, changes have been introduced during the refurbishment as more of the buildings structure become exposed understood and solutions brought forward accordingly.

Shopfronts

- 6.10 The rationale for replacing the shopfronts with sliding folding screens would give ability to open the frontage. The decorative elements of Bay 1 and 2 shopfronts such as the pilaster, cornice and fascia would all be retained. There is little photographic or historical evidence as to the history of the shop fronts but according to the applicants archives the ground floor has been occupied by a variety of uses over the years. The area now called Primitivo (Bays 1 & 2) were originally part of the Great Western Building which was demolished in the 1980s to make way for 15 Colmore Row. Previous uses to Primitivo include; tailors, chandelier makers (1911), storage/warehouse (1970s), hairdressers (1990s), bar/restaurant (1995 onwards).
- 6.11 Given the variety of uses of bays 1 and 2, the applicant believes that the current shopfronts were installed when the area was used as warehousing. The earlier uses would have likely had more elaborate shop fronts in keeping with their use (tailor/chandelier maker). This fits in with the existing shopfront surround detail (corbels, dentals etc.) which would be more in keeping with a retail use. The scaffolding has now been removed to the front of the building and it is clear that the shopfronts do not match the surrounds.
- 6.12 The shopfronts themselves are not suitable to be repaired and updated. A structural report states that:-
- from street level the pilaster timber cladding to the left is not visibly fixed to the masonry and the gap increases from the base upwards.
 - to the base of the units, the panelled stall risers showed signs of water penetration and damp even though the weather has been dry over the past days, the main support member mullions for the frontages show ageing and deterioration and were visibly bowing outwards which would indicate either the commencement of ageing or inadequate sizing.
 - it was observed that the majority of the joints where the cills meet the mullions are not sealed and would need to be repaired, however water penetration may have occurred and a more extensive repair may be required.
 - due to its current state the shop fronts would require extensive repair to bring them into a serviceable condition, it would be opportune to replace the timber bearers that are showing the first signs of decay at this stage with steel, but this may involve removing the shopfronts to accommodate this.
- 6.13 Initially, my Conservation Officer acknowledged the concerns of Historic England, however, in light of the additional information provided the case has been demonstrated that the existing shopfronts are non-original fabric and the benefits of the proposals outweigh any harm caused by their loss.
- 6.14 In addition to the external works, internal works are proposed. These do not require planning consent and are discussed in the report for the accompanying listed building consent, which appears elsewhere on your Committees agenda.

7 Conclusion

- 7.1 As set out in the Statement of Significance, the Barwick Building is of lesser significance than more sensitive parts of the Grand Hotel building. There have been significant alterations to the Barwick Building over the years and many elements are not original.

7.2 I note that Historic England recommend refusal and in response the applicant has submitted a report to justify the proposed works and I now consider that a case has now been made. The proposed works would help bring the building back into beneficial use. Moreover, they would help preserve and enhance the character of this Grade II* listed building.

8 Recommendation

8.1 Approve subject to conditions.

-
- | | |
|---|--|
| 1 | Requires any damage to the listed building to be made good |
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | Limits the approval to 3 years (Full) |
-

Case Officer: David Wells

Photo(s)



Location Plan



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Committee Date:	18/08/2016	Application Number:	2016/04197/PA
Accepted:	17/05/2016	Application Type:	Listed Building
Target Date:	12/07/2016		
Ward:	Ladywood		

10-12 Barwick Street, City Centre, Birmingham, B3 2NT

Listed Building Consent application for internal and external alterations to the Barwick building, including modified elevation and shop front details

Applicant:	Horton's Estates Ltd
	c/o Agent
Agent:	CBRE
	55 Temple Row, Birmingham, B2 5LS

Recommendation

Approve Subject To Conditions

1. Proposal

- 1.1 This application seeks listed building consent for internal and external alterations to the Barwick Building, which at ground floor includes a restaurant, Primitivo. A report about the accompanying planning application appears elsewhere on your Committee's agenda. The proposals are part of the wider renovation works to the Grand Hotel.

Summary of Internal Alterations

- 1.2 The proposed internal alterations accommodate the revised location of a lift, riser cupboard and stair case. The lift would provide access to the offices only, bypassing the hotel scheme at ground floor level. In detail:-
- at basement level an internal wall would be removed, a lift, riser cupboard and stair case would then be inserted;
 - at the lower ground floor (Barwick Street level) it is proposed to enlarge existing openings, and create new openings between Bays 2 and 3 (to be temporary infilled until commercial agreement confirms expansion of Primitivo);
 - at ground floor a lift, riser and stair would be inserted; and,
 - the proposed layouts for the first and second floor have been rationalised and updated to allow for the new lift, riser cupboard and staircase. This includes removal of some internal walls. At third floor some internal walls would be removed.

Summary of External Alterations

- 1.3 Externally the Barwick Building comprises 4 distinct bays; Bays 1 & 2 would remain as the Primitivo Shopfront. Bay 3 would become an entrance to a commercial unit (as

included in previously approved Application), and Bay 4 would provide an entrance to the above offices. In detail:-

- Bays 1 & 2 (Primitivo) - shopfront surround to remain and restored including replacing any damaged sections and preparing the area for a new paint finish;
- Bays 1 & 2 (Primitivo) - 2 new solid timber hardwood framed bi-fold entrance doors installed;
- Bay 3 (new commercial unit) – new solid timber framed entrance doors and new fixed pane windows to replace existing;
- Bays 1,2,3 – doors and surrounds to be painted RAL 7022 – ‘Umbra Grey’ to match Colmore Row shop fronts;
- Bay 4 (office lobby) – new timber framed wood panelled door with new timber framed fixed pane window above;
- removal of paint from Barwick Street elevation at street level and return to exposed brick, and;
- doors to offices and canopy above and rain water pipes to be painted RAL 7021 (the canopy has consent to be removed but would now be retained).

1.4 [Link to Documents](#)

2 [Site & Surroundings](#)

- 2.1 The Barwick Building forms part of the wider Grand Hotel complex. The Grand Hotel site covers 0.4 hectares, is a primarily French Renaissance style collection of what are essentially five buildings built between 1879 and 1895. This collection of buildings exhibits a range of materials and architectural styles and varies in height from eight storeys on Colmore Row to a four storey element on Barwick Street. The building makes extensive use of roof space with dormer windows on all three elevations. The building is undergoing significant restoration, with works to the façade and roof near completion.
- 2.2 The buildings are arranged in a ‘U’ shape in plan with the longer elevations to Colmore Row and Barwick Street. The Grand forms the majority of this street block which is completed by the modern building occupied by Barclays on the corner of Livery Street.
- 2.3 The building forms an important historic backdrop to St Philip’s Cathedral and churchyard and whilst being within the Colmore Row Business District it is also in close proximity to the civic and retail cores of the city. The Square is characterised by historic buildings (typically 6-8 storeys high) to the north and west, with more modern buildings to the south and east.

[Site Location](#)

3 [Planning History](#)

- 3.1 In 2004 the building was Grade II* listed in recognition of its impact on the character and appearance of the Conservation Area and special qualities such as the survival of the Grosvenor Suite ballroom and an early shop interior (Anatomical Boot Co.).
- 3.2 26 April 2012. Application 2012/01148/PA. Listed Building Consent granted for selective demolition, internal & external alterations and extension of existing hotel

building to include replacement external roof to Colmore Row, and extensions to the upper floors at rear of Barwick Street elevation and restoration of building facades.

- 3.3 27 April 2012 Application 2012/01147/PA. Planning consent granted for selective demolition and minor extension of existing hotel with partial change of use to include: replacement extended roof to Colmore Row for hotel (C1) use, selective change of use from hotel (C1) to office (B1a) use including rear extension to Barwick Street building, change of use at ground and lower ground floor (Colmore Row) from retail (A1) use to hotel (C1) use, change of use at lower ground floor (Barwick Street) from hotel (C1) to retail (A1), extension of pavement at Church Street to accommodate new entrance canopy and vehicle drop off facility, installation of plant and machinery at roof level, creation of terraced area within courtyard and associated development.
- 3.4 7 February 2014 Application 2013/09384/PA. Listed Building consent granted for amendments to approved Listed Building Consent 2012/01148/PA to allow for a reduction in demolition and new build as well as changes to the internal layout.
- 3.5 14 March 2014 Application 2014/01435/PA. Planning consent granted for minor material amendment to planning permission ref:- 2012/01147/PA to allow for internal reconfiguration of the building in line with Listed Building Consent ref:- 2013/09384/PA, change of use at lower ground floor (Barwick Street) from hotel (Use Class C1) to drinking establishment (Use Class A4) and minor extension of the pavement at Barwick Street.
- 3.6 3 March 2016 Application 2015/08508/PA. Planning consent granted for the change of use at basement, lower ground and ground floor from hotel (C1) to restaurant/cafe (A3), drinking establishment (A4) and the change of use on first and second floor from hotel (C1) to office (B1).
- 3.7 6 May 2016 Application 2016/03898/PA/ Listed Building consent application for minor amendments to application 2015/008604/PA to allow internal alterations to the retail and offices areas of the Grand Hotel – awaiting determination.
- 3.8 17 May 2016 Application 2016/04149/PA. Planning application for alterations to the Barwick building, including modified elevation and shop front details – a report about this application appears elsewhere on the agenda.
- 3.9 3 August 2016 Applications 2016/03897/PA and 2016/03932/PA. Planning and Listed Building Consent granted for amendments to approved scheme to reflect design development resulting in the rationalisation of space and less demolition.

4 Consultation/PP Responses

- 4.1 Colmore Business Improvement District, Birmingham City Centre Management, residents associations, amenity societies, local ward councillors and MP notified. Site and press notices displayed. No comments received.
- 4.2 BCC Regulatory Services – no objections.
- 4.3 Historic England – they are not convinced by the extent of demolition proposed in this part of the Grade II* listed hotel and they recommend refusal of the application or seek amendments to it. (Historic England have been consulted on additional information submitted and any further comments will be reported).

5 Policy Context

- 5.1 Birmingham Unitary Development Plan 2005 Saved Policies; Pre- Submission Birmingham Development Plan 2031; Colmore Row and Environs Conservation Area Character Appraisal and Management Plan SPD and the National Planning Policy Framework 2012 (NPPF).
- 5.2 The Grand Hotel is Grade II* listed and within the Colmore Row and Environs Conservation Area. The hotel fronts the Grade I listed St Philip's Cathedral and is close to the Grade II listed 55 Colmore Row.

6 Planning Considerations

- 6.1 The key consideration for this application is the impact of the proposals upon the fabric, setting and significance of this Grade II* listed building.

Policy

- 6.2 Guidance in relation to the conservation of a historic environment is provided for through the UDP Policy 3.25. It states that any development affecting a listed building should preserve or enhance its character, with special regard given to the desirability of securing retention, restoration and continued use of the buildings of special historic interest. Furthermore it states that consent for demolition or partial demolition will not be granted, unless reasonably demonstrated that every possible effort has been explored in order to preserve the structure of the building.
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- 6.7 The proposal affecting the Barwick Street Buildings includes substantial demolition which they are concerned about. They do not see the justification for demolishing existing windows, timber architraves and panelled doors for the insertion of replicas,

and they do not see the justification for lowering the sills here, therefore they cannot support this aspect. They recommend this joinery be retained and repaired. They also do not support double-glazing as proposed in the windows.

- 6.8 In addition, they note that there is further demolition proposed of the structure for the insertion of a staircase and lift core; usually adjudication of such would be based on an options appraisal and on clear and convincing justification. They cannot yet therefore support this aspect. There is also substantial demolition proposed of the rear of the roof to allow for the extension of the third floor which they are not convinced by.

Additional Background Information

- 6.9 In response to the objections raised by Historic England the applicant has submitted a report providing further background information and justification for the proposed works.
- 6.10 The Barwick Building has been included in previously approved applications for the Grand Hotel covering both Planning Permissions and Listed Building Consents. The differences between the previously approved scheme and the current proposals reflect a more detailed assessment to bringing both the restaurant use and the upper floors of the building back into beneficial use. As with the wider approach to the Grand Hotel scheme, changes have been introduced during the refurbishment as more of the buildings structure become exposed understood and solutions brought forward accordingly.

Shopfronts

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- 6.12 Given the variety of uses of bays 1 and 2, the applicants believe it is likely that the current shopfronts were installed when the area was used as warehousing. The earlier uses would have likely had more elaborate shop fronts in keeping with their use (tailor/chandelier maker). This fits in with the existing shopfront surround detail (corbels, dentals etc.) which would be more in keeping with a retail use. The scaffolding has now been removed to the front of the building and it is clear that the shopfronts do not match the surrounds.
- 6.13 The shopfronts themselves are not suitable to be repaired and updated. A structural report states that:-
- from street level the pilaster timber cladding to the left is not visibly fixed to the masonry and the gap increases from the base upwards;
 - to the base of the units, the panelled stall risers showed signs of water penetration and damp even though the weather has been dry over the past days, the main support member mullions for the frontages show ageing and

deterioration and were visibly bowing outwards which would indicate either the commencement of ageing or inadequate sizing.

- it was observed that the majority of the joints where the cills meet the mullions are not sealed and would need to be repaired, however water penetration may have occurred and a more extensive repair may be required.
- due to its current state the shop fronts would require extensive repair to bring them into a serviceable condition, it would be opportune to replace the timber bearers that are showing the first signs of decay at this stage with steel, but this may involve removing the shopfronts to accommodate this.

- 6.14 Initially, my Conservation Officer acknowledged the concerns of Historic England, however, in light of the additional information provided the case has been demonstrated that the existing shopfronts are non-original fabric and the benefits of the proposals outweigh any harm caused by their loss.

Lift, riser and Staircase

- 6.15 The proposals include re-positioning of the location of the lift riser and staircase to the rear of the building allowing a more impressive entrance similar to the Colmore Row offices. At ground floor level the location of the lift, riser and staircase is constrained by the re-establishment of historic links of the ball room corridors above.
- 6.16 Archives showing plans of the Hotel (and Barwick Building) from 1899 show that a staircase has previously been in a similar location to the one proposed. Photographic evidence shows no detail of significance and evidence of the building being heavily altered.
- 6.17 My Conservation Officer notes that although the proposed location of the lift, riser and staircase is different from the previously approved consents, this design is a more suitable layout that allows historic links to the Grosvenor Suite and Grosvenor Arcade to be re-established. In comparison to the approved scheme, the proposed location of the lift, riser and staircase provides an enhanced entrance to high specification offices above which would bring the upper floors of the building back into commercial use and occupation.

Removal of Dividing Walls

- 6.18 The proposals knock through from bay 2 to bay 3 to improve facilities for Primitivo and provide greater flexibility in the future. At the lower ground floor level bays 1 and 2 dividing wall measures 34 metres in length. The total of removed walls would be 14.8 metres (including existing openings). Therefore over 55% of the existing wall would be retained in linear metres.
- 6.19 On the upper floors 55%, 40% and 25% of the existing internal first, second and third floor walls respectively would be retained. The most removal of existing walls would be greater at third floor due to the thin plan of the building to create a commercially attractive open plan space.
- 6.20 My Conservation Officer notes that the proposals for dividing wall removal would allow for the Barwick Building's internal layouts to be rationalised and commercially attractive. This is the approach agreed for the offices on Colmore Row. Furthermore, remaining columns that have been hidden over the decades would be re-exposed

suspended ceilings will be avoided where possible to fully expose the historic head details.

7 Conclusion

7.1 As set out in the Statement of Significance, the Barwick Building is of lesser significance than more sensitive parts of the Grand Hotel building. There have been significant alterations to the Barwick Building over the years and many elements are not original.

7.2 I note that Historic England recommend refusal and in response the applicant has submitted a report to justify the proposed works and I now consider that a case has now been made. The proposed works would help bring the building back into beneficial use. Moreover, they would help preserve and enhance the character of this Grade II* listed building.

8 Recommendation

8.1 Approve subject to conditions.

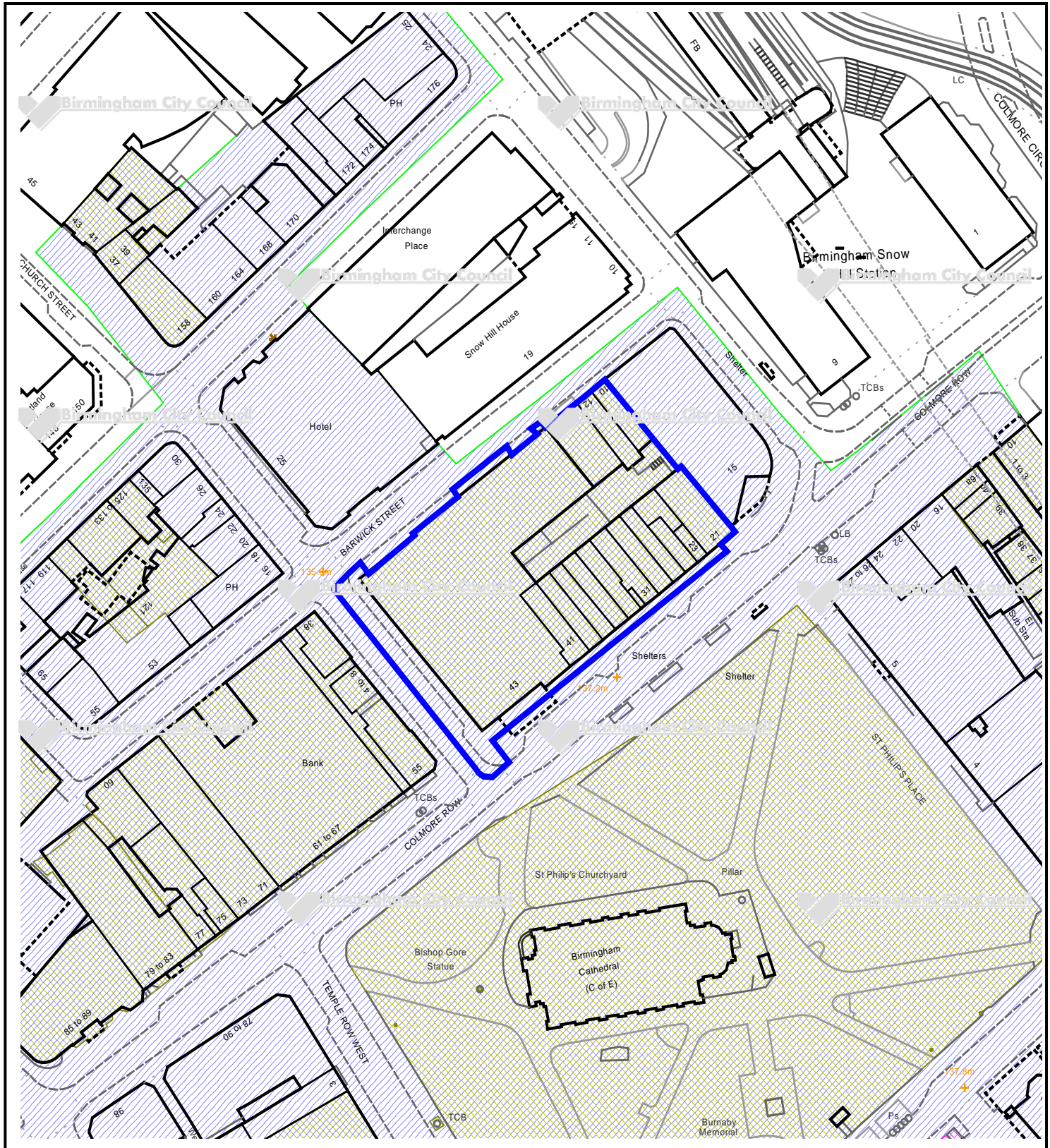
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|---|--|
| 1 | Requires any damage to the listed building to be made good |
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | Limits the approval to 3 years (conservation/listed buildings consent) |
-

Case Officer: David Wells

Photo(s)



Location Plan



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Committee Date:	18/08/2016	Application Number:	2016/04486/PA
Accepted:	25/05/2016	Application Type:	Full Planning
Target Date:	24/08/2016		
Ward:	Ladywood		

Centenary Square, Broad Street, City Centre, Birmingham, B1 2ND

Remodelling and resurfacing of Centenary Square to provide a new civic space including hard and soft landscaping, reflecting pool, fountains, feature lighting poles and associated development

Applicant: Birmingham City Council
Planning and Regeneration, PO Box 28, 2nd Floor Lancaster Circus,
Birmingham, B1 1TU
Agent: Graeme Massie Architects
9-10 St Andrew's Square, Edinburgh, EH2 2AF

Recommendation **Determine**

1. Report Back –
 - 1.1 Planning Committee deferred this application and the accompanying Listed Building application at the meeting on the 5 August. Members had a number of concerns about the proposed design and wanted clarification on a number of issues. Since that meeting discussions have taken place and the following comments can be made.
 - 1.2 The Centenary Square project is part of the Enterprise Zone Investment Plan 2012 and is being funded by the LEP and is part of the wider investment plan for this part of the City. It complements and supports the various public and private sector developments in the area such as the new Library, Repertory Theatre, Symphony Hall, Paradise, Arena Central, HSBC and the extension to the Metro line. The intention is that the works would be complete by Autumn 2018. Westside BID have confirmed their full support for the scheme.
 - 1.3 **Water Feature** – the design includes a large reflective pool, with a depth of some 5cm. This will reflect the sky and surrounding buildings, but also have a number of water jets to animate the area and provide interaction for people. The water would be drained when events take place, including the ice rink and Big Wheel. It is considered that this is an important part of the overall design and will be an attractive feature for the Square.
 - 1.4 **Memorial Parade** – It has been confirmed that the parade can still be accommodated in the square, marching down the square to the Hall of Memory. The area around the hall would be improved to increase the available area for the parade from 770 sqm to 1900 sqm – see attached plan. The planting around the library well would be removed, planters in the area removed and the levels rationalised across the whole of the square.

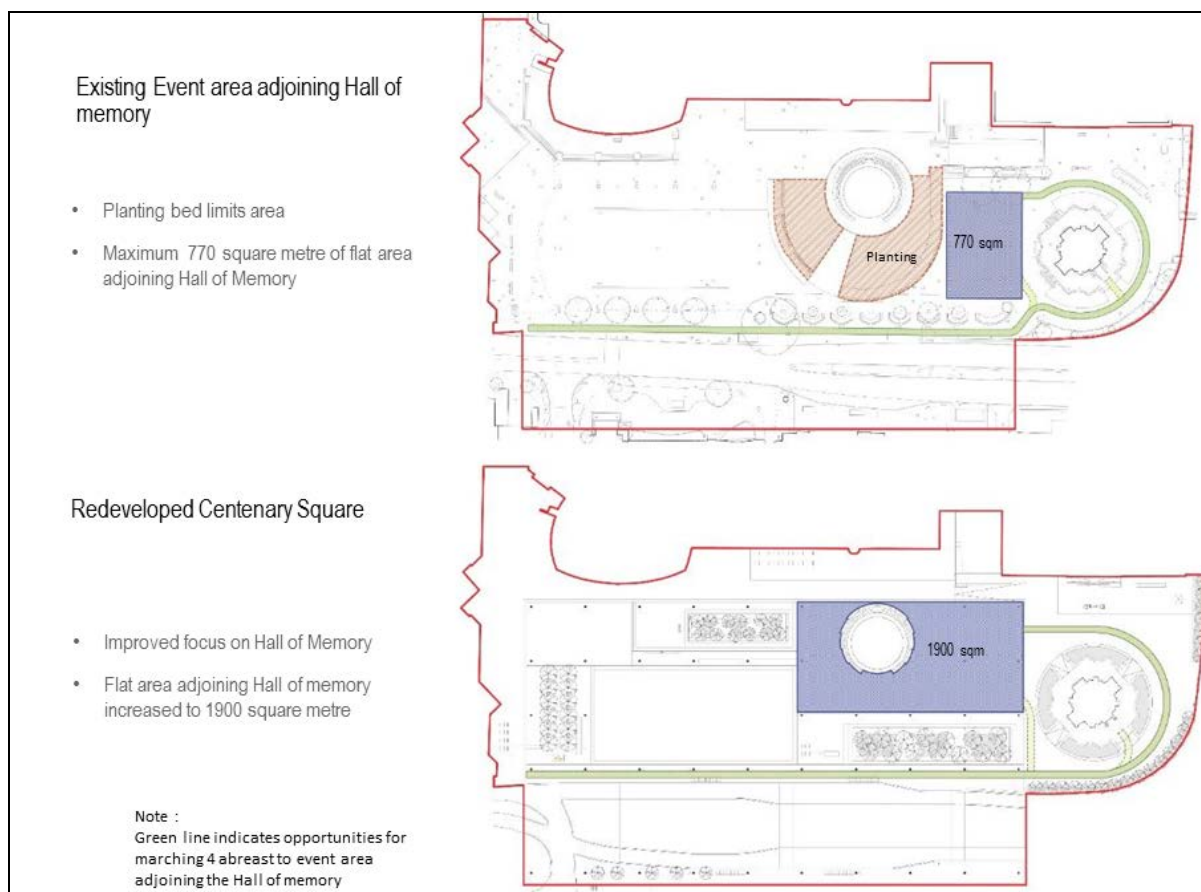


Figure 1 – Plan showing the Memorial Parade

- 1.5 Hall of Memory** – The only alterations to the hall are replacement yorkstone paving around it, and the replacement of the two stepped entrances with two ramps. This work is required due to the rationalisation of the levels across the whole of the square. At present there are changes of levels from the ICC to the Hall. The change to a level square and provision of ramps to all sides of the Hall will be positive, bringing symmetry back to the hall and improving access to all four of its entrances. The levels across the square need to be addressed, to provide a more useable space. Historic England has confirmed they have no objections to this element of the project.
- 1.6 Victoria Cross Memorial Stones** – Following concerns raised by members, it has been confirmed that the stones can remain in the planting beds.
- 1.7 Trees** – A large number of new trees will be planted in the square. The London plane tree that is being removed on Broad Street is coming out as part of the Metro works, not in connection with these applications. There will be a net gain of some 37 new trees.
- 1.8 Events** – Discussions have taken place with the representatives of the Big Wheel/Ice Rink on a layout that accommodates them in the new design. The attached plan indicates this. The design will accommodate the erection and dismantling of such events. Discussions have taken place with regard to the Remembrance Parade, as detailed above, which can be accommodated. The Christmas markets are not restricted by the new design.

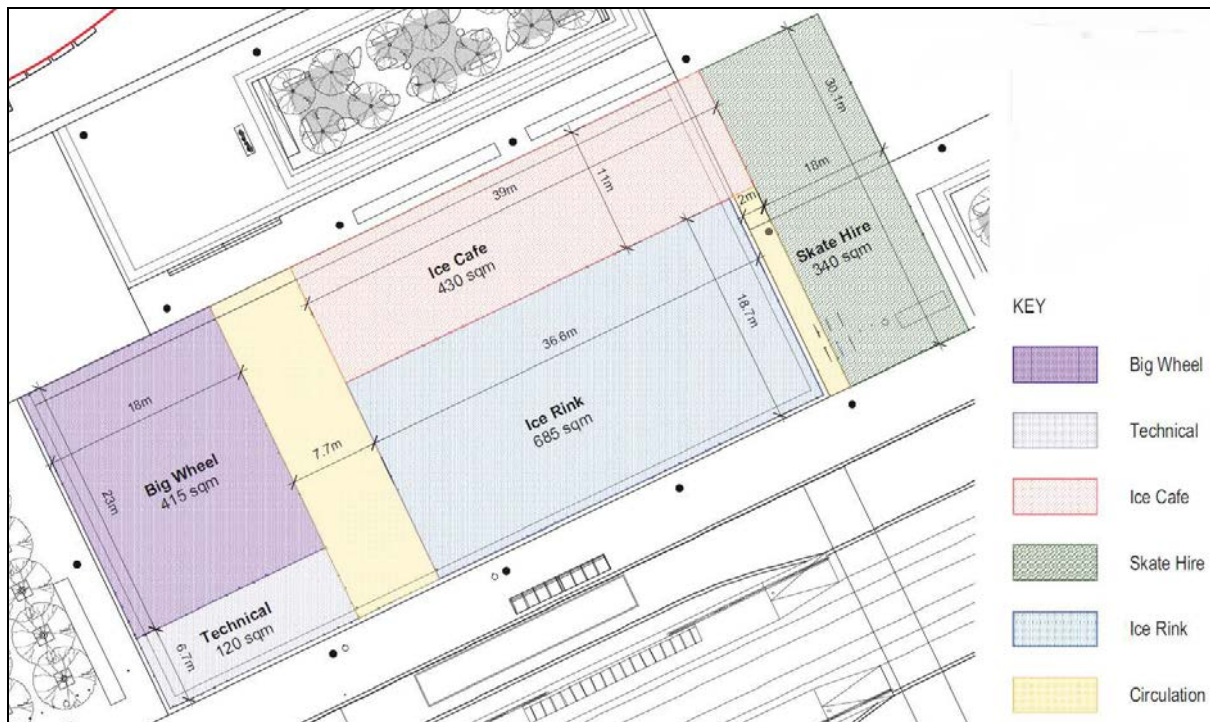


Figure 2 – Plan showing how the square design would accommodate various events

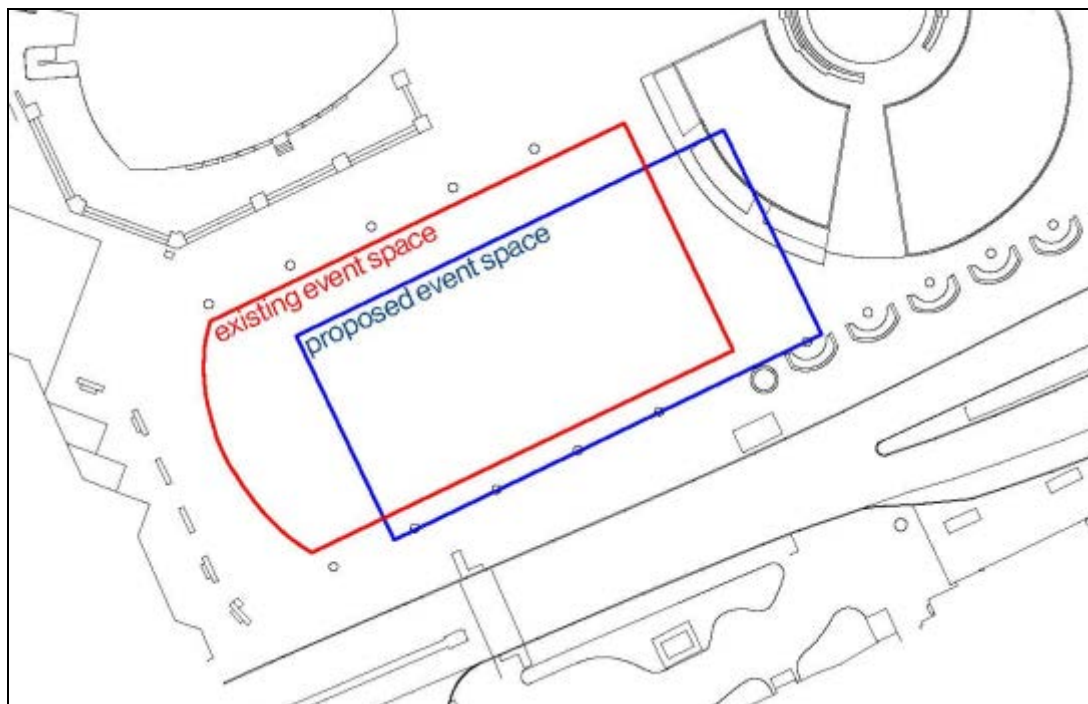


Figure 3 – Plan showing a comparison between the existing and proposed event space

1.9 Conclusion – It is considered that the points of concern raised by members have been addressed and that both applications should continue to be recommended for approval, subject to the conditions attached to the original reports.

Original Report

2. Proposal

- 2.1 This full planning application seeks consent for the remodelling of Centenary Square to provide a new civic event space at the heart of the City Centre. The proposals follow an international design competition attracting 185 entries, with the current architects chosen following shortlisting, a public exhibition and consideration by a panel. The brief was for the proposals to promote a positive cultural transformation of the square, making it a world class space and popular destination and a catalyst for bringing people into the area to stop and relax, promote interaction on a smaller scale and informal level. The enhanced square should provide an enhanced setting for existing and new developments such as the Library of Birmingham, Paradise, Arena Central and the International Convention Centre.

Key Elements of the proposals:

- A grid of 43 no. 25m tall columns across the square, including a row on the south side of Broad Street. The columns would include a point light at their pinnacle, lower level functional lighting, connections for power for events and future provision for sound equipment.
 - Re-grading the site to facilitate easier movement through the square, with level access across the entire square.
 - A reflecting pool, a very shallow pool area with fountain jets. When the fountain is switched off and the pool is drained this area forms part of the main events space.
 - Resurfacing of the entire square with a central lighter element with flanking darker red granite around the perimeter above a concrete sub base. The Hall of Memory plinth would be resurfaced with Yorkstone. The library amphitheatre seating would be re-clad with white granite.
 - Three areas of tree planting. A stand of 12 no. cherry trees would be situated in front of the ICC. An area of 14 no. red Maple tree planting would be set within an area of low level planting beds with gravel paths to the south west of the Hall of Memory. A further 12 no. Gingko trees would be situated within a further low level planting bed with gravel paths at the front of the REP/Library of Birmingham.
 - 21 no. trees along the boundary of the square with the adjacent Queensway to the east.
 - Reconfigured 'break out' external seating opportunities for both the REP Theatre and the Library of Birmingham.
 - Reconfigured planting and benches around the Hall of Memory.
- 2.2 The proposal sees the retention of all existing statues within the square. The King Edward VII and 'Industry and Genius' statues will remain in their current locations. The Boulton, Murdoch and Watt statue and plinth will be relocated as part of the tramway works adjacent to the new trees on the western side of the square overlooking Broad Street. 'A Real Birmingham Family' will be situated adjacent to the planter with Gingko Trees in front of the Repertory Theatre.

- 2.3 The application proposals are adjoined by Centro's area of work on Broad Street associated with the next extension of the Midland Metro tramway extension between Birmingham New Street and Centenary Square. The works comprise of the widening and re-alignment of Broad Street to accommodate the tramway and associated infrastructure and resurfacing including pavements with a granite finish together with a new tram stop, which will form the terminus until the subsequent extension along Broad Street to Hagley Road is constructed.
- 2.4 The square would be closed to all vehicular traffic except maintenance and emergency vehicles. It should be noted that the Centro proposals would result in the part of Broad Street adjoining the square being used by public transport only, with general traffic directed along Bridge Street. The future proposals to extend the tramway to Hagley Road would result in further restrictions to general traffic along Broad Street.
- 2.5 Detailed plans, a Design, Access and Planning Statement; Arboricultural Impact Assessment; Heritage Statement; Ecological Impact Assessment; Archaeological Desk Based Assessment; Flood Risk Assessment; Land Contamination Desk Study; and a Sustainable Drainage Assessment have been submitted in support of this application.
- 2.6 [Link to Documents](#)
- 3 Site & Surroundings
- 3.1 Centenary Square is a 1.55ha public square and is the primary event space within the City Centre. The current square design largely consists of the 1989 remodelling that included resurfacing of the square and the creation of the bridge link between the Hall of Memory and Chamberlain Square.
- 3.2 The square houses the Grade I Listed Hall of Memory, a neo-classical circular building with associated plinth. There is a circular sunken amphitheatre near the centre of the square associated with the new Library of Birmingham, with part of the Library's basement beneath the square. A large clear area is situated immediately in front of the Repertory Theatre (REP) and Symphony Hall with a Persian Rug design to the block work paving.
- 3.3 In addition a statue of Edward VII, Baskerville Font and the 'Industry and Genius' free standing columns as a monument to John Baskerville are situated in front of Baskerville House. A gilded statue of Matthew Boulton, James Watt and William Murdoch is situated to the south of Broad Street. The recently unveiled 'A Real Birmingham Family' statue is situated adjacent to the sunken amphitheatre.
- 3.4 The square is bounded by the Library of Birmingham, the REP Theatre and the Grade II listed Baskerville House to the north, Paradise Circus Queensway to the east, Broad Street (and the Arena Central development including the ongoing HSBC development and the Grade II listed former Municipal Bank) to the south and the Hyatt Hotel, International Convention Centre and Symphony Hall to the west.
- 3.5 [Site Location](#)
- 4 Planning History

- 4.1 Current application – 2016/04549/PA - Listed Building Consent for works to the plinth of the Hall of memory including resurfacing and creation of access ramps over existing staircases
- 5 Consultation/PP Responses
- 5.1 Conservation Heritage Panel - The panel welcomed and supported the proposals.
- 5.2 Transportation Development – No objection subject to conditions requiring a construction management plan, S278 highways agreement and that the public pedestrian and cycle links are maintained during the redevelopment works.
- 5.3 Regulatory Services – No objection
- 5.4 Leisure Services – No objection
- 5.5 BCC Lead Local Flood Authority – Raise no objection subject to the imposition of a condition requiring further drainage details.
- 5.6 Environment Agency – No objection subject to the imposition of a condition requiring a further ground contamination study in order to protect the underlying aquifer.
- 5.7 West Midlands Police – No objection. Comments that they have been working with the architects and that the advice given has been followed, including hostile vehicle mitigation measures.
- 5.8 Historic England - whilst generally supportive of the overall scheme, have objected on a number of specific grounds. These are the impact of the new bench; alteration in ground levels; location of the Victoria Cross monuments; covering of the two flights of stairs on the Hall of Memory plinth and the planting proposals around the Hall of Memory.
- 5.9 Twentieth Century Society – Welcome the proposals and consider them to go some way towards reinstating the original relationship of the memorial to the square and de-clutter this public space. Their only concerns, in relation to the wider scheme, are the area of soft planting to the south-west of the Hall of Memory could obscure the line of vision towards the memorial from the west and that the existing 'Tess Jaray' paving be retained or documented. They suggest reducing the number of trees proposed and moving them to be in line with the planted screen that will face Paradise Circus Queensway and Broad Street. In relation to the paving, they suggest that its retention should be considered, or it is fully documented prior to any works taking place.
- 5.10 Natural England – Have no comments to make on this application.
- 5.11 National Grid – Note that gas supplies run through the square.
- 5.12 Severn Trent – Raises no objection subject to a condition requiring the prior approval of foul and surface water drainage details.
- 5.13 Site and Press Notices posted. Ward Members, the MP, neighbouring occupiers/land owners and Residents' Associations consulted without response.
- 6 Policy Context

- 6.1 Birmingham Unitary Development Plan 2005 (Saved Policies); the Birmingham Development Plan (submission plan including modifications); Regeneration Through Conservation SPG; Lighting Places (2008) SPD; The Big City Plan; and the National Planning Policy Framework 2012. The Hall of Memory is Grade I Listed and the nearby Baskerville House, Alpha Tower and 301 Broad Street are all Grade II Listed.

7 Planning Considerations

POLICY

- 7.1 The Unitary Development Plan requires development within the City Centre to be highly accessible, attractive and a safe environment (Policy 15.5). Policy 2.25 recognises the need to improve the quality of the pedestrian experience in the city.
- 7.2 The Birmingham Development Plan is at an advanced stage, close to formal adoption. Policy GA1.2 states that improvements to connectivity within the Westside area will be supported and that the redesign of Centenary Square will need to provide improved public transport accessibility and significantly enhanced pedestrian environment alongside a useable events space.
- 7.3 The non-statutory Big City Plan sets out the aspiration to extend the square across Broad Street, reinforcing the City Centre's cultural activities helping to create a distinctive sense of place. The Plan identifies the contribution Centenary Square makes to the pedestrian experience in the City Centre, as part of a series of distinctive public spaces and squares. The Plan sees the square as the most important outdoor space for events and public activity in the city, building on the success of the Library of Birmingham.
- 7.4 Lighting Places sets the lighting strategy for the city centre and local centres of Birmingham. The document recognises the positive impact imaginative lighting can have on the quality of the public realm, and squares in particular. It requires lighting to be an integral part of new public squares. The strategy also recognises the benefit that illuminated fountains and pools can have on the night-time environment.
- 7.5 The NPPF emphasises the need to exploit opportunities for sustainable transport with priority given to pedestrian, cycles and public transport. It attached great weight to achieving good design. Policy 8.69 encourages the creation of high quality public space.

PRINCIPLE

- 7.6 The principle of the remodelling and upgrade of Centenary Square is a well-established aspiration of the city. The existing square does not facilitate pedestrian connectivity as well as it could, lacks a sense of enclosure (due, in part, to limited tree planting) and is a poor setting for the surrounding heritage assets. The chance to enhance the square in a way that provides a comprehensive approach to both the square and the tramway corridor presents an important opportunity to maximise the benefits of both schemes. I therefore raise no objection to the principle of the proposals.

DESIGN

- 7.7 The overall design concept as proposed would address current issues with the square whilst providing a distinctive civic event space. The current square incorporates pavers that are starting to look dated and have lifted/sunk at numerous

places. There is also a feeling of a lack of activity when there is no event taking place, with limited 'spilling' out of existing uses around the square. Much of the square is very open with limited tree planting, which although the library garden has attempted to address, remains an issue with the current space.

- 7.8 The large feature poles, reflecting pool and ordered tree planting will combine to provide a distinctive space that will be immediately recognisable. This would complement the Library of Birmingham and act as a landmark composition at an international level.
- 7.9 Altered and rationalised levels would create and capitalise opportunities for uses such as the Library Café, the REP and the ICC/Symphony Hall to spill out into the square with seating etc. This would add life into the square when large-scale events are not taking place.
- 7.10 The scheme would result in the creation of a further high quality public space within the city centre, building on the success of the creation of the new Eastside City Park.
- 7.11 I therefore raise no design based objections subject to suitable safeguarding conditions.

TREES

- 7.12 The Arboricultural Impact Assessment categorises the value and likely longevity of the existing trees within the square, with a total of 25 assessed. Of these 25 a total of 3 are the highest Category A, 7 are Category B, 13 Category C and 2 'U' (recommend removal) Category. Therefore 15 of the 25 are either low quality or recommended for removal.
- 7.13 All of the 25 trees would be removed as a consequence of a combination of the square and tramway works.
- 7.14 Two of the A category trees are situated broadly in between the Hall of Memory and Baskerville House and are required to be removed due to the change in levels on this part of the square. Without this change the existing retaining walls could not be removed and the benefits of increased pedestrian connectivity could not be secured.
- 7.15 A further three Category B trees would be lost as a consequence of the tram works (along Broad Street). The remaining 3 B Category Trees to the east of the square would be replaced with new mature trees as part of the new continuous planting providing a buffer to the Queensway.
- 7.16 My Tree Officer raises no objection and comments that adequate rooting volume must be engineered into the scheme in order to ensure that the new tree planting thrives in the long term.
- 7.17 The proposal would provide a total of 59 replacement trees. Subject to conditions securing the long term impact of the proposed new trees I consider that the proposal provides a significant contribution towards additional tree planting within the city centre and more than adequate compensation for those lost as a consequence of the remodelling works.

HERITAGE IMPACTS

- 7.18 In terms of heritage implications, the key for this full application is the impact upon the setting of the surrounding heritage assets. The impacts of the proposals upon the fabric of the plinth of the Hall of Memory are considered in the accompanying application for Listed Building Consent. It should be noted that no physical changes are proposed to the Hall of Memory structure itself, only the relatively minor works to the surrounding plinth consisting of the covering of two flights of stairs with ramps and the replacement of the defective Yorkstone paving with new on the podium, which are considered within the application for Listed Building Consent.
- 7.19 I also consider the use of banded red/blue pavers around the Hall of Memory historically inappropriate and harmful to the setting of this Portland Stone structure, and welcome their replacement with granite. The renewal of the Yorkstone pavers on the plinth are considered in detail as part of the application for Listed Building Consent, however I note that the existing material is in a poor state of repair.

- 7.20 Historic England's objection is noted. Considering each point raised in turn:

Alteration of levels to the west/southwest of the Hall of Memory

- 7.21 The proposals would alter the levels throughout large parts of the square removing the need for many of the retaining walls and steps along its northern side. The levels around Baskerville House would remain unaltered, although the junction between Baskerville Walk and the square would be slightly remodelled to provide direct access (via a feathered flight of stairs) into the square.
- 7.22 The amphitheatre and surrounding landscaping present a visual and levels constraint on the design. The scheme would remove the hedge planting around the amphitheatre and grassed area opening up views across the square to the Hall of Memory. There would therefore be both a visual and physical link across the entire square. The proposed columns would reinforce this link across the square.
- 7.23 In order to resolve levels across the square, and working with the constraint of the existing basement, the levels around the western side of the Hall of Memory's plinth will be raised and the steps covered over with ramps. Following the alterations carried out in the early 1990's associated with the reconfiguration of the square and bridging the Queensway, the sense of the Hall of Memory and plinth being a raised feature has been lost when viewed from the east.
- 7.24 I consider that the alterations to the setting of the structure that have taken place are such that the setting is far removed from the original design which had a raised plinth to all sides, a large grassed area to the west which was terminated by a colonnade structure that is now located in the peace garden (relocated in 1989). The raised levels along the square's northern end removes much of the remaining impact that the plinth has in terms of being raised up. All sense of the structure being raised from the eastern approach has been lost. Mid-length views from the west are interrupted by both landscaping and the level of the library's basement. The only sense of the building being raised up is gained from close views on the southern/western side.
- 7.25 The supporting Heritage Statement attributes the impact of the existing setting on the heritage value as low given the level of alterations that have taken place since the original configuration. I concur and consider the setting to be compromised, with many aspects having a negative impact upon the significance of this designated heritage asset.

- 7.26 The change in levels to the west would result in less of a feeling of the structure being raised when viewed in close proximity (although the plinth would remain). However midrange and long range views across the square would be improved.
- 7.27 It has been agreed that the soil level within the planters would slope towards the Hall to ensure that the plinth is not obscured on the western side, with more revealed on the eastern end.
- 7.28 I therefore consider that overall the proposals would have a positive impact upon the setting of this heritage asset.

Impact of the proposed bench around the Hall of Memory

- 7.29 The new outer perimeter of seating, which will contain new low level planting behind, will reinforce the symmetry of the Hall of Memory, with the additional visual threshold helping to provide a sense of elevation of significance for this monument. The benches would provide a sense of the historic walling that previously existing to three sides of the Hall of Memory all-be-it closer to the Hall of Memory than the historic situation.
- 7.30 Historic England have queried the dimensions of the proposed seating area, saying that it is much wider than the existing parapet coping. The dimensions of the seating area are taken from the coping stones of the existing plinth to the sides of the existing steps/ramps..
- 7.31 I do not consider that the seating area would materially conceal the base of the Hall of Memory as noted by Historic England, nor that it is overly dominant. I consider that the seating area is consistent with the proportions and architectural language of the Hall of Memory and plinth and does not dominate what is a very robust structure.

Impact of tree planting

- 7.32 Tree planting would define the square's eastern edge and provide some protection from the Queensway below. Whilst this would change the setting of the Hall of Memory, I consider this impact to be a neutral one in heritage impact terms. Whilst historically there was a visual link between the area around the bottom of Paradise Street/Suffolk Street Queensway the construction of the Queensway including the significant change in levels has completely changed this relationship, and I do not consider this to be a key view. From this view there is no sense of the Hall of Memory being part of a wider civic square. I consider that the planting would provide some screening reinforcing that the area around the Hall of Memory is more contemplative.
- 7.33 I therefore conclude that any harm generated by the interruption of view of the Hall of Memory from this aspect is outweighed by the benefits of the environment created around the structure and the positive impact this will have on the ability to appreciate the asset. Some weight in the planning balance must also be given to benefits associated with the planting of further trees, which is often difficult to achieve in a city centre context.

Location of the Victoria Cross Memorials

- 7.34 Historic England objects to the placement of these memorials, currently situated within the planter to the eastern side of the Hall of Memory, on the entrance ramps to the plinth as it would change the commemorative meaning of the building. I concur with Historic England that the meaning of the Hall is a monument to all people who

died or were injured in the war and does not single out any particular person or regiment. The current placement of the memorial slabs strikes a balance between having a relationship with the Hall without impacting upon its meaning.

- 7.35 I agree that by placing the slabs upon the entrance ramps this relationship is more direct and tips the balance to the point where the overall meaning of the Hall is affected. I therefore recommend a condition that requires an alternative location within the square to be agreed. This will allow for the ongoing discussions with the families of those commemorated and Historic England to continue.
- 7.36 In summery I consider the additional planting to provide a contemplative space around the Hall of Memory; the change to granite as the surrounding paving material; the revealing of more of the plinth from the eastern side via the sloping of the planting bed and the reinstatement of mid and long distance views bringing the structure back into the wider square would all have a positive impact upon the setting of this heritage asset.
- 7.37 I note that all of the proposed changes to the Hall of Memory's plinth would be reversible.
- 7.38 Considering the wider impacts, the former Midland Bank (301 Broad Street), whilst part of the early grand civic proposals, is currently divorced from the square due to the presence of Broad Street and the large railings and planting running along Broad Street's northern edge. I consider that the removal of the railings and carrying surface material across (as part of the Metro proposals), together with the new feature columns will help bring the building, to a small extent, into the square. I acknowledge that the proposed tree planting within the new square will reduce some visibility of the building from within parts of the square. However, I balance I consider that the proposals (both in isolation and in combination with the tramway proposals) would have an overall neutral effect on the setting of this listed building.
- 7.39 The rationalisation of levels around the front of Baskerville House and the replacement of surfacing materials will improve the setting of this grand listed building. The slight relocation of the Industry and Genius public art centred on Baskerville House will help to provide a more coherent space around the front of this building. The feathered steps and simplification of access along Baskerville Walk are also minor benefits to the setting of this building.
- 7.40 My Conservation Officer notes that the applicant has identified and assessed the impact of the proposals upon the potentially affected heritage assets, and agrees with the assessments' conclusions and considers the proposals acceptable.
- 7.41 The comments of the Twentieth Century Society in relation to the existing patterned paving are noted. However, whilst this may be of some local interest, and in consultation with my Conservation Officer, I do not consider this paving of historic interest. The paving is in poor condition and its replacement is fully justified by the application proposals.
- 7.42 Finally I also note that the proposed design indicates a lesser degree of change around the Hall of Memory compared to other finalists' schemes. Several proposed water features around the Hall, to which Historic England objected.
- 7.43 I therefore concur with my Conservation Officer and consider that the impact of the proposed development of heritage assets is acceptable subject to suitable safeguarding conditions.

EVENTS

- 7.44 Centenary Square accommodates a wide range of events throughout the year including the Christmas Craft Market, the ice rink and big wheel, the Remembrance Day procession together with smaller ad hoc events. A key element of the brief is that the square can continue to host such events.
- 7.45 The Design and Access Statement states that discussions with the organisers of the key events held in the square have taken place, with confirmation received that the events could continue to take place with the new design.
- 7.46 The use of the square and the Hall of Memory for the Remembrance Day ceremony is an important design requirement. Discussions have been held with an armed forces representative, the British Legion and the Lord Mayor's Office to confirm how the event takes place, including the procession. The proposed square design allows for the procession to take place as it currently does along Broad Street, with the reflecting pool (when drained) re-providing a large event space. The clear area closest to the Hall of Memory will be larger than the space currently available and there would be a visual and physical link between the Hall of Memory, the area adjacent to the hall and the larger event space at the western end of the square. The proposals should therefore offer greater flexibility for the event organisers.
- 7.47 There will be a temporary impact whilst the works are carried out. The intention is to commence work on site in January 2017 with the works complete by Summer 2018 in advance of the (centennial) Remembrance Day ceremony. Discussions with Centro are also taking place to coordinate with their works to Broad Street to ensure that adequate provision for pedestrian circulation and access to the neighbouring properties is maintained for the duration of the works – noting the changes to pedestrian routing that will result from the ongoing Paradise Circus redevelopment.
- 7.48 I am therefore satisfied that the proposals meet the policy requirement for Centenary Square to remain the city's principal event space within the city centre. I note the ongoing discussions with stakeholders regarding coordination of developments within the part of the city with the aim of minimising disruption.

ECOLOGICAL IMPACTS

- 7.49 The City Ecologist notes that the square is of limited ecological value, with the trees and soft landscaping providing some nesting opportunities for small birds. Therefore the timing of the removal of this hedging should be kept to times outside of the bird breeding season or a suitably experienced person checks the site prior to commencement of development.
- 7.50 My Ecologist also recommends that a proportion of the proposed soft landscaping is aimed at pollinating species as an ecological enhancement of the square. I concur with this recommendation and an appropriate condition is recommended.
- 7.51 A large London Plane on the Broad Street frontage would be removed as part of the works associated with the tram and not the Centenary Square works as the kerb line for Broad Street is realigned to the north. Comprehensive negotiations with Centro have taken place regarding the feasibility of retaining this tree, unfortunately it would not survive the physical works in very close proximity and even if it could be retained it would present a safety concern as it would significantly impact upon the visibility of pedestrians crossing the road.

HIGHWAY MATTERS

- 7.52 The square provides an important pedestrian link between the city core and Westside. The application proposals, as required by the policy context, greatly improve pedestrian connectivity across the square. This is largely achieved through the rationalisation of the multiple levels across the site and the removal of retaining walls.
- 7.53 Vehicular access to the square is limited to limited disabled parking at King Alfred's Place adjacent to the ICC and coaches dropping off in front of the Symphony Hall. Vehicles can access via a barrier controlled entrance from Cambridge Street, which also provides servicing access to the side of the REP theatre.
- 7.54 The application proposals would remove the ability for coaches to drop off on the square, and the current arrangement where some coaches drop off adjacent to the square at Cambridge Street / King Alfred's Place would become the future provision.
- 7.55 Disabled parking would remain and would not be affected by the proposals. Maintenance vehicles would be able to access the square. In addition rising bollards would provide an emergency exit onto the reconfigured (as part of Centro works) bridge Street/Broad Street junction.
- 7.56 Transportation Development raises no objection subject to conditions, which are recommended. The continued public access through and around the square during the works is important and will be secured by condition.

8 Conclusion

- 8.1 The application proposals will deliver a transformational change to this key civic event space at the heart of the city delivering the city's brief. The reimaged square design will improve accessibility, provide a high quality public realm giving people a greater reason to dwell and enjoy the square and have a better relationship with both existing and proposed buildings around the square – encouraging activity to spill out and enliven the space.
- 8.2 The scheme will enhance the setting of the existing designated heritage assets and has been designed in partnership with key stakeholders, including Centro who will be delivering the new tramway extension on Broad Street.
- 8.3 The hall of columns will be a distinct design feature that gives the square a character and identity that will be immediately identifiable, building upon the transportation impact of the award winning Library of Birmingham.
- 8.4 I therefore recommend that this application is approved, subject to appropriate safeguarding conditions.

9 Recommendation

- 9.1 Approve subject to the following conditions:

-
- 1 Requires the prior submission of a construction method statement/management plan
-
- 2 Requires the prior submission of details for the protection of architectural details/public
-

art

- 3 Requires the prior submission of hard and/or soft landscape details
 - 4 Requires the prior submission of street furniture details
 - 5 Requires the prior submission of a scheme of landscape planting that includes ecological/biodiversity/enhancement measures
 - 6 Requires the prior submission of tree pit details
 - 7 Requires the provision and agreement of a sample panel of building materials
 - 8 Requires the prior submission and completion of works for the S278/TRO Agreement
 - 9 Requires the approval of the new location for the Victoria Cross memorials.
 - 10 Requires pedestrian and cycle routes to be available for public use at all times during the course of redevelopment
 - 11 Requires the scheme to be in accordance with the listed approved plans
 - 12 Requires the scheme to be in accordance with the listed approved plans
 - 13 Limits the approval to 3 years (Full)
-

Case Officer: Nicholas Jackson

Photo(s)



Figure 1 – Centenary Square – Panoramic View

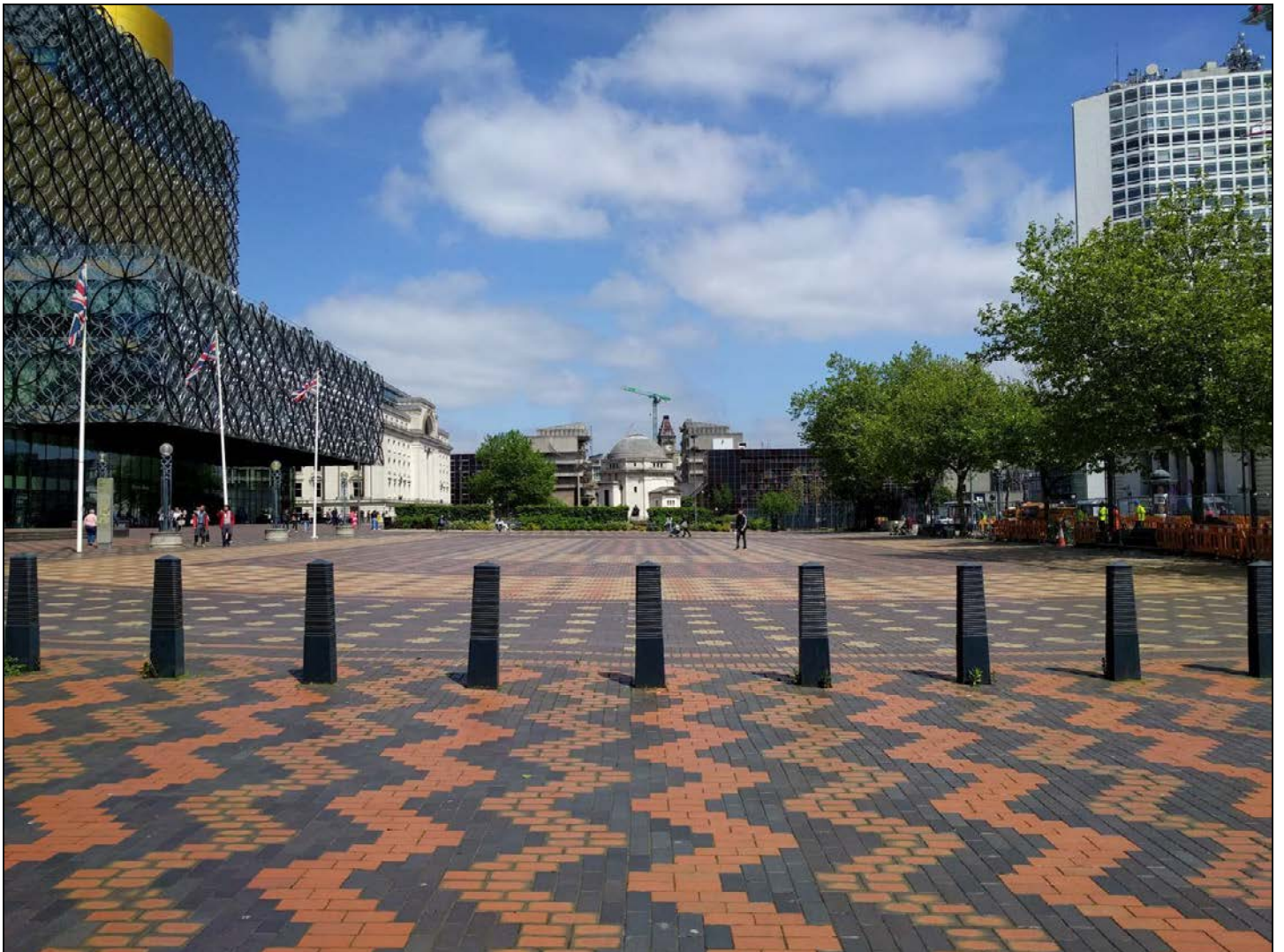


Figure 2 – Looking east from the ICC

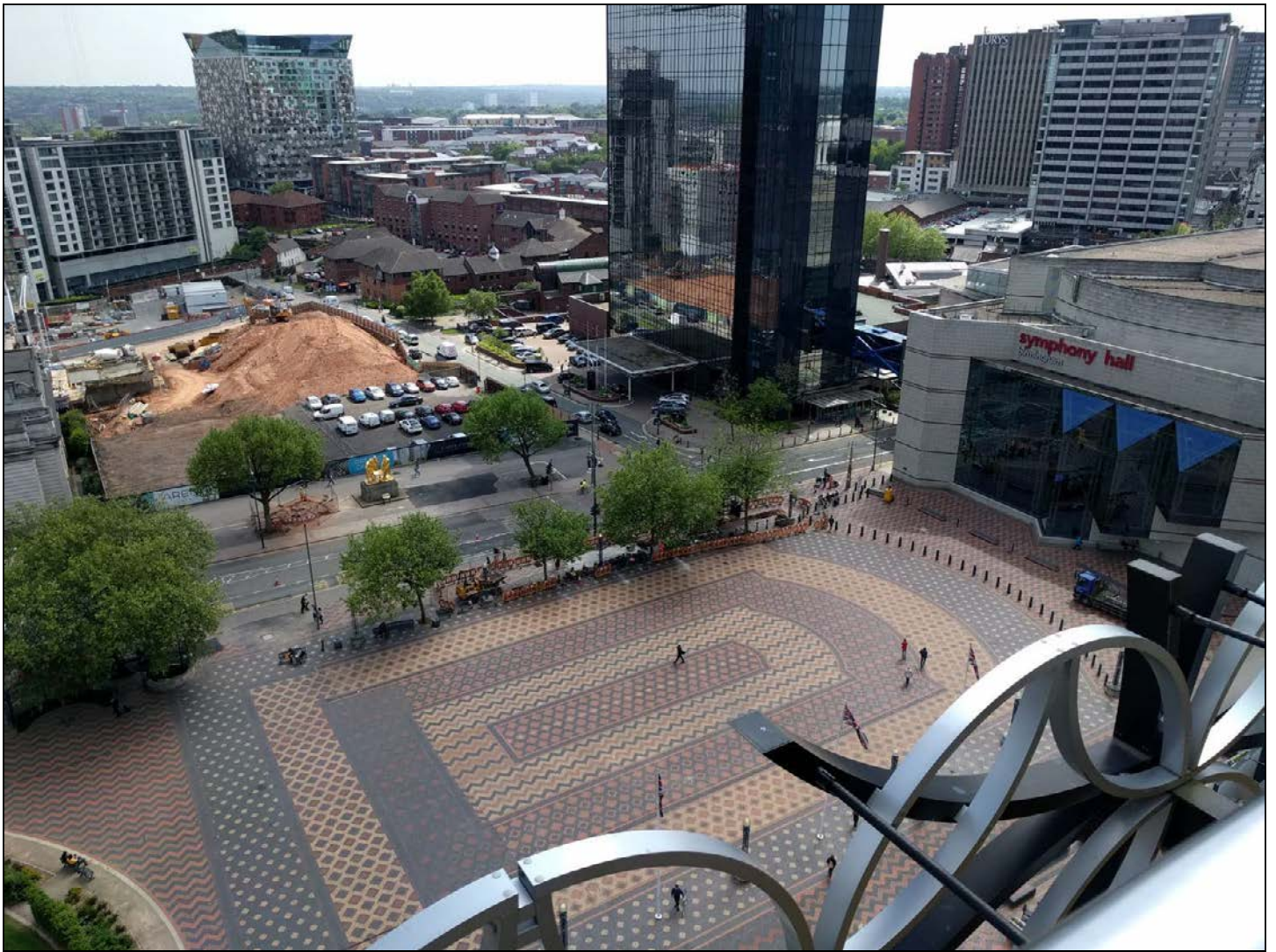
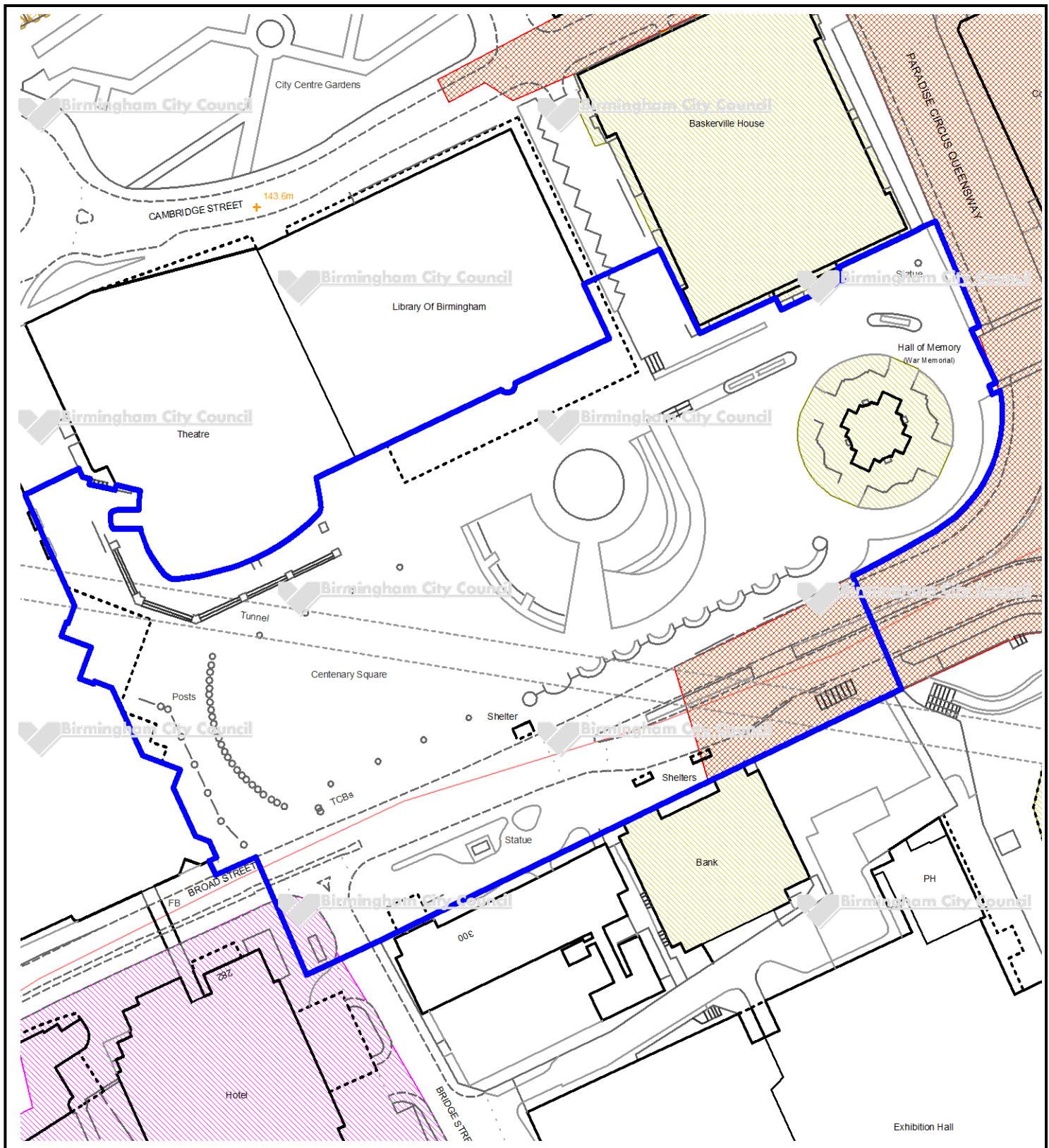


Figure 3 – The principal event space to the front of the ICC



Figure 4 – The Hall of Memory with the Paradise redevelopment beyond

Location Plan



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Committee Date:	18/08/2016	Application Number:	2016/04549/PA
Accepted:	25/05/2016	Application Type:	Listed Building
Target Date:	24/08/2016		
Ward:	Ladywood		

Hall of Memory, Centenary Square, Broad Street, City Centre, Birmingham, B1 2ND

Listed Building Consent for works to plinth including resurfacing and creation of access ramps over existing staircases

Applicant:	Birmingham City Council Planning and Regeneration, PO Box 28, 2nd Floor Lancaster Circus, Birmingham, B1 1TU
Agent:	Graeme Massie Architects 9-10 St Andrew's Square, Edinburgh, EH2 2AF

Recommendation
Determine

1 Report Back

- 1.1 Planning Committee deferred this application and the accompanying planning application at the meeting on the 5 August. Members had a number of concerns about the proposed design and wanted clarification on a number of issues. Since that meeting discussions have taken place and a full response to the issues raised are included in the report back on the accompanying report in relation to the planning application.
- 1.2 As reported at the last Committee meeting, Historic England have lifted their objection to the proposal and therefore the recommendation is to approve subject to conditions.

2 Original Report

- 2.1 This application for Listed Building Consent is for the repaving of the podium area and covering over of steps with ramps of the Grade I listed Hall of Memory.
- 2.2 The application accompanies an application for full planning consent for the remodelling of Centenary Square to provide a new civic event space at the heart of the City Centre. The proposals follow an international design competition attracting 185 entries, with the current architects chosen following shortlisting, a public exhibition and consideration by a panel.

Repaving of the plinth

- 2.3 The existing plinth is surfaced with Yorkstone which is in a poor state of repair and is not original to the structure. It is proposed to resurface this with new Yorkstone flagstones

Covering over of steps

- 2.4 The existing steps would be covered over (with the original fabric left in situ) with ramps to provide level access on all sides of the plinth. The sloping access would be clad in Yorkstone.
- 2.5 Whilst not requiring Listed Building Consent the wider square works include the construction of a seating area around the plinth with planters behind. Levels within the vicinity of the Hall of Memory to the west will be raised in order to provide level access across the square.
- 2.6 Detailed plans, a Design, Access and Planning Statement; Archaeological Desk Based Assessment and Heritage Statement have been submitted in support of this application.

2.7 [Link to Documents](#)

3 [Site & Surroundings](#)

- 3.2 Centenary Square is a 1.55ha public square and is the primary event space within the City Centre. The current square design largely consists of the 1989 remodelling that included resurfacing of the square and the creation of the bridge link between the Hall of Memory and Chamberlain Square.
- 3.3 The square houses the Grade I Listed Hall of Memory, a neo-classical circular building with associated plinth. There is a circular sunken amphitheatre near the centre of the square associated with the new Library of Birmingham, with part of the Library's basement beneath the square.
- 3.4 A large clear area is situated immediately in front of the Repertory Theatre (REP) and Symphony Hall with a Persian Rug design to the block work paving.
- 3.5 In addition a statue of Edward VII and the 'Industry and Genius' free standing columns as a monument to John Baskerville are situated in front of Baskerville House. A gilded statue of Matthew Boulton, James Watt and William Murdoch is situated to the south of Broad Street. The recently unveiled 'A Real Birmingham Family' statue is situated adjacent to the sunken amphitheatre.
- 3.6 The square is bounded by the Library of Birmingham, the REP Theatre and the Grade II listed Baskerville House to the north, Paradise Circus Queensway to the east, Broad Street (and the Arena Central development including the ongoing HSBC development and the Grade II listed former Municipal Bank) to the south and the Hyatt Hotel, International Convention Centre and Symphony Hall to the west.

3.7 [Site Location](#)

4 [Planning History](#)

- 4.2 Current application – 2016/04486/PA - Remodelling and resurfacing of Centenary Square to provide a new civic space including hard and soft landscaping, reflecting pool, fountains, feature poles and associated development

5 [Consultation/PP Responses](#)

- 5.2 Conservation Heritage Panel – The panel welcomed and supported the proposals.

- 5.3 Historic England - whilst generally supportive of the overall scheme, have objected on a number of specific grounds. These are the impact of the new bench; alteration in ground levels; location of the Victoria Cross monuments; covering of the two flights of stairs on the Hall of Memory plinth and the planting proposals around the Hall of Memory.
- 5.4 Site and Press Notices posted. Ward Members, the MP, Resident Associations and amenity societies consulted with the following representations received.
- 5.5 Twentieth Century Society – Welcome the proposals and consider them to go some way towards reinstating the original relationship of the memorial to the square and de-clutter this public space. Their only concerns, in relation to the wider scheme, are the area of soft planting to the south-west of the Hall of Memory could obscure the line of vision towards the memorial from the west and that the existing ‘Tess Jaray’ paving be retained or documented. They suggest reducing the number of trees proposed and moving them to be in line with the planted screen that will face Paradise Circus Queensway and Broad Street. In relation to the paving, they suggest that its retention should be considered, or it is fully documented prior to any works taking place.

6 Policy Context

- 6.2 Birmingham Unitary Development Plan 2005 (Saved Policies); the Birmingham Development Plan (pre-submission draft); Regeneration Through Conservation SPG; The Big City Plan; and the National Planning Policy Framework 2012. The Hall of Memory is Grade I Listed and the nearby Baskerville House, Alpha Tower and 301 Broad Street are all Grade II Listed.

7 Planning Considerations

POLICY

- 7.2 The NPPF makes specific reference to ‘Heritage Assets’, which includes conservation areas and listed buildings. Paragraph 129 refers to a need to assess the significance of a proposal on any heritage asset, with paragraph 131 stating that local planning authorities should take into account the desirability of sustaining and enhancing heritage assets and the positive contribution that the new development would make to local character and distinctiveness. Paragraph 132 places ‘great weight’ on the impact of development on a heritage asset’s significance and 133 refers to developments causing substantial harm to a heritage asset, outlining key points that the applicant should be able to demonstrate in order to justify this harm.
- 7.3 Within the adopted UDP policy 3.25 refers to the setting of listed buildings and states that appropriate control will be exercised over the design of new development in their vicinity. Policy 3.10 notes that proposals which would have an adverse effect on the quality of the built environment will not normally be allowed and policy 3.8 refers to the City’s environmental strategy which is based on protecting and enhancing what is good and improving what is less good in the City’s environment, along with recognising the key relationship between environmental quality and levels of economic activity. Policy 3.14D concerns design and provides a set of assessment principles, including impact on local character, views, skyline, scale, and massing and neighbouring uses.

- 7.4 The pre-submission draft Development Plan, at policy TP12, recognises the value of heritage assets and requires new development to make a positive contribution to the asset's character, appearance and significance.

PRINCIPLE / HERITAGE IMPLICATIONS

- 7.5 The principle of replacing the Yorkstone is acceptable subject to a suitable safeguarding condition requiring the prior approval of the material. I note that the existing paving is in a poor state of repair and is not original fabric.
- 7.6 The covering of the steps, which consists of 2 no. flights of 5 steps on the south and west of the plinth, is reversible as the existing steps would be retained and protected beneath the new Yorkstone paved ramps.
- 7.7 My Conservation Officer notes that the applicant has provided sufficient information to understand the impact of the proposals upon the significance of this listed building. Although the scheme will see the covering over of the two remaining set of steps he considers that a clear and convincing justification has been made for the proposals and that any harm caused is outweighed by the public benefit of the scheme. He recommends that conditions are imposed requiring prior approval of details, materials and finishes.
- 7.8 The Twentieth Century Society's comments are noted. Whilst a matter for the wider application, the proposed trees placement is such that they are designed to act as a wind break to assist in creating a more favourable micro climate around the Hall of Memory. This would help to provide a more contemplative space and encourage people to spend time rather than transition through this space. In addition one of the overall aspirations of the project is to significantly increase the number of trees in the square, which would have microclimate and biodiversity implications. The perimeter wall around the tree pit is part of the hostile vehicle mitigation strategy, helping to provide a safe environment. I consider that these benefits outweigh the relatively minor impact upon views from the southwest. In relation to the patterned paving, which was inspired by Moroccan Carpets, the pavers have passed their life expectancy and have broken, perished and sunk in several locations. The retention of the paving was considered however due to its condition the wider proposals show the resurfacing and replacement of the substructure. In consultation with my Conservation Officer, I do not consider this paving of historic interest. The paving is in poor condition and its replacement is fully justified by the application proposals.

HISTORIC ENGLAND

- 7.9 Historic England whilst generally supportive of the overall scheme, have objected on a number of specific grounds. The impact of the new bench, alteration in ground levels, location of the Victoria Cross monuments and planting proposals are considered in the application for full planning consent elsewhere on your committee's agenda. The covering of the steps with new ramps on the western side of the plinth is the only element requiring listed building consent to which Historic England object.
- 7.10 As stated above, the covering of the steps is a reversible and would restore symmetry to the structure, which has been lost over time. The increased level of accessibility to all sides of the plinth easily by people with mobility issues is also a benefit. I therefore consider that any harm to the significance of the structure through the burial of these steps is less than substantial and outweighed by the benefits of the proposal.

- 7.11 There are no changes proposed to the principal Hall of Memory structure.
- 7.12 The impacts upon the setting of the Hall of Memory by the wider square proposals, including the new planters/benches are considered within the application for full planning permission. The implications for events, including the Remembrance Day procession, are also considered in relation to the full planning application.

8 Conclusion

- 8.2 The wider application proposals will deliver a transformational change to this key civic event space at the heart of the city. The reimaged square design will improve accessibility, provide a high quality public realm giving people a greater reason to dwell and enjoy the square and have a better relationship with both existing and proposed buildings around the square – encouraging activity to spill out and enliven the space.
- 8.3 The scheme will enhance the setting of the existing designated heritage assets and has been designed in partnership with key stakeholders, including Centro who will be delivering the new tramway extension on Broad Street.
- 8.4 The detailed works to the listed fabric are minor and limited to the replacement paving and the covering over of the steps. These would have a limited impact upon the significance of the heritage asset and would be reversible.
- 8.5 I therefore recommend that this application is approved, subject to appropriate safeguarding conditions. However, due to the outstanding objection from Historic England this application requires referral to the Secretary of State.

9 Recommendation

- 9.2 I) That the application is referred to the Secretary of State in accordance with the 'Arrangements for Handling Heritage Applications Direction 2015 & the Town and Country Planning (Development Management Procedure) (England) Order 2015'; and
- II) That in the event of the Secretary of State not intervening Listed Building Consent is granted subject to the following conditions:

-
- | | |
|---|--|
| 1 | Requires the prior submission of sample Yorkstone paving |
| 2 | Requires the submission of details of cleaning of the Hall of Memory |
| 3 | Requires the scheme to be in accordance with the listed approved plans |
| 4 | Limits the approval to 3 years (conservation/listed buildings consent) |
-

Case Officer: Nicholas Jackson

Photo(s)



Figure 1 – Centenary Square – Panoramic View

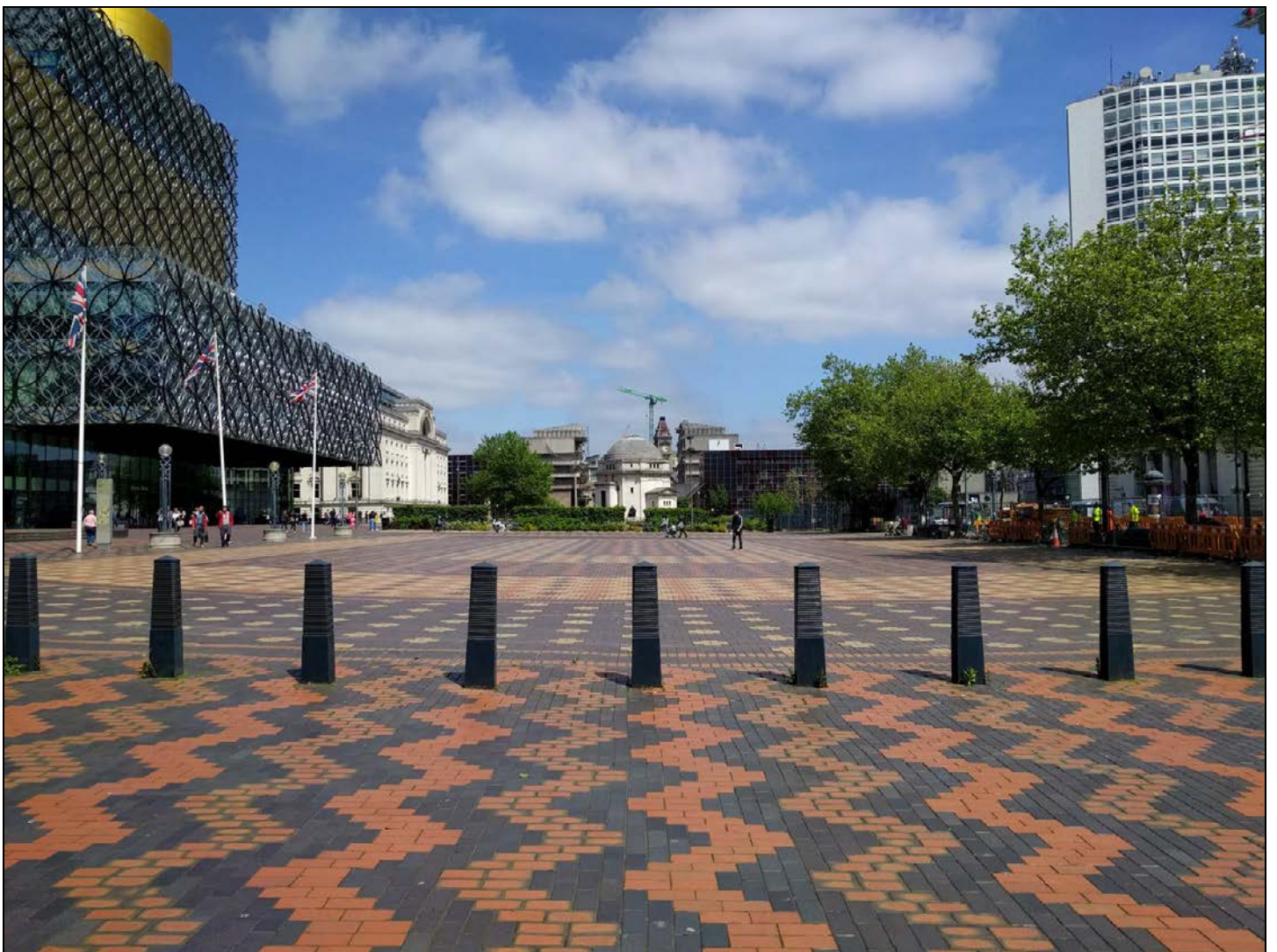


Figure 2 – Looking east from the ICC

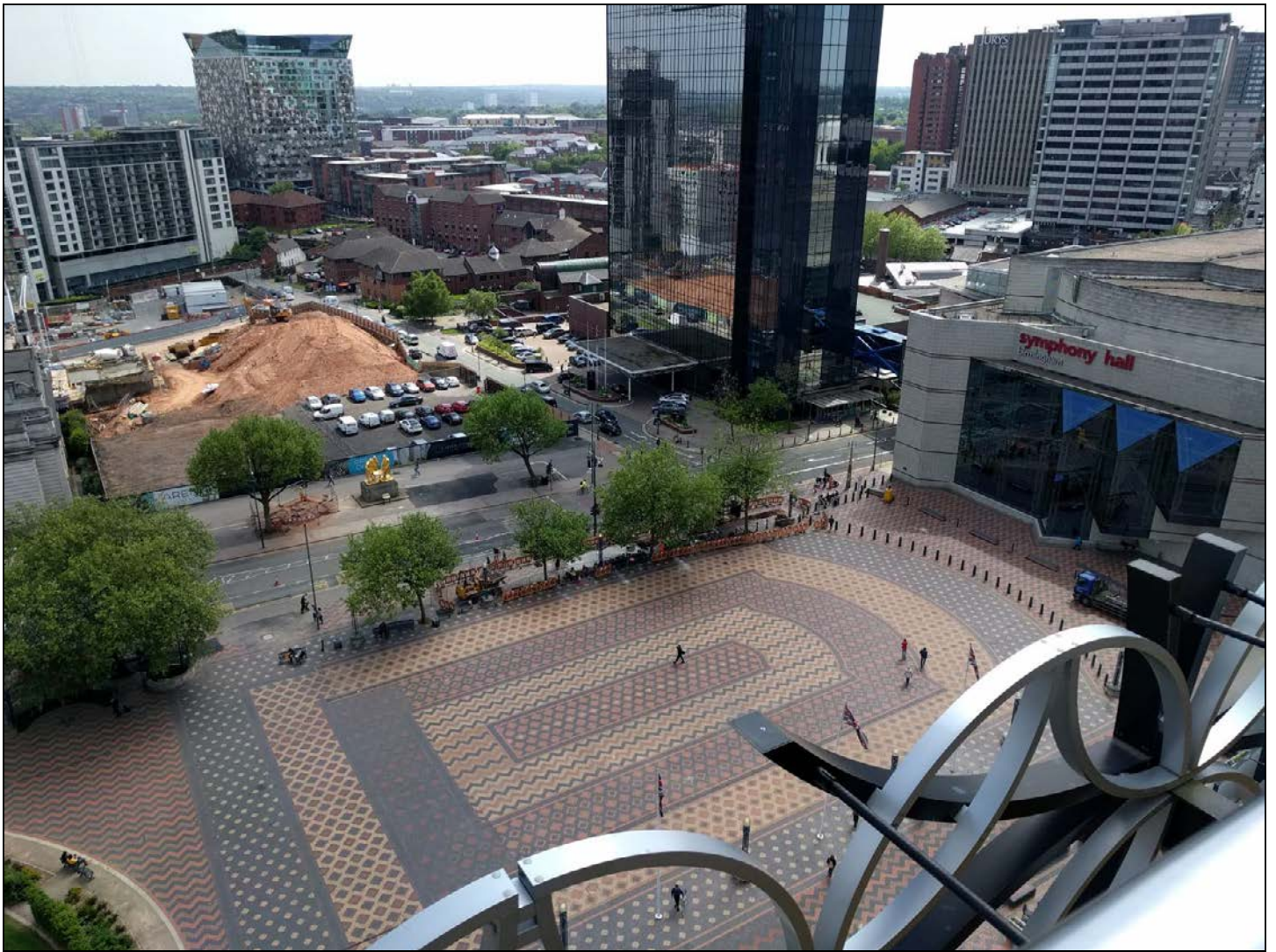
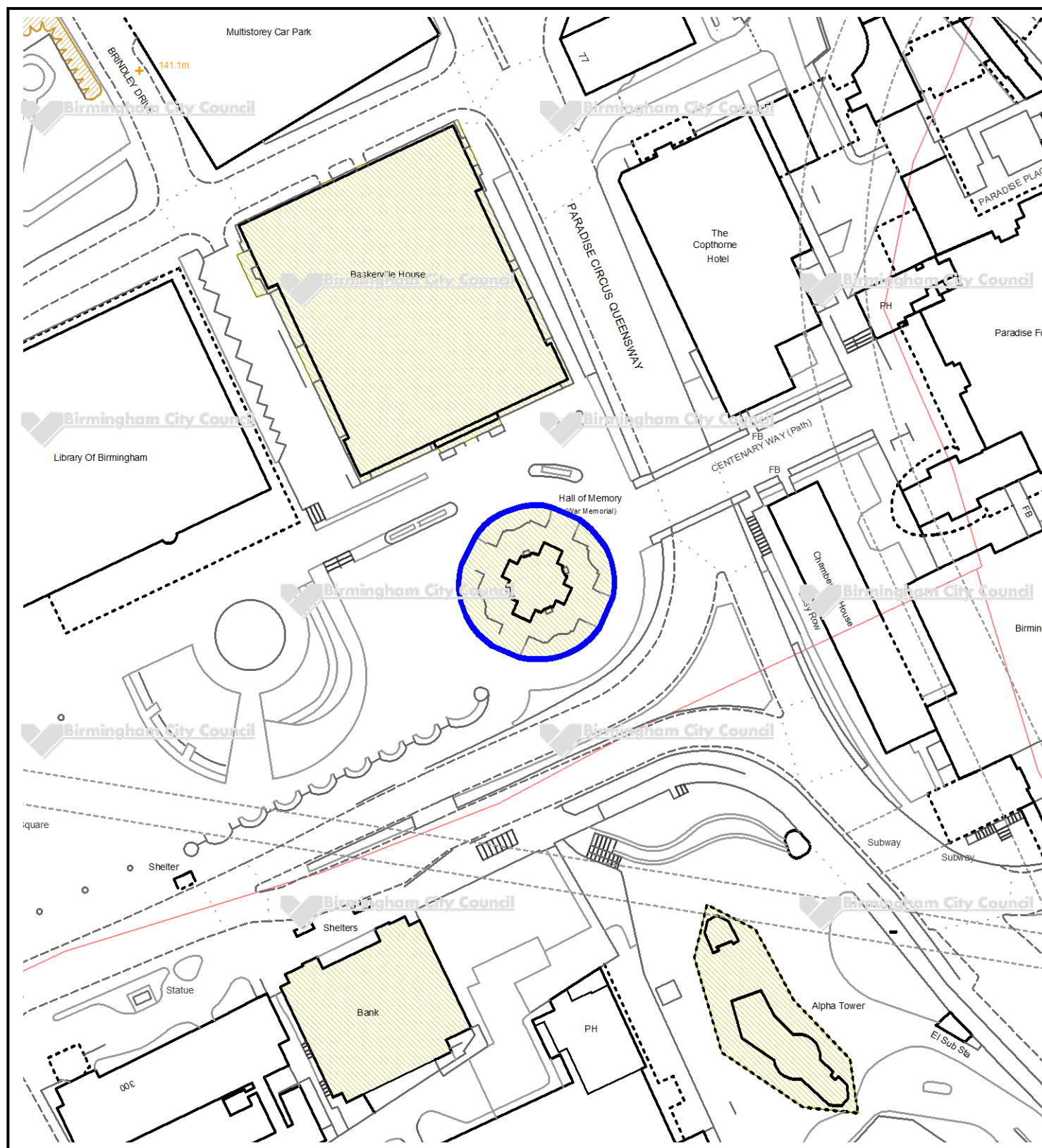


Figure 3 – The principal event space to the front of the ICC



Figure 4 – The Hall of Memory with the Paradise redevelopment beyond

Location Plan



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Birmingham City Council
Planning Committee 18 August 2016

Appeal Decisions Received from the Planning Inspectorate in July 2016

<u>CATEGORY</u>	<u>ADDRESS</u>	<u>USE</u>	<u>DECISION</u>	<u>TYPE</u>	<u>PROCEDURE</u>
Enforcement	16 and Land rear of 14,18 & 20 Bennett Road, Four Oaks	Erection of metal gates and railings and brick piers. 2015/0588/ENF	Allowed (see note 1 attached)	Enf	Written Representations
Householder	176 Ridgacre Road, Quinton	Alterations to roof including increase in height, hip to gable conversion and installation of dormer window to rear. 2016/00855/PA	Dismissed	Delegated	Written Representations
Householder	10 Hill Hook Road, Sutton Coldfield	Erection of two-storey front and side extension, and single and two storey rear extension. 2015/10537/PA	Dismissed	Delegated	Written Representations
Householder	97 Booths Farm Road, Great Barr	Retention of single-storey rear extension. 2016/01064/PA	Allowed (see note 2 attached)	Delegated	Written Representations
Householder	10 Edenhurst Road, Longbridge	Erection of two-storey rear extension. 2015/06653/PA	Dismissed	Delegated	Written Representations
Householder	908 Pershore Road, Selly Park	Erection of two storey side and rear and single storey rear extension. 2016/03226/PA	Dismissed	Delegated	Written Representations
Householder	37 Wheeley's Road, Edgbaston	Erection of first floor side extension. 2016/03227/PA	Allowed (see note 3 attached)	Delegated	Written Representations
Residential	107 Leach Green Lane, Rednal	Outline planning application with all matters reserved for the erection of one dwelling house. 2015/08617/PA	Dismissed	Delegated	Written Representations
Residential	171 Colebourne Road, Land to rear of, Moseley	Erection of a two-storey detached dwellinghouse. 2015/08561/PA	Dismissed	Delegated	Written Representations

**Birmingham City Council
Planning Committee 18 August 2016**

Appeal Decisions Received from the Planning Inspectorate in July 2016

<u>CATEGORY</u>	<u>ADDRESS</u>	<u>USE</u>	<u>DECISION</u>	<u>TYPE</u>	<u>PROCEDURE</u>
A3/A5 Uses	197b Hagley Road, Edgbaston	Prior Approval for change of use from Printing Shop (Use Class A1) to Restaurant (Use Class A3). 2015/09227/PA	Allowed (see note 4 attached)	Delegated	Written Representations
Other	Springhill Farm, Camp Road, Sutton Coldfield	Creation of open equestrian menage in existing field. 2015/06224/PA	Allowed (see note 5 attached)	Delegated	Written Representations
Other	22 Ashfield Road, Kings Heath	Retention of rear dormer window. 2015/07750/PA	Dismissed	Delegated	Written Representations

Total - 12 Decisions: 7 Dismissed (58%) 5 Allowed

Cumulative total from 1 April 2016 - 32 Decisions: 23 Dismissed (72%), 9 Allowed

Notes relating to appeal decisions received in July 2016

Note 1 (Bennett Road)

Enforcement Notice issued because the electronic metal gates and railings and brick piers as installed are out of character with the area and result in an increased fear of crime and reduced natural surveillance. They would also privatise the development and reduce permeability.

Appeal allowed because the Inspector considered the development was not inappropriate or unduly dominant in the street scene and does not act as a visual barrier which materially harms the character or appearance of the area.

Note 2 (97 Booths Farm Road)

Application refused because the overall size of the extension is out of scale with the original house and dominates its appearance and the street scene.

Appeal allowed because the Inspector considered that the extension creates a balanced and ordered appearance to the rear elevation which does not harm the character and appearance of the host dwelling or the surrounding area.

Note 3 (37 Wheeley's Road)

Application refused because: 1) the design of the proposed extension would be out of keeping with the character and appearance of the existing house. 2) The size of the proposed extension would be out of scale with the existing house and would dominate its appearance. 3) The site is within the Edgbaston Conservation Area and the proposed development would be incompatible with the character and appearance of that area.

Appeal allowed because the Inspector considered the design of the proposed extension would be in keeping with the existing dwelling, the footprint of development would remain the same and there would be no significant change to the character or appearance of the conservation area.

Note 4 (197b Hagley Road)

Application refused because the proposal would further reduce the availability of A1 retail uses and would lead to a concentration of non-retail uses which would adversely affect the vitality and viability of the frontage of which it forms part and would have a negative cumulative effect on the Neighbourhood Centre.

Appeal allowed because the Inspector considered that as the unit is not, and was not, last in A1 use, the proposed change to A3 will make no difference to the percentage of units in A1 use and would have no harmful effect on the sustainability of the shopping area.

Note 5 (Springhill Farm)

Application refused because by virtue of its size and siting, the proposed ménage would constitute inappropriate development in the Green Belt, leading to the

urbanisation of an existing field and unnecessary erosion of the protected countryside. The visual harm caused would be further exacerbated by its highly prominent position, which would be clearly visible on approach to the site from Camp Road and no very special circumstances have been put forward to outweigh the harm caused to the Green Belt.

Appeal allowed because the Inspector considered that the formation of the ménage itself would not have an impact on the openness of the Green Belt as the appeal site is largely flat and no significant retaining works are proposed, Similarly, the low level open timber fencing surrounding the ménage would only have a very slight impact on openness and therefore overall the proposal would preserve the openness of the Green Belt.