

Birmingham City Council

Planning Committee

08 October 2020

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Subject to 106 Legal Agreement	6	2019/09845/PA 37-42 Tenby Street Jewellery Quarter Birmingham B1 3EF Demolition of existing buildings and site clearance and erection of a 4 storey development providing replacement premises for Charles Green, ground floor commercial units (Use Classes B1, A1, A2, A3/D2) and 37 one and two bed apartments (Use Class C3) with associated works.
Approve – Subject to 106 Legal Agreement	7	2020/02766/PA Land at the corner of Essex Street and Bristol Street Birmingham B5 Demolition of existing buildings and site clearance for the erection of 28 storey tower to include 154 apartments (Use Class C3), ground floor commercial/retail unit (Use Classes A1/A3), with ancillary resident amenity space and all associated works
Approve – Subject to 106 Legal Agreement	8	2020/02655/PA Land bounded by 51 Northwood Street and Mary Street Jewellery Quarter Birmingham B3 1TX Demolition of existing buildings and erection of new part three and part four storey buildings to provide flexible floor space comprising retail (Use Class A1), office (Use Classes A2 and B1), restaurant (Use Class A3), health centres and clinics (Use Class D1) and 27 one and two bedroom residential dwellings and associated cycle parking and landscaped courtyard.

Approve – Subject to
106 Legal Agreement

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2020/03829/PA

Lancaster Wharf
5 Princip Street
Birmingham
B4 6LE

Demolition of existing building and erection of development of 266 apartments in linked blocks with heights of 6, 7 and 23 storeys with basement car parking, new access from Princip Street, landscaping, amenity space and associated works.

Committee Date:	08/10/2020	Application Number:	2019/09845/PA
Accepted:	06/12/2019	Application Type:	Full Planning
Target Date:	23/10/2020		
Ward:	Soho & Jewellery Quarter		

37-42 Tenby Street, Jewellery Quarter, Birmingham, B1 3EF

Demolition of existing buildings and site clearance and erection of a 4 storey development providing replacement premises for Charles Green, ground floor commercial units (Use Classes B1, A1, A2, A3/D2) and 37 one and two bed apartments (Use Class C3) with associated works.

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

- 1.1 The application relates to a site of approximately 0.14ha within the Jewellery Quarter Conservation Area which is currently occupied by a Charles Green and Sons Ltd, a jewellery manufacturer. The business operates from a 1970's two storey building fronting Tenby Street and its junction with Albion Street. The application proposes the regeneration of the site to provide a replacement business premises for Charles Green and further new buildings to accommodate 37 apartments and a commercial building of 65 sq.m for A1, A2, B1(a) or D1 Use. The application has been amended twice since originally submitted to revise the layout, building designs, heights and the relationship with 36 Tenby Street. This has reduced the number of dwellings from 42 to 37 units and the amount of commercial floor space from 1,267 sqm to 693 sq.m.
- 1.2 The proposals would demolish the existing building and replace it part two storey and part single storey purpose built facility for Charles Green which they would lease. This would provide 628 sq.m of floor space which is smaller than the current premises which provides 1,011 sq.m of floor space. The replacement building would be located close to the northern boundary and have a ground floor entrance fronting Tenby Street and extend the full depth of the plot in the form of a traditional shopping wing. The replacement accommodation would provide a range of workshops, production space and storage facilities with first floor offices in a part mezzanine area. On the street frontage there would be a reception and gallery space with a narrow access between the new building and the site boundary.



Figure 1: Proposed north elevation showing replacement building for Charles Green

- 1.3 The remainder of the site would be developed with a four storey building located to the back of pavement on the two site frontages to Tenby Street and Albion Street. It would provide 2,154 sq.m of residential floor space and a commercial unit of 65 sq.m as well as the new entrance to the Charles Green premises. Although the building is generally four storeys in height, the design includes tall floor to ceiling heights at ground floor level which would allow a partial mezzanine level to be provided for 4 duplex units that are proposed facing both streets. At the rear of the new building a small courtyard area is proposed accessed from Albion Street.



Figure 2: Proposed Ground Floor Layout

- 1.4 The residential floor space would provide 37 apartments comprising 18 x 1 Bed (49%) and 19 x 2 bed (51%) including 4 duplex units. The apartments would range in size from 42- 45 sqm for the 1 bed and 61-66 sqm for the 2 bed units with the 4 duplexes being 87-103 sq.m. A flexible A1, A2, A3, B1 and/or D2 are sought for the commercial unit.
- 1.5 The development has been designed to give the appearance of 3 slightly different linked buildings to the site frontages with the tallest element being a corner block at the junction of Tenby Street and Albion Street where the building would be the full 4 storeys high (plus mezzanine) with a pitched roof. Slightly lower height blocks are proposed either side providing accommodation on 5 floors including within the pitched roof spaces on the site frontage and mezzanines. On the Tenby Street the living space in the roof would be lit by top shop style dormers and on the Albion Street frontage by roof lights. The buildings behind the street frontages including the replacement building for Charles Green would all have flat roofs.
- 1.6 All the buildings would be of orange/red bricks and have recessed Crittall style shop front windows to the ground floor. The designs include the use of slate style and

standing seam metal roofs, soldier course feature brickwork, decorative parapet details and some feature gold cladding to frame the windows in the roof space. The gable end facing Albion Street would use full height glazing. On the rear elevation a grey/white brick is proposed at ground floor level to provide more light into the rear courtyard area. The entrance to the Charles Green floor space fronting Tenby Street would be clad with bronze/corten steel metal panelling which would be also used as detailing on the on the accommodation above including the top shop dormers. The wing at the rear would have a more industrial appearance with the use of small Crittall style windows and recessed brickwork.



Figure 3: Proposed elevations to Albion Street



Figure 4: Proposed elevations to Tenby Street

- 1.7 No car parking is proposed for the development although the Charles Green vehicle access is designed to accommodate a small van. The ground floor accommodation facing the courtyard area would provide a cycle store with 48 spaces as well as bin storage and plant.
- 1.8 The application has been supported by Design and Access Statement, Noise and Vibration Assessment, Air Quality Assessment, Energy/Sustainability Statement, Heritage Statement, Sustainable Drainage Assessment, Ecological Appraisal, Bat and Bird Assessment, Transport Assessment / Travel Plan and Ground Investigation. The applicants have also provided a Financial Viability Statement which has been assessed and two (5%) of the dwellings have been offered as low cost market dwellings at a 20% discount of open market value. In addition the Charles Green & Son unit would be provided at a discounted rent for a period of 15 years at a

maximum rent of £10 per square foot (index linked). There would also be £4,000 as a contribution towards SuDS improvements.

- 1.9 The supporting statements comment that the residential development proposed would allow the retention of existing jewellery manufacturers Charles Green and Son on site supporting the character of the Industrial Middle part of the Jewellery Quarter and existing jobs.

1.10 [Link to Documents](#)

2.0 Site & Surroundings

- 2.1 The application site is an 'L-shaped' plot of land on a corner plot with frontages to Tenby Street and Albion Street within the Jewellery Quarter Conservation Area. It is occupied by a two storey jewellery manufacturing premises which is located to the back of the pavement and was built about 50 years ago. The building occupies the entire Tenby Street frontage and has a vehicle access enclosed by a roller shutter door to a parking area at the rear. On Albion Street frontage the building occupies about half of the site frontage with the remainder being undeveloped and also used for car parking.

- 2.2 The site sits within a wider urban block bounded by Tenby Street, Albion Street, Frederick Street, Warstone Lane and Tenby Street North. This area is characterised by a large number of small scale 19th and 20th century factory premises, including a number of adaptations of earlier 18th century dwellings. Many of these buildings as listed properties including 36 Tenby Street and 33-36 Albion Street, both Grade II and abut the site boundaries. No 36 Tenby Street is generally 3 storeys in height facing the street and has a long 2 and 3 storey shopping wing which extends along the full length of the northern boundary. 33-36 Albion Street comprises 2 and 3 story regency style properties fronting the street but there is also an incomplete structure at the rear which has approval for a basement car park with a three storey building above to be used as four live/work units. The rear boundary of the site also adjoins a car parking area to the rear of further listed buildings at 47 Frederick Street.

- 2.3 In the immediate area are further listed buildings including 49-52 Albion Street (Grade II), 54-57 Albion Street (Grade II*), 58-65 Albion Street, 28-29 Tenby Street, 30-31 Tenby Street and 45-49 Frederick Street (all Grade II). Immediately opposite the site on the Tenby Street frontage is a modern 4 and 5 storey development known as The Orb which comprises of ground floor commercial units with apartments above.

- 2.4 There is a mix of uses in the vicinity of the site including retail, office, workshops leisure, residential and live work units. It falls within the designated Industrial Middle part of the Jewellery Quarter Conservation Area.

2.5 [Site location](#)

3.0 Planning History

- 3.1 077440004 – 23/5/68 – Planning permission granted for light industrial jewellery building

4.0 Consultation/PP Responses

- 4.1 Transportation - No objection subject to conditions requiring the redundant footway crossings to be reinstated with a suitable highway agreement, cycle parking be

provided and a Construction Management Plan to detail the programme of demolition and construction along with any effects on the public highway. Comment that the development removes the car parking and servicing from the site which will now take place on-street. Note the rear servicing corridor and route to refuse bin stores and cycle parking. The site is located close to the City centre and parking on-street is all controlled, so there is no objection to zero on-site parking.

- 4.2 Regulatory Services – No objections subject to conditions requiring provision of sound insulation and limits on equipment noise for the commercial unit, a noise and ventilation assessment for the development, further noise assessment if the commercial unit is used for A3 or D2 purposes, to limit the opening hours of the to 08.00 - 23.00 and deliveries to 08.00 - 20.00 hours, provision of a construction and demolition management plan, contamination remediation scheme and verification report.
- 4.3 Local Services - Comment that as the scheme of over 20 dwellings it would be subject to an off-site POS contribution in accordance with the BDP. A contribution is sought of £85,800 which would be spent on the provision, improvement and/or biodiversity enhancement of public open space, and the maintenance thereof at Jewellery Quarter Cemeteries POS all within the Soho and Jewellery Quarter Ward.
- 4.4 BCC Employment Team – Request any permission includes Employment Obligations requiring the prior submission of a construction employment plan for a minimum total of 60 Person Weeks of employment per £1million spend on the construction of the site will be provided for New Entrants whose main residence is in the Local Impact Area provided always that each New Entrant is suitably qualified for the relevant role.
- 4.5 Lead Local Flood Authority- Originally objected on the lack of information. Since then further discussions have taken place between the applicants and LLFA who have now advised that due to challenges of meeting Policy TP6 of the adopted Birmingham Plan in this instance they would consider a contribution to reduce flood risk through the offsite provision of SuDS within the same River Catchment. This would be via a commuted sum or Section 106 funding to offset the discharge rates from the development site within the River Rea catchment. This would align with a draft SPD (due to be formally adopted shortly) that proposes the creation of SuDs Streets within the River Rea catchment and the development site is at the end point of discharge for surface water. They request £4,000 from the development to 'offset' the additional flows from the site.
- 4.6 Severn Trent Water – No objection subject to a drainage condition being imposed for the disposal of foul and surface water
- 4.7 Historic England – Have raised concerns on Heritage grounds. They comment that the site lies within the Jewellery Quarter Conservation Area, representing a unique part of Birmingham's heritage of international significance and the site also lies adjacent to, and within the setting of, a high number of listed buildings which embody many of the area's characteristics and significance. The application is contrary to Birmingham City Council's policies for use within the Industrial Middle of the conservation area, categorised to safeguard traditional metalworking activities within the Quarter. They understand that a case is being presented to the local authority on the basis of viability, enabling the existing business to remain within the Jewellery Quarter.
- 4.7.1 Historic England do not have any concerns to the proposed demolition of the existing late-1960s building and concur with the applicants' assessment that it does not

contribute positively to the character and appearance of the conservation area. Its replacement therefore provides an opportunity to enhance and better reveal significance through an appropriate and sensitive design in this unique historic environment. They do not, however, feel that the current proposals are successful in achieving this. Whilst some minor alterations to the designs have been made following our pre-application advice, the current scheme does not address our fundamental concerns raised at pre-app regarding the height and scale of the development in the context of the character and appearance of the conservation area and adjacent listed buildings.

- 4.7.2 Historic England point out that the Jewellery Quarter Design Guide calls for new buildings to respect the urban context of the site in height and scale with a view to preserving local character and distinctiveness. This sets out a clear limit of four storeys for the scale of new development within the Quarter, but emphasising that, in some contexts three or even two storeys may be more appropriate. The proposals however include buildings rising well above traditional building heights and this is particularly evident when compared to the more domestic scale of Albion Street which is almost exclusively 3 storeys, with some 2 storeys. This domestic scale is fundamental to the significance of the Quarter in telling the history of its growth out of humble domestic buildings from the late-18th and early-19th centuries. This domestic character is, in turn, part of the significance of many of the listed buildings along Albion Street, and the scale of the townscape plays an important role in your experience of these heritage assets. Whilst more recent developments close by do rise above the traditional townscape, these do not contribute positively to the character and appearance of the conservation area. New development should seek to enhance and better reveal those elements which do contribute positively to significance and make a positive contribution to local character and distinctiveness. We would also draw attention to the statutory duties of the local authority set out in sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and the requirements of sections 12 and 16 of the NPPF.
- 4.7.3 Historic England note that following their original comments the scheme has been amended and elements of the proposals have been reduced from 5 storeys to 4 storeys in height, the overall form of the roof has been reduced and simplified and rear apartments have been reduced considerably. These changes are welcomed and result in a lesser impact on the conservation area and the setting of neighbouring listed buildings. However whilst these changes are welcomed, the proposed building will still introduce a considerable scale to Albion Street and a corner building and gable end which is not entirely typical or characteristic of the area. They do not object to the principle of exploring unconventional or contemporary approaches to design in the conservation area, but would urge the applicants to continue to further refine the design and seek amendments in the context of the historic townscape and also to ensure a quality approach to all materials and finishes.
- 4.8 The Victorian Society – Object as they still consider that the proposed development with 37 apartments is contrary to the policy of the City Council as set out in the Character Appraisal and Management Plan for the Conservation Area in 2002 part 2.2, where it is stated that residential use will not normally be permitted in the Industrial Middle Zone. They have no objection to the principle of demolition of the existing 1960s building on the site of 37-42 Tenby Street and its replacement. However, the amended proposal now has a reduction of commercial space and is for 37 apartments.
- 4.8.1 The reduction of the height of the proposed new building to the street corner from five storeys to four is an improvement on the previous proposals, as is the proposed

reduction of the height of the rear wing from four storeys to one storey. We note that this single storey is in effect partly double height as it is actually one storey with a mezzanine, although we are pleased to note the step to a single storey and lower east end of this north wing, as indicated in the latest amended drawings. However, it remains our view that the design of both the street elevations and the rear wing appear unattractive and unsuitable for this sensitive location in the conservation area. The development in its current proposed form will in our view have a negative impact on the character and appearance of the conservation area and the setting of the adjacent listed buildings in Albion Street and Tenby Street. We therefore continue to object to this application as is currently presented for this sensitive location in the conservation area.

- 4.9 Councillor Davies (City Heritage Champion) – Commented on the original plans and recommended refusal on the grounds that the development substantially breaches design guidance for the JQ Conservation Area, being of inappropriate mass and height. The characteristic height of the neighbouring buildings is 3-4 storeys and the 6 storey building of this type is destructive to the adjacent townscape and out of character for the Jewellery Quarter. He has since provided further comments expressing his concern that there is no longer a Design and Conservation Heritage Panel to review this type of inappropriate scheme and previous procedures allowed for more scrutiny of developments such as this. He considers the development conflicts with the Conservation Area Management Plan as it breaches established street profile (height and mass) and also the guidance on residential vs commercial/industrial uses. He invites the committee to either reject or defer this application until the Neighbourhood Plan is in place given the threat to the special character of the JQ and that it risks setting a precedent.

- 4.10 Councillor Chaman Lal – Raises objections on the original plans on the grounds that:
- 1) The proposed development is too big and too high for the site which would have adverse impact on the neighbourhood.
 - 2) The proposed development would have adverse impact on the heritage of the Jewellery Quarter Conservation Area.

Further comments have been received in respect of the amended plans which are that he welcomes the investment in his ward but is aware of local residents concerns with the mass and the height of the development dominating the neighbouring listed buildings and impacting on the conservation area which need to be given serious consideration in determining this planning application.

- 4.11 Jewellery Quarter Development Trust – Object to the application and consider the proposals as amended pose significant harm to the character of the Conservation Area due to the following:

Scale, mass, height and building line:

- The JQ CAAMP states that the Council will require new development to follow the historic street frontage line. This side of Albion St presents a varying street profile which should be incorporated into the proposals to provide visual interest.
- New development is required to respect the historic pattern of plot boundaries within the conservation area. On Tenby St both the mass and scale are too large, creating a bulky mass that is a storey higher than the rest of the street and does not respect the variety of narrow plot widths.
- The JQ policies require new buildings to respect the scale and mass of traditional buildings within the locality. These proposals overwhelm the neighbouring traditional buildings including adjacent listed buildings. On Albion St the scale (height) is a clear storey above a predominantly 3 and even 2 storey street. On Tenby St it is a storey higher than the rest of the street.

- New buildings are required to respect the height of traditional buildings within the locality and this is stated as normally limiting new development to a four storey maximum. Despite the recent (mis)use of this to justify taller development at AE Harris the wording refers to a four storey maximum. They therefore urge the Council use this wording so that the 'normal limit' is four storeys but in certain locations the 'abnormal limit' should be three or even two storeys in order to 'respect the height of traditional buildings'.

Over-provision of residential floor space:

- The proposals are for less than 25% commercial uses whereas the JQCAAMP links any residential uses in the Industrial Middle to no more than 50%. We support the Council's relaxation where it is a clearly demonstrated 'greater good' e.g. the restoration of a listed building and provision of affordable workspace. However these proposals cause more harm than the current building by virtue of its mass and scale and makes no effort to provide a wider benefit to the Quarter. All the ground floor of the street frontages should be commercial units.

Materials & detail:

- The drawings refer to 'slate-like' roofing – it is clear from the JQCAAMP Design Guide that traditional blue-grey roof slates should be used.
- The design of the new workspace building for Charles Green needs to achieve the regular and harmonious proportions as required in the JQ Design Guide.
- As the development does not meet JQ Design Guidance regard should be had to the NPPF para 130 which states "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents."

Amenity:

- There is no resident amenity space either indoor or outdoor. NPPF clause 127 requires that "Planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users".
- The scheme does not propose any biodiversity measures. With expanses of flat roof proposed, green or brown roofs could be installed.

4.11.1 The JQDT also make the following general observations:

- The design does not convey a clear concept – it alludes to three distinct buildings but doesn't successfully provide this demarcation and misses an opportunity to express the Charles Green premises on Tenby Street as one building.
- The proposed architecture does not recognise the significant character change between Albion Street as a 'primary' and Tenby Street as 'secondary' and could be reflected in the design approach.
- The observation made by the applicants that JQ corners have a larger scale in this Georgian part of the JQ is wrong. The Georgians turned corners in a simple understated fashion.
- The stepping up as Tenby Street rises is rightly shown but the detailing is too homogenous.
- It is important that an historic business such as Charles Green has a clear street presence which symbolises the JQ as being a place that still makes jewellery.
- Whilst the amendment to remove a storey is welcome, the application's claim that it is now 4 storeys is misleading – the inclusion of a mezzanine level with a typical storey height means that this development is 5 storeys. The elevations prove the proposals overwhelm adjacent listed buildings on Albion St and Tenby St.
- Guidance on building height must not be interpreted as 4 storeys plus a mezzanine.

- Virtually all this city block consists of pitched roofs. Although these proposals show a pitched roof to street-facing buildings, the rear element has a large expanse of flat roof which, at 5 storeys, will dominate the roofscape of the rear wings of neighbouring sites.
- The context of the listed buildings seems to be underplayed. 36 Tenby Street has a range of 2/3 storey shopping and the proposals for new shopping and 4 storey opposite is likely to cause significant harm.
- The mansard roof with 'eye brow' dormers is not part of the vernacular in this area. A continuous ribbon window in modern work such as the Orb opposite and the Badge Works adjacent is much more in keeping.
- The roof structure at the corner is not appropriate in the Jewellery Quarter.
- The Charles Green wing is a missed opportunity to present a modern industrial vernacular for the Jewellery Quarter.
- The amenity of the proposed offices opposite 36 Tenby Street is poor. The mezzanine adds to the building heights with little benefit.
- Would expect that the asphalt surface to the footway along the site's curtilage to be replaced with blue brick pavers.

4.11.2 The JDQT comment that they support the follow aspects of the proposals:

- The principle of development of this site.
- The re-provision of Charles Green on-site in purpose-built premises as retaining an important business gives the Jewellery Quarter its unique status. However it is imperative that they are visible.
- Some aspects of the detailing as thought has been given to how the building can continue the tradition of rich detailing in its buildings.
- The many doors opening on to the street providing activity and surveillance.
- The plentiful supply of cycle spaces

4.11.3 Overall the JQDT conclude that whilst it is fundamental that the excellent manufacturer Charles Green is supported (provided this is secured) they have serious concerns with regard to the design and articulation of the blocks, which do not respond to the context of the street. The scale, massing, overall design response to the corner, need to be revisited. They consider this is a very special part of the conservation area and very much within a context of the international significance of the Quarter. So special is this context with its variety of unique buildings any development should contribute to that diversity in quality of design, materials and workmanship on-site.

4.12 West Midlands Police - Raise a number of queries regarding some of the design details and make the following recommendations:

- A video door entry system is installed for all visitors and access controls be installed including CCTV and an intruder alarm system
- Development be built to Secure by Design standards for residential and commercial developments
- A lighting plan for the site be produced
- The site is subject to CCTV coverage and an intruder alarm system.
- Recommends that ground floor windows to duplex apartments are fitted with window restrictors and have external lighting at the front of each property

4.13 West Midlands Fire Service - The development will need to comply with National Guidance on Provision for Fire Fighting and approval of Building Control will be required to Part B of the Building Regulations 2010.

- 4.14 Ward Councillors, MP, residents associations, local residents and businesses notified of the original and amended proposals, site/press notices displayed. 38 letters received in response to the original plans include the following objections:
- The site is in the Industrial Middle where new residential development is not normally permitted.
 - Contradicts the City Council's Jewellery Quarter Conservation Area Management Plan, which states that 'the council will not normally permit the demolition of buildings in the Jewellery Quarter Conservation Area'
 - Contrary to guidance on building heights in the JQ Conservation Design Guide as the new buildings do not respect their urban context in height and scale
 - Development does not maintain the hierarchy of the historic street pattern or respect traditional building heights in this locality.
 - The taller buildings mentioned by the applicant are not characteristic of the area and should not be used as a guide for new developments.
 - A development of this height and uses would have a detrimental impact on the surrounding area and detracts from the rich history of the area.
 - The proposals are a gross over-development of the site. Replacing the existing building with a more architecturally appropriate 3 storey building in keeping with its neighbours would be more appropriate. The proposed plans and massing are simply too large
 - Building heights are completely inappropriate for both Tenby Street and the Albion Street. Adjacent buildings are dwarfed and the scheme needs to be at least one storey lower and preferably 2/3 storeys.
 - The pitched roof adds significant height to the building on corner of Albion Street/Tenby Street.
 - The height of the buildings proposed will rise to 6 storeys, including the mezzanine level. All adjacent buildings are only 3 storeys with relatively low pitched roofs.
 - The drawings supporting the application which seek to justify the proposed height are misleading.
 - The design is modern and bland and will change the historic nature and feel of the local area.
 - The applicant is seeking to squeeze the maximum possible number of flats into the scheme. To do so they have had to include diagonal windows on the rear elevation, in order to get natural light into some flats.
 - The flats are inhumanly small with no outdoor space. The courtyard only serves bin and storage areas Quality of life for residents would be unacceptable
 - There appears to be no accommodation suitable for families.
 - The building would loom over my property in The Orb and look directly into my flat and those of my neighbours.
 - The proposed building heights will greatly affect existing residents enjoyment of their apartments and balconies and obstruct sunlight
 - The apartments opposite the site on Tenby Street are only 8-10 metres away and the development would be overbearing and take away light and privacy
 - Development creates significant overlooking issues and a loss of privacy into the existing homes.
 - Overlooking and loss of light to properties at the Badge Works, 35 Tenby Street
 - There should be a proper assessment of the impact the development would have on light of neighbouring properties as the windows facing the site provide the only source of light. It should also take account the impact of the approved building at the rear of 33-36 Albion Street.
 - The height of the corner block and its large window in the gable end will cause a severe loss of light and privacy to the dwellings on the opposite side of Albion Street which are only 2 storeys in height.
 - The ground floor commercial uses in The Orb opposite the site will lose natural light and have an adverse impact on staff well-being.

- Whilst the existing building may have little architectural merit, it seems hard to justify the demolition of a building that is of a relatively young age and the carbon embodied in the process of doing so.
- Undertaking the works will also involve a significant level of disruption to local businesses and residents.
- Adverse impact on local businesses due as parking will be a massive problem
- Negative effect on neighbouring homes, workplaces and/or on residents within the locality and a total breach of "Places for Living" standards adopted by BCC in terms of separation distances between windows
- The development has a totally unacceptable impact on the live work units within 36 Tenby Street which are in a statutory listed building. It is not acceptable to have a 4 storey building built approximately 4 metres opposite these homes, compromising privacy, causing overshadowing and compromising the listed building setting.
- The proposed new development will also overshadow a number of other listed buildings on Albion Street and Frederick Street and no respect or consideration appears to be shown to these buildings.
- Impact on right to light of neighbouring properties particularly 36 Tenby Street.
- Potential noise issues from plant used by Charles Green being relocated
- Unacceptable loss of on-site parking spaces. The on street permit parking scheme is already over-subscribed and moving additional cars onto the street will add further pressure to the area and will impact on local businesses.
- Unacceptable loss of parking for employees combined with the chronic lack of parking options within the locality
- Replacement parking should be provided for the existing business as well as additional spaces for the new apartments
- Will cause further congestion in the area due to lack of dedicated loading and unloading spaces
- The cycle parking at one space per unit is inadequate
- No details about the opening hours for the commercial units
- There is a well-established bat roost at this site and it is a real shame to destroy the habitat for future generations.
- Loss of property values and views of the Birmingham skyline
- Disruption to local business/residents during the demolition and construction work
- There has already been a very large population influx into a very small area without consideration of public services like doctors and schools.
- Concerned that the commercial floor space is viable and will end up being residential in the long-term.
- Misleading comments on buildings heights in the Design and Access Statement as the mezzanine adds a further floor. The developer has used imagery that is misleading
- Consideration should be given to live/work rather than separate commercial and residential elements
- Given the scale of the proposed development and the potential impact on local residents (both living and working in the area) a more comprehensive consultation process should have been undertaken.

4.15 29 further letters have been received in response to the amended plans which include the following objections:-

- Do not feel concerns regarding the original application have been addressed and all our previous objections are still valid.
- The loss of commercial floor space further exacerbates the issue of the concentration of residential accommodation within what has traditionally been a commercial area contrary to the JQ Management Plan.

- Proposals do not meet the JQ policies re new development as they are 5 storey, considerably taller than their surroundings, will not sit comfortably within the roof line of adjacent buildings
- The buildings are still far too high for their context and are a gross over development of the site.
- The application is falsely described in terms of being 4 storey. With the mezzanine levels and roof structures they are 6 storey on the corner of Albion and Tenby Streets. This is well above the 3 stories of the older adjoining buildings or equivalent to 4 with modern storey heights.
- The proposed buildings sit on the pavement frontage line whereas the flats opposite have some sets backs from the building line and large balconies and the top floor is set well back from the facade below. Any roof level accommodation needs to be scaled and set back as at the Orb.
- It is suggested that this density is needed to achieve financial viability. Such reasoning is surely false, as the current building is in good order and the occupiers are staying on site. It is about financial gain - a balance is needed.
- The proposal will dwarf a whole host of the current neighbours, provides no amenity space and simply packs flats and replacement commercial space into too tight a space.
- There is only a modest height reduction of the corner block of 1.7 metres and the buildings would still dwarf their surroundings and the scale is not appropriate for this context and has a negative impact on the settings of nearby listed buildings.
- There is still a serious impact on apartments within the Orb in terms of loss of light, overlooking, impact on use of resident's balconies, overbearing impact, loss of sunlight views and property values.
- The scale of the proposed building on Tenby Street still severely impacts on Units 1-4 at 36 Tenby Street which are single aspect with windows facing the site. The new building is over twice the height of the current one.
- No effort has been made to increase the distance between the new works and the properties to the rear of 36 Tenby Street (Units 1-4) and the mezzanine floor, shown as offices means workers would be able to look directly into the ground floor and first floor of Units 1-4.
- There still needs to be a significant reduction in height and scale across the site particularly to the side wall and 'wing' adjacent to units 1-4, 36 Tenby Street
- The rear wing referred to as single storey but has a mezzanine floor.
- The revised proposals have not addressed previous objections regarding loss of light, privacy, views and overbearing impact on neighbouring properties
- Severe impact on visual amenity as only view and outlook comes from windows facing Tenby Street which would be transformed to views of walls and windows in all directions.
- Development would impede views into and out of the JQ contrary to guidance
- The current site provides parking for the current business (which is fully utilised) and this will be lost, creating additional highways pressures. The almost complete site coverage with a very dense building is at the cost of amenity space and transportation considerations
- There is still no on-site parking or space for deliveries. The current lack of parking in the area causes issues for residents and businesses and this must be reassessed. Parking provision could follow JQ design guidance which recommends parking be accommodated below ground or in a small enclosed courtyard area.
- The large floor to ceiling windows which were to be occupied by commercial units are now to be residential and residents would have no privacy.
- The proposed building is ugly and it's clear that its height would dwarf the adjacent buildings in Tenby Street and Albion Street. This is not appropriate in a Conservation Area where there are listed buildings adjacent to the development.

- There is very little difference between the two proposals in terms of overall visual impact, scale and building heights
- Should proposals of this size and bulk be accepted in the Jewellery Quarter, this could provide further impetus for other similar proposals of an unacceptable scale and character.
- In a COVID-19 context, the proposed flats are too small and inadequate for any working from home. They lack internal storage and there is no access to outdoor space. The dwelling sizes and layout needs to be rethought
- Object to the 'potential location of AC unit' as it is very close to our windows.
- The floor plans show the new plant room for Charles Green opposite my property and will be noisy and disruptive
- Concern that residents and business are not aware of the new plans as properties are unoccupied due to coronavirus
- Would welcome a visit from the planning committee to see all the issues the development would cause to local residents/business.

- 4.16 A further 5 letters have been received following the publication of the committee report. These reiterate their strong objections to the development on grounds relating to loss of privacy, loss of light, overlooking, lack of parking in an area where the controlled parking zone is already fully subscribed, scheme does not take heritage of the JQ into account, inappropriate scale design and height, breeches of Places for Living guidance, impact on setting of listed buildings and contravention of the CAAMP. Two of the letters are from new occupants of one of the live work units at 36 Tenby Street and comment that the application was not picked up on their land registry search and their unit would be the that worst affected by the proposed works as it is immediately opposite. The development would have a severe impact on their living amenity, affecting the only source of light and outlook. The commercial unit and air conditioning units would be noisy and disruptive and there would be direct overlooking from the mezzanine offices.
- 4.17 A lengthy letter has also been received from a barrister representing residents of two of the Grade II Listed live work units within the shopping wing at the rear of 36 Tenby Street. This makes the following points:-
- a. This is an application for full planning permission not for outline permission and if permission is granted, then it will be on the basis of the proposals and plans as submitted. These are unacceptable and should be refused.
 - b. The changes made do not appear to have taken into consideration the concerns already raised which still stand.
 - c. The application is in significant conflict with Development Plan Policy, and the NPPF. Section 38(6) Planning and Compulsory Purchase Act 2004 requires development to be in accordance with the Development Plan or for material considerations to justify departure. Full weight should be given to DP policies.
 - d. The case for the Applicant in part involves enabling the existing business to remain within the Jewellery Quarter. The case for viability has been inadequately disclosed and justified, and does not comprise a sufficient material consideration to overcome the extensive conflict with Development Plan and National Policy.
 - e. The development conflicts with Legislation and Policy. In the NPPF there are conflicts with paragraphs relating to promoting healthy and safe communities, achieving well-designed places, conserving and enhancing the natural environment particularly the Agent of Change principle and conserving and enhancing the historic environment; paragraphs. In the Birmingham Development Plan 2031 (2017) key policies which are not met by the development include PG3: Place Making, TP8: Biodiversity and Geodiversity, TP12: Historic Environment, TP27: Sustainable neighbourhoods and TP30 regarding the type, size and density of new housing. There are also conflicts with policies within the

Jewellery Quarter Design Guide 2005 and Jewellery Quarter Conservation Area Management Plan 2002.

- f. There is an over-provision of residential space (contrary to Policy TP30). This is exacerbated by the revised iterations and the concentration of residential accommodation within this traditionally commercial area, contrary the City Council Character Appraisal and Management Plan for the Conservation Area (2002) part 2.2 which links any residential uses in the Industrial Middle to no more than 50% and is reinforced by NPPF paragraph 130.
- g. The proposal continues to be of inappropriate scale, mass and height, despite the negative feedback throughout the whole consultation phase.
- h. The design information within the application is misleading as the proposals include a mezzanine level which adds another floor, and there has been only a modest height reduction of the corner block of 1.7 metres. The characteristic height of neighbouring buildings is 2 – 3 storeys, and certainly not more than 4.
- i. In the conservation area building heights are limited to a maximum of four storeys. The development should be at least one storey lower and preferably 2/3 storeys to respect the hierarchy of the historic street pattern. The precedents chosen by the Applicant are inappropriate for this site and its location and would repeat the mistakes of the past.
- j. The objectors concerns have not been addressed by any of the amendments and it is very important to them that the proposal is further reduced There still needs to be a significant reduction in height and scale across the site particularly to the side wall and 'wing' adjacent to units 1-4, 36 Tenby Street.
- k. Note that the city design officer considers the ground floor design is disappointing, that the window panel appear overly large on the elevations and the roofscape facing Albion Street could do with simplifying by removing some of the window panels, simplifying and realigning the openings as they appear misaligned. Despite these reservations the Officer recommends approval subject to conditions and amendments but it is not clear how amendments might be achieved as this is a full application for approval. The conditions would not have the effect of preventing the development from going ahead. If the proposal is not satisfactory as submitted, then it should be amended appropriately before a grant of permission not after.
- l. The proposals will have a significant negative effect in amenity terms on neighbouring homes and workplaces. There has been very limited consultation by the developer on this issue and no reference by them to the impact including overlooking and the loss of privacy. The information and evidence that is available to the LPA is insufficient and the Committee will be misled
- m. The proposed distance between the homes at 36 Tenby Street and the development contradicts the distances set out in the 'Places for Living'. Units 1-4 at 36 Tenby Street are single aspect with their only outlook from windows facing the site. The new building is over twice the height of the current one, and the proposed scale would severely impact the living amenity of the existing neighbours.
- n. The distance between the new works and the properties to the rear of 36 Tenby Street (Units 1-4) is unacceptable and in a total breach of 'Places for Living' standards adopted by BCC in terms of separation distances between windows.
- o. The large ground floor windows facing the street which were to be occupied by commercial units are now to be residential and residents would have no privacy.
- p. Habitable rooms are proposed within the proposed development will have direct views into habitable rooms within Units 1-4, 36 Tenby Street.
- q. The mezzanine floor for the offices means workers would be able to look directly into the ground floor and first floor of Units 1-4, 36 Tenby Street
- r. The proposals make no reference that the properties that comprise 36 Tenby Street which are live/work homes and developed in a listed building.

- s. There is no amenity for proposed residents and the flats are unacceptably small with no outdoor space. The quality of life for residents would be unacceptable. This is contrary to the NPPF para 127 which requires that developments... *“create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users”*.... Amenity space is an important part of the community’s aspirations for Jewellery Quarter living and there is none here.
- t. The Agent of Change principle, (NPPF paragraph 182), would also apply to the proposed commercial units and the residential proposals as it states “Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.
- u. The proposal moves existing plant to directly opposite the objectors’ properties. BCC Environmental Health Team has already issued noise nuisance enforcement in relation to the kitchen extraction equipment at Ana Rocha Bar, in near identical circumstances. This has not been taken into account. The Charles Green plant is for industrial processes and putting plant even closer and directly in front of a residential property will have negative impact on the environment. Adequate sound proofing, or relocation to a less intrusive area is the very least that should be implemented by way of mitigation.
- v. Insufficient information has been given about whether the proposed commercial units which will give rise to noise. The application and consultation is based on use classes Class A and Class D but this is outdated, as a result of the (Use Classes) (Amendments) and has not been taken into account. It means that permitted development will, from September 2020 be permitted between a greater numbers of types of uses, and much harder to control.
- w. Parking has not apparently been addressed at all. On street parking and the resident/business permit scheme are already at capacity.
- x. The objectors’ properties have windows over two/three stories, which face directly towards the Charles Green site, are the only source of light and have been in situ for many decades. Accordingly have acquired a prescriptive right of light over the Charles Green site. The proposed development would block a significant proportion of this light currently coming through the large windows which are a feature of these listed buildings. A number of other neighbouring properties on Albion Street, Tenby Street and potentially Frederick Street are also likely to be affected.
- y. The consultation response from the Environmental Protection Officer does not address these environmental and amenity issues adequately. He has not considered the changes to the use classes order and which will need to be explained to the Planning Committee before they make their decision. He also states there are deficiencies in the noise report and a proper and adequate Noise Report should be done, addressing all elements, the impact of the new Use Classes Regulations 2020, as well as the Agent of Change principle.
- z. The objectors reject the officer’s conclusions that none of the issues are insurmountable and consider the suggested conditions are insufficient and is an inappropriate way granting this permission. The proposed conditions are inadequate and inappropriate and should be reviewed having regard to new Use Classes Regulations as it is not lawful or appropriate to attempt to control permitted development through a condition which is ineffective, inappropriately worded, and vulnerable to legal challenge. The recommended noise condition

would also not be worded as a true condition precedent and would not control the development adequately. This is contrary to the Agent of Change principle. It should be insisted that noise mitigation is demonstrated effectively in the application itself before a grant of permission. The Noise Report does not even address the issues – let alone suggest suitable mitigation.

- aa. In determining this application the LPA must comply with the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess, and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. 37-42 Tenby Street is located towards the heart of the Jewellery Quarter Conservation Area and within the Industrial Middle Zone. The site is close to, and therefore in the setting of, a number of a high number listed buildings which exemplify the architectural heritage of the Quarter including Grade II listed No.36 Tenby Street and Grade II listed Nos.33-36 Albion Street which abut the proposed development. The proposed new development will overshadow and dominate a significant number of these identified listed buildings through excessive proximity and height.
- bb. Historic England in their response has noted the significance of the location: *“representing a unique part of Birmingham’s heritage” and the fact that “its distinct development pattern, character and appearance contribute to an outstanding historic environment, distinguished for its international significance”*. Also that *“the application is contrary to Birmingham City Council’s policies for use within the Industrial Middle of the conservation area”*. They do not consider the current scheme addresses their fundamental concerns raised at pre-app regarding the height and scale of the development in the context of the character and appearance of the conservation area and adjacent listed buildings and their justification for this view is clearly set out. (see para’s 4.4 -4.7.3). This is a very powerful consultation response it has not been withdrawn and the comments were maintained after the amendments in May 2020. The LPA clearly should not disregard the formal position of Historic England in reaching conclusions about its statutory duties under sections 66 and 72.
- cc. Historic England’s position is confirmed by other heritage experts. The Victorian Society and continue to object to this application as is currently presented. (see paras 4.8-4.8.1) The JQDT Planning Consultation Committee has also maintained their objections throughout the iterations of the plans (see paras 4.11-4.11.3). They too confirm the pattern of the Applicant failing to consult on these important expert bodies on the heritage implications of the proposals, which is highly unsatisfactory.
- dd. Ranged against such powerful and consistent expert consultation responses, from three different bodies, the comments of the Conservation Officer are not adequate or credible. She has not taken into account the consultation response of Historic England, not identified all the relevant listed buildings, nor is there any analysis of how the Statutory Duty should be applied in this case. There is no comment about how the decision maker should address the NPPF policy approach or the planning balance generally, which is unsatisfactory. There is no analysis, based on standard heritage methodology or guidance as to how to assess the significance of the heritage assets or analysis of her assessment of the degree of harm. This is the wrong approach. The Officer fails to quantify or analyse the harm in heritage guidance terms or NPPF terms, and this is a significant failing in her consultation response.
- ee. The conservation officer in considering building heights notes that the maximum is limited to 4 storeys in this location. She states there is “some scope” for “some sites” in the Jewellery Quarter to consider more height, but she does not confirm

in terms that she considers this site to be one of them or that the proposals currently before the LPA achieve that potential; nor does she justify her view in heritage terms. This is inadequate to discharge the statutory duty. She also does not categorically confirm that proposals are acceptable, in design terms and much less in heritage terms or explain her conclusions that the level of harm now reduced to a degree that it can be better weighed against the heritage benefits of this scheme. This is very lukewarm endorsement for such an important and sensitive heritage site, and it is not good enough in legal terms, in order to satisfy the statutory duty.

- ff. Ecology is another area where the LPA is under statutory duties, and any failure to observe them correctly will result in a planning permission which is ultra vires. The Council's ecologist has not identified all the relevant case law, legislation and policy, which is a serious deficiency in the consultation response, and the LPA, should require expert analysis of the case law relative to the facts of this case.
- gg. As the preliminary ecological appraisal identified a maternity pipistrelle roost within the building a Natural England European Protected Species (EPS) Mitigation Licence will be required to enable the proposed development to proceed and the LPA must consider the three tests in Regulation 55 of The Conservation of Habitats and Species Regulations 2017 before determining the planning application that affects the Protected Species. The Officer has not addressed Test 1 and 2 (see para's 6.67-6.77), it is not apparent that the LPA has received any expert advice on these two tests and it is difficult to follow how the proposal, as made, could meet these tests.
- hh. To comply with its statutory duty in ecological terms, the Council needs to demonstrate that a decision has been reached in a manner that takes account of, and is consistent with, the requirements of the Regulations. The LPA does not have sufficient evidence and information in order to be able to satisfy the first two tests. The Applicant has only submitted a preliminary ecological appraisal and an addendum setting out "generic recommendations for the mitigation/compensation measures that would be required to avoid harm to bats and ensure compliance with the legal protection. This is not adequate to comply with the law as set out in the case law that the Ecology Officer has failed to consider. She envisages the need for further nocturnal surveys to be completed during the 2020 can be covered via conditions but this approach is challenged by the objectors as unlawful, contrary to the Regulations and case law confirms that it is not legally possible to condition this in these circumstances.
- ii. The LPA has a statutory duty under Reg 9(3) of the Conservation of Habitat and Species Regulations to have regard to the requirements of Directive 92/43/EEC (21 May 1992) on conservation. It is for the LPA to determine whether the proposed development is likely to offend against Article 12(1) of the Habitats Directive, and whether a licence is likely. The LPA has not been given enough information in this case to be able to do this, and the consultation response from the Ecology Officer does not give enough information about the legal consequences.
- jj. Although the ecologist comments that if the first two tests can also be met, an application for an EPS licence would probably be successful and it would therefore be possible to consent the planning application in accordance with the LPA's obligations in relation to the Conservation of Habitats and Species Regulations 2017 (as amended). This is not correct, and is challenged as a matter of law. No sufficient evidence or material has been provided, particularly no expert advice has been provided to the Council for them to be able to discharge their duty in relation to the first two tests. A decision based on current information and evidence would also be legally challengeable. The LPA should require much more detailed evidence in relation to survey material and

satisfaction of the first two tests before any permission could be granted. This cannot be cured by condition.

- kk. The barrister concludes the application is not ready to be determined by the LPA. Significant areas of evidence and revisions to plans are necessary and the Committee has not been provided with sufficient evidence and information to be able to satisfy their statutory duties in respect of heritage assets and protected species. She considers that proceeding to a Decision at this point is highly likely to result in legal error, exposing the determination to legal challenge. Furthermore, the Application is inadequate upon its merits in that it conflicts significantly with policy, including NPPF, and DP policy which should be given paramount weight in the planning balance unless superseded by material considerations. Those material considerations are not forthcoming in this case, and the viability case is not made out. For all these reasons, the Objectors maintain the strongest opposition to the application and initially invite a deferral of any decision to correct all the deficiencies highlighted failing which, an outright refusal is the only viable option.

- 4.17 One letter of support has been provided from a consortium of 6 businesses based within the Jewellery Quarter. They comment that the proposals will make a positive contribution to the Jewellery Quarter's unique economy by supporting the area's continued viability as a world-renowned centre of jewellery manufacture. By delivering modern commercial space, along with new apartments, the proposals will allow Charles Green & Sons to remain within the Jewellery Quarter, its home for nearly 200 years. If Charles Green & Sons are not able to remain in the Jewellery Quarter this would seriously undermine both Birmingham City Council and Birmingham Assay Office's commitment to it. Along with Deakin & Francis, Charles Green & Sons is the oldest remaining business and a critical part of the Jewellery Quarter's heritage. The proposals will benefit the Jewellery Quarter by:-

- Retaining Charles Green & Sons on site, providing modern and purpose-built premises as well as supporting the historic character of the Jewellery Quarter's Industrial Middle.
- Safeguarding 30 jobs within the jewellery industry.
- Adding new commercial floor space which will create new employment opportunities and contribute to the growth of the area.
- Contributing to the vibrancy of the Jewellery Quarter by bringing together residential and commercial uses with active frontages at street level. New full-time residents in the area will also support local businesses.
- Removing the existing 1960s building which is at odds with the character of the Jewellery Quarter and detracts from the appearance of the Conservation Area.
- The new development provides a modern interpretation of the area's architecture and would be a welcome addition to the area.

The Jewellery Quarter will only remain special if it evolves to meet the demands of a dynamic, modern city whilst respecting the heritage of the area. They consider the proposals would achieve this and urge Birmingham City Council to support them and grant planning permission.

5.0 Policy Context

- 5.1 Birmingham Development Plan 2017, Birmingham Unitary Development Plan 2005 (saved policies), Places for Living SPG, The Jewellery Quarter Conservation Area Character Appraisal and Management Plan, Jewellery Quarter Conservation Area Design Guide, Conservation Through Regeneration SPD; Places For Living SPG, Car Parking Guidelines SPD; Public Open Space in New Residential Development SPD; Affordable Housing SPG 2001 and National Planning Policy Framework 2019.

6 Planning Considerations

6.1 **Land Use Policy**

- 6.2 Section 38(6) Planning and Compulsory Purchase Act 2004 requires Local Planning Authorities to determine planning applications in accordance with the Statutory Development Plan, unless material considerations indicate otherwise. The Development Plan comprises Birmingham Development Plan 2031 and the saved policies of the Birmingham Unitary Development Plan 2005. Other adopted supplementary planning policies are also relevant such as the Jewellery Quarter Conservation Area Appraisal, Management Plan and Design Guide as is the National Planning Policy Framework.
- 6.3 Policy PG1 of the Birmingham Development Plan (BDP) states that significant levels of housing, employment, office and retail growth is required to meet the needs of its growing population. The BDP identifies the application site as being within the City Centre Growth Area where the focus will primarily be upon re-using existing urban land through regeneration, renewal and development. Policy GA1.3 relating to the Quarters surrounding the city centre core states that development must support and strengthen the distinctive characteristics, communities and environmental assets of each area. For the Jewellery Quarter it seeks to create an urban village supporting the areas unique heritage with the introduction of an appropriate mix of uses and radically improved connections to the City Centre Core.
- 6.4 The NPPF contains a presumption in favour of sustainable development and seeks to significantly boost the supply of homes and also to create the conditions in which businesses can invest, expand and adapt. Significant weight is to be given to the need to support economic growth and productivity, taking into account, both local business needs and wider opportunities for development. The NPPF recognises heritage assets as an irreplaceable resource and should be conserved in a manner appropriate to their significance.
- 6.5 The Jewellery Quarter has a Conservation Area Character Appraisal and Management Plan SPG which divides the conservation area into eight sub areas. The application site is shown as being within the Industrial Middle characterised by industrial uses largely related to the jewellery and small metal trades with some commercial and retail uses. The document seeks to protect the industrial heart of the Jewellery Quarter from new residential development which could dilute the character of the conservation area. Thus Policy 2.2 of the JQ Management states that the Council will not normally permit new residential uses, whether by conversion of existing buildings or new build in the areas defined as the Golden Triangle and the Industrial Middle.
- 6.6 The application site has been used for employment purposes for many years and the existing building was purpose built for the current occupants Charles Green and Son in about 1969/70. They are a sixth generation family owned jewellery company which has been manufacturing jewellery in The Quarter since 1824 and currently employ 30 people. The retention of the existing business, in new smaller premises, forms part of the application proposals. However the application also involves the erection of 37 apartments and although a small commercial unit is also proposed, the development would be predominantly residential. It would provide 2,154 sq.m (76%) of living accommodation compared to 693 sq.m (24%) of business floor space. Residential development (other than live work units) would not normally be supported in this part of the Conservation Area in order to maintain the areas unique industrial heritage and the density and integrity of the surviving industrial premises which are

considered to make a powerful contribution to the character of this heritage asset. The development therefore conflicts with policy 2.2 of the JQ Management Plan and would impact on the existing wholly industrial use of this site.

- 6.7 From a policy perspective the applicant comments that the residential units proposed are the minimum required in order to provide a deliverable development and even then requires additional financial support which the applicant has secured in the form of a debt facility from the West Midlands Combined Authority and a grant from the GBSLEP's Unlocking Stalled Housing Sites Programme. They advise that Charles Green and Son are facing a number of commercial pressures due to a smaller workforce and the building no longer being fit for modern manufacturing and business practices. However they wish to ensure that the business remains on the existing site and the proposed development seeks to resolve the challenges face by including a purpose built commercial unit for the businesses. This would be rented by the company at a rent below normal market values. They consider the retention of a jewellery manufacturing business should be given significant weight in the planning balance. The applicant also considers that whilst the Jewellery Quarter was historically a manufacturing area of the City Centre it is experiencing significant levels of development, the majority being residential which signifies the evolving nature of the area and greater influence that residential development now has.
- 6.8 Planning policies support the retention of the existing jewellery business on the site particularly due to its long historic association with the Jewellery Quarter. However it has been an important element of the JQ Character Appraisal and Management Plan SPG that in order to preserve the significance and industrial character of the Conservation Area residential development should not normally be permitted in the Industrial Middle and Golden Triangle parts of the Conservation Area. The explanatory text to policy 2.2 from the Management Plan states that the provision of new residential development in the Jewellery Quarter has resulted in the loss or change of use of industrial buildings and has significantly enhanced potential property values. It threatens the continued industrial use of manufacturing premises and reduces the amount of workspace available to the traditional industries in the Quarter. The text also states that the density and integrity of the surviving industrial premises in the Golden Triangle and Industrial Middle makes a powerful contribution to the character of the Jewellery Quarter such that it is considered inappropriate to permit any change of use of industrial or commercial premises to residential usage.
- 6.9 A number of the responses received from consultees and local residents/businesses have generally welcomed the retention of the existing business but not at any cost. Concerns have been expressed not only about the scale and amount of residential development proposed but also that the replacement premises are largely hidden from public view. The character and appearance of the Conservation Area, as a designated heritage asset, needs to be given great weight as set out in paragraph 132 of the NPPF. The development would lead to an overall loss of industrial space from the site and as 76% of new build would be residential this would result in harm to the industrial character of the conservation area.
- 6.10 The Conservation Officer has also commented that whilst the retention of the Charles Green business on site and the introduction of some ground floor commercial premises give this application some weight with regards to commercial use, the mix of residential to commercial use appears to be unbalanced in favour of residential. The Heritage Statement suggests that the residential element of this development is required to facilitate the retention of a jewellery manufacturer within the Quarter, however based on the predominantly residential element of the scheme she considers this would cause less than substantial harm to the character and

appearance of the JQCA. This harm will need to be weighed against other material considerations and any public benefits resulting from the development which are set out further below.

6.11 Demolition

- 6.12 The proposals would require the demolition of the existing workshop that occupies the site which dates from about 1969/70. As it is within a Conservation Area Policy TP12 of the BDP applies which states that great weight will be given to the conservation of the City's heritage assets. The JQ Conservation Area Appraisal and Management Plan states, in para 1.1, that demolition of buildings will not normally be permitted and the NPPF requires the conservation of heritage assets in a manner appropriate to their significance.
- 6.13 The existing building is a two storey flat roofed brick structure which is not listed or locally listed. It is of a utilitarian design, the parapet has been covered by a modern white uPVC fascia and the original windows have been also been replaced with uPVC. The applicant's heritage statement assesses the significance of the building and concludes that the contribution it makes to the Conservation Area and adjacent listed buildings is negligible and that its very limited architectural merit has a negative effect on the townscape along Tenby Street and Albion Street.
- 6.14 The conservation officer comments that the principle of the demolition of the existing building is supported. She also considers that the building is of little architectural merit and currently has a negative impact on both the character and appearance of the JQCA and to the setting of the identified listed buildings. The Heritage Statement identifies that the demolition the existing building would not have a harmful impact on the character and appearance of the conservation area, or on the setting of the nearby listed buildings. The conservation officer agrees with findings of the Heritage Statement subject to the replacement building(s) preserving the setting of the identified listed buildings and preserving or enhancing the character and appearance of the JQCA.
- 6.15 The Victorian Society, Historic England and JQ Development Trust also raise no objection in principle to the demolition. Several of the objectors to the application mention that JQ policies do not normally permit the demolition of buildings and there are also comments that the current building is in good order and as the occupiers are staying on site so why is it being demolished. Also that it seems hard to justify removing a relatively modern building given the carbon embodied in the process of doing so. It is however considered that the existing building does not contribute to the significance of the Conservation Area, beyond its industrial character and occupation by one of the few remaining jewellery manufacturers. Its demolition and replacement would therefore be acceptable in principle.

6.16 Layout

- 6.17 Policy PG3 of the BDP states that all new development will be expected to be designed to the highest possible standards which reinforces or creates a positive sense of place and safe and attractive environments. Policy TP12 requires the great weight to be given to the conservation of the City's heritage assets which are to be valued, protected, enhanced and managed for their contribution to character, local distinctiveness and sustainability. The Council will seek to manage new development in ways which will make a positive contribution to its character. The NPPF in Para 124 states that good design is a key aspect of sustainable development and creates better places to live and work and Para 127 states that planning policies seeks to

ensure developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture and layout, are sympathetic to local character and history, including the surrounding built environment and maintain a strong sense of place. The JQ Management Plan requires the design of new development to respect the traditional scale, form and density of the historic street pattern of the Jewellery Quarter and the JQ Design Guide states that new development should respect the local street hierarchy, dense urban grain and building lines.

- 6.18 The site layout proposed would provide a building across the full width of the site frontages although at ground floor level there would be a narrow vehicle entrance onto Tenby Street and a pedestrian entrance on Albion Street. At the rear of the main building a one and two storey wing is proposed occupying the full depth of the plot where it lengthens adjacent to the northern boundary. The building would be located to the back of the footpath on both road frontages and this has been questioned by the JQDT as Albion Street has a more irregular street profile with some buildings being set back. The historical plan for the site however shows development to the back of the footway and this is the arrangement with the current building apart from a splayed corner at the road junction which would now be infilled. Whilst built form would occupy most of the site this dense urban grain is characteristic of the Jewellery Quarter. The layout would also be similar to the adjacent listed building at 36 Tenby Street which also has a principle building fronting the street with a long shopping wing to the rear. The development would mean that there would be very limited external space other than a small courtyard area and this has been criticised. However this tight layout is considered to be characteristic of the conservation area.
- 6.19 The conservation officer notes the development will re-introduce a back-of-pavement street frontage to both Albion Street and Tenby Street, reinstate a tight urban grain to this corner site and infill the current gap site on Albion Street. With subservient rear wing(s) and buildings which address the hierarchy of the streets she considers the scheme will restore a built form reflective of historic character and which is currently lost through the existing development thereby preserving the setting of the listed buildings and enhancing the character and appearance of the conservation area.
- 6.20 A number of the objections have raised the point that the mix of residential to commercial use appears to be unbalanced in favour of residential and therefore harm will be caused to the character and appearance of the JQCA. On many new developments within the Jewellery Quarter commercial units are normally sought at ground floor level on frontages in order to provide a suitable balance of uses, to reflect the character of the conservation area and to also ensure that there is activity to street. Originally 5 commercial units were proposed as part of this development fronting Albion Street and Tenby Street as well as the replacement building for Charles Green. However a number of amendments have been made to the layout to reduce building heights which has reduced floor space. This has affected the viability of the site and led to the removal of all but one of the commercial units from the street frontages. A small commercial unit of 65 sq.m is still proposed at the junction of Albion Street and Tenby Street but the 4 other commercial units proposed have been converted to duplex apartments and the new premises for Charles Green had been reduced in area. Overall this has reduced the amount of commercial floor space proposed by 574 sq.m from 1,267 sq.m to 693 sq.m. This would be 34.5% less than the 1,011 sq.m of commercial floor space currently on site.
- 6.21 The lack of active uses to the street frontage is regretted. Although duplex units are proposed with living rooms at street level this would not be as active as commercial uses. In addition the replacement building for Charles Green has a more limited

presence to street with only the access, main entrance and one reception area window provided on the Tenby Street frontage. The amendments have provided more metal panelling to the entrance including to the gates enclosing the access way to provide a more industrial appearance which are an improvement. However the replacement premises for the company is largely in the rear wing on land currently used for car parking. The development has been designed in this way so that the business can continue to operate from the site while the new building is being constructed. The applicant advises that the development would be delivered in two phases with Phase 1 providing the office space and workshops for Charles Green and to facilitate this small amount of the existing structure fronting Tenby Street would be demolished. On completion Charles Green would decant from their existing premises into the newly built facility and although this would only deliver about half of their new workspace it has been designed so that they can operate from it whilst Phase 2 is being completed.

- 6.22 The presence of industrial activity in the Jewellery Quarter makes a powerful contribution to the character of the conservation area. The Industrial Middle locality was defined to reflect its industrial character with uses largely related to the jewellery and small metal trades as well as some commercial and retail uses. Although there are a number of residential uses nearby including live work units the loss of the sites industrial appearance would further dilute the character and cause some harm to the character of the conservation area. This loss of industrial character, considered to be less than substantial harm, needs to be balanced against other material considerations including any planning benefits that would result from the development.

6.23 Scale and Design

- 6.24 Policy PG3 of the BDP requires all new development to reinforce or create a positive sense of place and local distinctiveness, with designs that responds to site conditions and the local area context including heritage assets and Policy TP27 expects new housing to contribute to making sustainable places, characterised by a strong sense of place with high design quality so that people identify with, and feel pride in, their neighbourhood. The NPPF seeks to ensure new developments are visually attractive as a result of good architecture and layout, are sympathetic to local character and history, including the surrounding built environment. The JQ Management Plan requires the design of new development to respect the scale, mass and density of the historic pattern and form of the existing traditional buildings within the area. The JQ Design Guide outlines principles for good design including guidance on scale, form, grain, street/plot hierarchy and materials. In terms of building heights it states that new buildings should maintain the subtle variety of roofline characteristic of the area which limits height to a maximum of four storeys although in some contexts three or even two storeys will be more appropriate.
- 6.25 It will be seen from the consultation/pp responses that there have been a considerable number of objections to the proposed buildings heights. Originally the development included a further floor of apartments to the corner section of the building at the junction of Tenby Street and Albion Street and two further floors of residential accommodation above the new building for Charles Green in the rear wing. These have been removed from the proposals and other amendments have been made to the design to provide variety to the elevations through the choice of materials and detailing, the dormer designs amended with roof lights being used on the Albion Street frontage and the ground floor treatment has been modified including increased depth to the reveals.



Figure 5: CGI's of views to Albion Street corner and Tenby Street frontage

- 6.23 Although the building heights have been amended it is acknowledged that the blocks on the street frontages include a partial mezzanine level within the ground floor so that accommodation is provided over 5 floors. Taller ground floor elements are a feature of the Jewellery Quarter and the Design Guide encourages diminishing proportions from the ground storey upwards, however the resultant building would be significantly higher than the buildings on either side and slightly taller than the modern 5 storey Orb development opposite. This would be in conflict with JQ policy regarding building heights in that the development would exceed 4 storeys and also the scale of the traditional buildings in the locality. Historic England, the Victorian Society and JQDT all note the amendments made to the application but still consider the building heights to be excessive and that they would overwhelm the neighbouring traditional buildings and are at least storey above the rest of the street. Similar views have also been expressed by local residents who note the amendments on the street frontages have only reduced buildings heights by 1.7 metres.
- 6.24 The design of the buildings have also been criticised on the basis that they do not follow the historic street frontage line on Albion Street, do not follow historic pattern of plot boundaries or variety of narrow plot widths and there is not a clear concept or three distinct buildings. There is also concern that the architecture does not recognise the significant character change between Albion Street as the primary Street and Tenby Street as being more secondary and that the more prominent and taller corner building is wrong for this location which requires a more simple understated approach. A number of residents also consider the building designs to be unattractive and unsuitable for this sensitive location
- 6.25 In terms of scale the conservation officer notes that building heights in this part of the JQCA are limited to a maximum of 4-storeys. In relation to the original proposals she considered that the scale of the development, at up to 5 tall storeys, would cause less than substantial harm to the character and appearance of the conservation area and to the setting the identified listed buildings. The Heritage Statement provided by the applicants also concluded that negligible harm would be caused through scale which in NPPF terms equates to less than substantial harm. She notes that amended plans show a reduction in scale to both the Albion Street and Tenby Street buildings with the corner building reduced to 4-storeys and the Tenby Street rear wing reduced to single storey, albeit a high single storey. The Albion Street building (abutting the listed building) now responded to the domestic scale of Albion Street and the

neighbouring listed building(s) at 3-storeys and displayed the variety in height and roof form which is characteristic of the JQCA.

- 6.26 The conservation officer is aware that Historic England's comments from 22nd May welcomed the amendments to scale and consider this to have a lesser impact on the conservation area and the setting of neighbouring listed buildings. However she notes that they still feel that the development introduces a considerable scale to Albion Street. Also that the Victorian Society in its revised comments on 23rd July note the improvement to the scale of the development. The conservation officer however considers that her initial concerns with regards to scale have been successfully addressed. Although the corner building is a tall 4-storeys and the ground floor storey is tall across the development (and incorporates a partial mezzanine level) the variation in height of one, three and four storeys is reflective of JQ height not only in terms of policy but also historically. She therefore considers the scale of the development therefore preserves the character and appearance of the conservation area and the setting of the listed buildings. Although harm through scale is acknowledged in the Heritage Statement this was prior to the amendments to scale and she considers the scale to be acceptable and no longer harmful.
- 6.27 In terms of the design of the proposals the conservation officer advises that notable design amendments have been made since her original comments and the design of the development now shows good articulation of brickwork with variety to elevations and windows between the different 'blocks'. She considers the design amendments create an impression of individually designed buildings and express elements of the differing characters of Tenby Street and Albion Street through several design responses, including the combined top shops to Tenby Street, pitched roof forms and the introduction of a chimney-like structure to the side elevation on Albion Street. Although the latest comments from Historic England and the Victorian Society do not consider some elements of the design entirely typical or suitable city council officers have worked with the agent to secure a number of design improvements. The final design would reintroduce a number of architectural features which are characteristic of the conservation area and she is satisfied that the design as presented would not be harmful to the character and appearance of the conservation area or to the setting of the listed buildings. Conditions should ensure high quality detailing and materials.
- 6.28 The city design officer also considers the amendment to the height, scale and mass are a progression from the original proposal and in line with the JQ design guidance that new development should not generally attempt to match the height of adjacent buildings precisely but maintain the subtle variety of roofline characteristic of the area. The reduction of the height of the rear wing from the original four storeys is also considered an improvement. With regard to the design he considers the ground floor window panels appear overly large on the elevations, the roofscape facing Albion Street needs to be simplified by removing some of the window panels and on other elevations the windows and panels should be simplified and realigned to sit more comfortably. The brick recess details are however felt to be an improvement to the elevations and would provide relief and break up the massing on the façade. The city design officer recommends conditions to ensure brick recesses, projections, patterns and materials are of high quality and he agrees with the JQDT that the proposed roof should be a blue grey slate and not a slate like material.
- 6.29 Although the city design officer considers some elements of the design require further refinement he does not object to the scale, mass and form of the development. Although the officer feels some further minor amendments would improve the design such as the removal of some of the window panels, I consider the design as proposed is acceptable. The proposal would fit comfortably within the surrounding

area and would offer an improvement as compared to the existing building. Further, through the amendments, the developers has, in my view, responded positively to provide an acceptable design solution. The application plans include a number of bay sections of the elevations showing the details of the materials proposed, bricks bonds etc and the exact materials choices can be covered through conditions.

6.30 Dwelling Mix

6.31 Policy TP27 of the BDP states that new housing in Birmingham is expected to contribute to making sustainable places and demonstrate that it is meeting the requirements of creating sustainable neighbourhoods which are characterised by a wide choice of housing sizes, types and tenures to ensure balanced communities catering for all incomes and ages. Policy TP31 seeks 35% affordable housing on schemes of 15 dwellings or more and where this percentage cannot be provided it states that the viability of the proposal will be assessed. The NPPF guidance on affordable housing (annex 2) states that where discounted market sales housing is proposed it should be sold at a discount of at least 20% below local market value, with eligibility to be determined with regard to local incomes and local house prices and provisions should be in place to ensure housing remains at a discount for future eligible households.

6.32 The application proposes 18(49%) x 1 bed and 19(59%) x 2 bed apartments and includes 4 duplex units. Although the small size of the apartments has been criticised, and the 1 beds at 41- 45 sqm and would only meet the size for single person occupation, they would all comply with the standards within the nationally described space standards. The 2 bed units also provide a range of sizes between 61-103 sq.m

6.33 In terms of tenure 7 (19%) of the units comprising 3 x 1 beds & 4 x 2 beds of the dwellings would be sold at a 10% discount on the market sale price for “key workers” which is a requirement of financial assistance being offered to the applicant. Their financial appraisal estimates that the sales values with a 10% discount are £166,500 - £184,500 for a one bed apartment and £270,000 for a two bed type. Officers are concerned that this would not be affordable to a single person with a gross annual income not exceeding £30,000 or two persons with a gross annual income not exceeding £45,000 which is the Council’s standard eligibility requirement. In addition the applicants advise that the 10% discount is only provided for first sale of the properties and would not be available to subsequent purchasers. The key worker dwellings are therefore not considered to meet BDP or the NPPF policies regarding the provision of affordable housing. Although officers have tried to secure a larger discount and that the accommodation is available in perpetuity this has not been successful. However following further negotiations the applicant has agreed to provide 2 low cost market dwellings which would be sold in perpetuity at a 20% discount on market values which represents a 5% provision.

6.34 Impact on Heritage Assets

6.35 In determining this application the LPA must comply with the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess, and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Case Law has now firmly established that the “special regard” and “special attention” duties of the LB Act requires that the decision

maker should afford “considerable importance and weight” to the desirability of preserving a listed building along with its setting and preserving or enhancing the character or appearance of a conservation area. It has also been established that “preserving” means “doing no harm” for the purpose of interpreting the LB Act duty.

- 6.36 The paragraphs above cover some of the issues in respect of the impact of the development on the JQ Conservation Area in terms of the demolition, mix of uses layout and the heights, scale and design of the new building. It will noted that there are a number of objections from local residents and businesses to the loss of the industrial character of the site, the amount of residential development, scale, height and design of the new development and although some support the retention of the existng business overall they consider that the proposals would cause harm to the significance of Jewellery Quarter Conservation Area. Historic England have also expressed similar concerns and objections have been raised by the Vicorian Sociry that the development would have a negative impact on the character and appearance of the conservation area and the setting of the adjacent listed buildings in Albion Street and Tenby Street. In addition the JQDT consider the application proposals pose significant harm to the character of the Conservation Area thereby failing to meet the requirements of statutory legislation, national and local policy. I agree that the proposed change in the character of the site from industrial to predominantly residential one and scale of the development would result in harm to the character of the conservation area but quantify this as being less than substantial harm in the terms of para 196 of the NPPF.
- 6.37 The NPPF in paragraph 189 states local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. Paragrapghs 193 and 194 state that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, Pargraph 196 states this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Policy TP12 of the BDP also states that great weight will be given to the conservation of the City’s heritage assets and that development affecting a designated or non-designated heritage asset or its setting, will be expected to make a positive contribution to its character, appearance and significance. The applicants have submitted a Heritage Assessment which has considered the impact of the development on the conservation area and other heritage assets including the listed buildings close to the site. Having regard for the information provided, officers consider that the requirements of paragraph 189 are satisfied and that the Council are receipt of sufficient information to assess the heritage impacts associated with the development.
- 6.38 *Conservation Area*
- 6.39 In terms of the impact on the conservation area the applicant’s assessment considers that there would be heritage benefits arising from the development namely:-
- Retention of Charles Green and Son, one of the oldest and few remaining jewellery manufacturers in the Jewellery Quarter, on the site and the creation of premises suitable for their modern business requirements which contributes to

sustaining the authenticity of the Jewellery Quarter Conservation Area and its historic interest;

- Removal of the existing low quality building which detracts from the architectural quality and historic townscape character of the conservation area;
- Enhancing the sense of enclosure along Albion Street; and
- Expression of the historic building plots on the Site.

It acknowledges that the proposals would also introduce residential development on the site and that the policies in the JQCAAMP limit new residential development within the Industrial Middle area to avoid pricing traditional manufacturers out of the area and therefore there would be some negligible harm. However it contends that the residential development is required to facilitate the retention of a jewellery manufacturer within the Quarter. Also that although the proposed development steps up from the adjacent three storey listed buildings to four storeys with an additional height on the corner, variations in height and scale is not unusual within the Jewellery Quarter where former townhouses or smaller works sit proximate or adjacent to larger scale manufactories.

- 6.40 The existing building, is on an amalgamation of several smaller historic plots and as such, the building does not reflect the grain of the Industrial Middle which is characterised by narrow plot frontages to the street. The building's design and uniform height is inconsistent with the historic character of the Jewellery Quarter and a discordant element within the townscape along Tenby Street. On Albion Street the gap in the built form diminishes the characteristic sense of enclosure along that street. The proposals however would reinsate built form across the site frontages, provide new buildings of an appropriate scale and design which have the appearance of three individual buildings on the street frontage. The development also proposes that the existing jewellery manufacturing business would be retained which would contribute to sustaining the authenticity of the Jewellery Quarter as an area of bespoke jewellery manufacturing. However it is considered that the overall loss of commercial floor space from the site and the generally residential character of the development means that there will still be some harm caused to the character and appearance of the conservation area. Although at the lower level of harm this must be categorised as less than substantial harm in NPPF terms.
- 6.41 In Historic England's revised response to the amended plans they highlighted some concerns and recommended further engagement with the Council's conservation officer. Whilst they welcome the changes they comments that the proposed building will still introduce a considerable scale to Albion Street and a corner building and gable end which is not entirely typical or characteristic of the area. Their response suggests that Historic England are still of the view that the development would give rise to impacts on the conservation area and the setting of neighbouring listed buildings and thus they still appear to be identifying heritage harm and encouraging further refinements.
- 6.42 The Council's conservation officer has considered the latest amendments to the height of the rear wing and its relationship with 36 Tenby Street. She concludes that the development is acceptable subject to conditions and that the benefits of the scheme (i.e. the heritage benefits) outweigh the less than substantial harm caused to the character and appearance of the Conservation Area. However, that is a planning balance judgement and as the conservation officer still identifies harm to the conservation area, there is a presumption against the development which must be given considerable importance and weight. In addition it cannot be said that the development preserves the conservation area and thus it would be contrary to Section 72 of the Listed Building Act and Policy TP12 of the BDP. Whilst there are

heritage benefits that can be factored into the planning balance as set out in paragraph 196 of the NPPF, the presumption against development still applies.

6.43 *Impact on Listed Buildings*

- 6.44 In relation to the impact on other heritage assets including the listed buildings adjacent to the site the applicants heritage report concludes that the proposed development's height would have a negligible impact on those listed buildings closest to the site, namely, 36 Tenby Street, 33-36 Albion Street, 62-65 Albion Street and 58-61 Albion Street all listed grade II and 54-57 Albion Street grade II* listed. The report comments that the listed buildings along Albion Street and Tenby Street are already experienced alongside existing five storey modern developments (the Orb and Regent House). Whilst these buildings do not positively contribute to the significance of the conservation area or the listed buildings, they do form part of the existing context and the settings of the listed buildings. The significance of the listed buildings principally resides in their age, historic interest associated with their former function and the development of the typology; as evident in their architectural character and features. However even 'negligible' harm falls within the "less than substantial harm" category in NPPF terms and accordingly" this harm must still be afforded considerable importance and weight.
- 6.45 The conservation officer comments that the applicants Heritage Statement identifies a number of listed buildings in and around the development site which have the potential to be affected by the proposed development. She identifies these as being No.36 Tenby Street and Nos.33-36 Albion Street which will both abut the proposed development, Nos.30-31 Tenby Street, Nos.28-29 Tenby Street, No.20 Tenby Street, Nos.58-61 Albion Street and Nos. 62-65 Albion Street and that the application site will also form part of the setting of the grade II* Nos.54-57 Albion Street. A number of other listed buildings exist in the nearby area and surrounding streets making this development site highly heritage sensitive. The conservation officer considers the heritage statement uses a generally acceptable methodology to assess the significance of the heritage assets and the impact of the development on these assets and concludes negligible harm to the setting of the listed buildings (as identified) which in NPPF terms this equates to less than substantial harm. Whilst this harm would be negligible, this is still sufficient to engage the presumption against development and must still be afforded considerable importance and weight. Thus, I am consider the development would be contrary to Section 66 of the Listed Building Act.
- 6.46 One of the objections received comments that the consultation responses take note of certain listed buildings whilst others do not. I have considered all listed buildings within the vicinity of the site and formed that the view that the development proposal would give rise to less than substantial harm to the both the conservation area and the listed buildings.
- 6.47 In conclusion in respect to heritage assets, the development will give rise to less than substantial harm to the conservation area and also listed buildings (including their setting). This is contrary to the statutory duties contained within s.66 and s.72 of the Listed Building Act. This harm must be afforded considerable importance and weight and engages the presumption against the development and also gives rise to conflict with policy TP12 of the BDP. Any harm to, or loss of, the significance of a designated heritage asset whether substantial harm, total loss or less than substantial harm to its significance requires clear and convincing justification. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the NPPF states this harm should be weighed against the public

benefits of the proposal including, where appropriate, securing its optimum viable use.

6.48 Residential Amenity

- 6.49 The new apartments proposed fronting Albion Street and Tenby Street would be between 11.2 and 12.9 metres from the buildings opposite. The duplex apartments have been designed with full height living rooms fronting the street with the bedrooms being on a partial mezzanine set back from the frontage to maintain privacy. The apartments at the rear would look onto the narrow courtyard area and over land at the rear of Nos 33-36 Albion Street on which there is a partly completed basement car park and the steel frame to a 3 storey block of live work units which were approved under reference 2015/037723/PA in 2015. The approved block of live work units lies close to the site boundary and therefore the apartments at the rear have angled windows to the living rooms to give more light and a better outlook.
- 6.50 To ensure there would be no conflict between the proposed residential and commercial uses conditions are recommended by Regulatory Services to require sound insulation, limits on equipment noise for the commercial unit and a noise and ventilation assessment for the development. Objections have been received that the plant for the Charles Green building would be directly in front of live work units at 36 Tenby Street (see ground floor plan in figure 2). The plant would be enclosed and there is also a boundary wall between the two sites. The conditions recommended by Regulatory Services also require sound insulation for any plant/machinery and limit the noise levels that can be emitted which are recommended. These are considered to ensure that neighbours amenity is adequately protected.
- 6.51 Objections have also been raised that residents would not be adequately protected from noise and disturbance due to the changes made to the Use Classes Order which came into force on 1 September. The applicant has sought Use Classes B1, A1, A2, A3 and/or D2 for the commercial floor space but the changes would allow greater flexibility of uses as set out in the committee Briefing Note on the PD changes which was considered at the 13 August 2020 meeting. There are transitional arrangements until 31 July 2021, so live planning permission submitted before 1 September 2020 can be determined using the old use classes. Uses B1, A1, A2 and A3 and several D2 uses such as gymnasiums and indoor recreation would fall within a new E Class but some D2 such as cinemas and concert halls are now sui generis. It is not considered that there would be undue disturbance to nearby residents if the commercial floor space was used for any of these purposes having regard to the recommended conditions, the size, position and configuration of the two units.
- 6.52 Regulatory Services have however recommended further conditions so that if any of the commercial space is used for A3 or D2 use these uses should not commence until a further noise assessment and noise mitigation with details of any extract ventilation/odour control equipment is provided. This is designed to ensure that there are further controls if for example any hot food is produced on site such as with a restaurant use. It is recommended that the condition specifically mentions production of hot food rather than any specific use class. Regulatory Services also recommend conditions to limit hours of opening hours of 8am and 11pm and deliveries of 8am – 8pm. The applicant has requested a 7am start to allow the Charles Green site to operate under its current hours of use which is considered to be acceptable. With these conditions it is not considered there would be an adverse impact on existing or proposed residents due to the presence of the commercial floor space.

- 6.53 A number of objections have also been raised from local residents, concerned at the proximity of the development to their dwellings and the potential loss of light, overlooking and overbearing impact. The distances between the proposed development and the properties opposite the site are 12.9 metres on Tenby Street and 11.2 metres on Albion Street. Whilst this is below the back to back distances recommended in Places for Living there is already a 2 storey building on the site opposite these properties. It is acknowledged that the proposed building would be about 7.7 metres higher, however these separation distances across streets are similar to those between existing developments in the Jewellery Quarter some of which are 4/5 storeys in height such as The Orb development. Although residents consider the development would be overbearing and they would lose light and privacy it is not considered that this would be to an unacceptable degree given the character and tight grain of the area and city centre location.



Figure 6: Separation distance across Tenby Street - 12.9 metres.



Figure 7: Separation distance across Albion Street - 11.2 metres.

- 6.54 At the rear of 33-36 Albion Street the incomplete 3 storey live work building has been designed with its outlook towards the main listed building and the vehicle access to the basement car park provides some separation between the two sites. There would be a window in the side elevation of the live work building at first floor level looking toward the application site. There are however two other large windows on the front elevation of the building serving the living room and light would already have been limited due to the position of the existing building on the site.
- 6.55 The impact of the development on the four live work units at the rear of the listed building at 36 Tenby Street has been a concern as the shopping wing they occupy is only between 2.7 and 2.8 metres from the boundary and has its only outlook from windows facing the application site. It is proposed to locate the replacement building for Charles Green opposite the shopping wing with an access in between the two

buildings giving a separation distance of between 4.7 and 5.4 metres. Originally the application proposed 2 floors of apartments above the new works building but the first set of amendments removed this from the proposals and subsequent amendments have improved separation distances and reduced building heights.



Figure 8: Birds eye view of relationship between the site and 36 Tenby Street

- 6.56 The plans have now reduced the extent of the mezzanine space above the Charles Green workshop so that the rear section of the new wing would now be single storey and 1.5 metres lower than previously proposed. The office windows within the mezzanine area would be glazed with obscure glass and at the ground floor level the windows would be largely screened by the existing boundary wall as below.

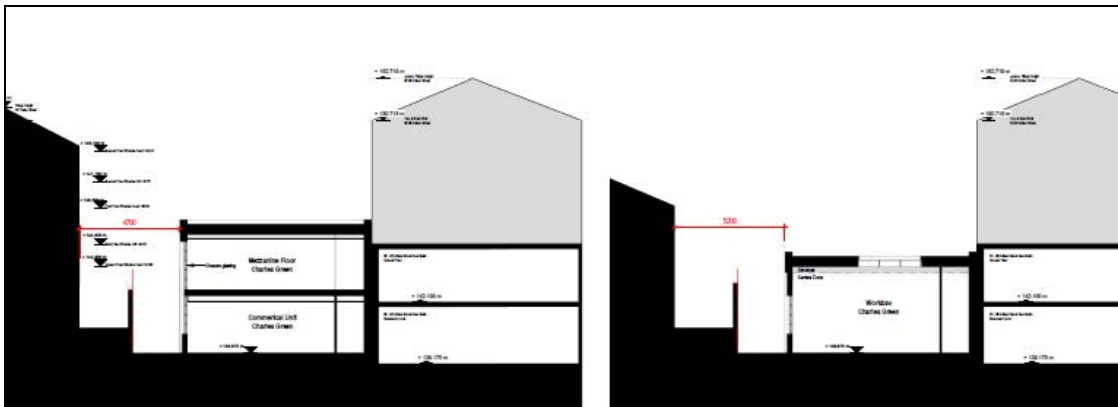


Figure 9: Separation distances to rear wing at 36 Tenby Street of 4.7 and 5.2 metres

- 6.57 Although the height of the rear wing has been reduced the frontage section of the new block to Tenby Street extends back into the site and in front of live work unit 1 which is within the first section of the shopping wing at 36 Tenby Street. The existing Charles Green building currently extends behind the neighbouring site but at 2 storeys in height compared to the 5 floors now proposed which is 7.7 metres higher.



Figure 10 – Rear view

- 6.58 The latest amendments have set this part of the new building further back from the boundary with 36 Tenby Street. Currently the existing Charles Green building is 2.8 metres from Unit 1 at ground floor level and 5.1 metres at first floor level. The proposals would increase the separation between the two buildings to 5.4 metres at ground floor level and 8.2 metres at first floor level thereby improving the proposed relationship between the two developments. In addition the secondary windows in the side elevation for the proposed apartments would be glazed with obscure glass to avoid overlooking of neighbouring properties including those within the Badge Works at 35 Tenby Street. Residents of the live work units at 36 Tenby Street still consider the proposals will have a significant negative effect on their properties however with the amendments and conditions recommended to require obscure glazing in the side windows on the upper floors, I consider that the impact on the live work units is acceptable and would not warrant refusal of the application.

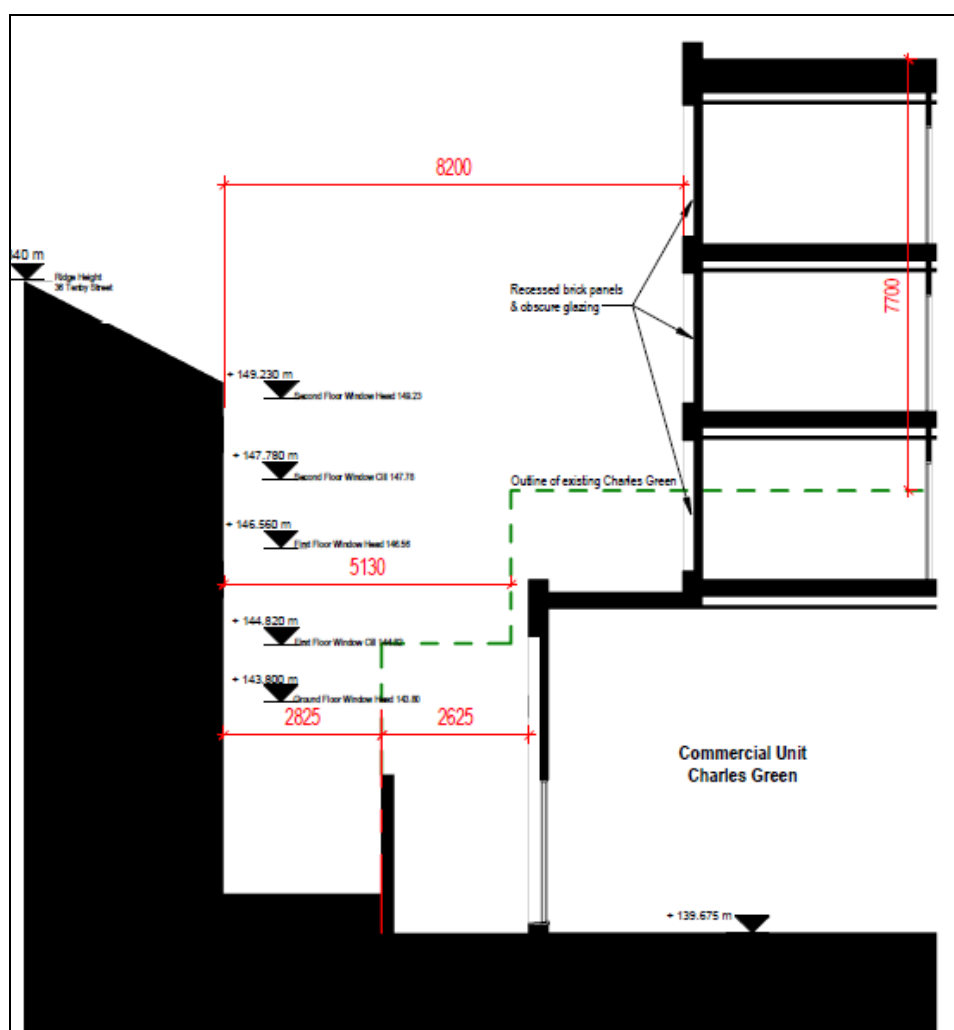


Figure 11: Section showing existing and proposed relationship to 36 Tenby Street

- 6.59 There have also been objections from occupants of the ground floor commercial units opposite the site to the impact of the development on their businesses in terms of the overbearing impact, loss of light and disruption caused by the lack of car parking and delivery space. Whilst these concerns are noted in is not considered that the impact of the development on these businesses would be unacceptable and justifies refusal of the application.

6.60 **Transportation Matters**

- 6.61 A number of the comments received to the application strongly object to the lack of on site car parking spaces or delivery areas particularly as the existing business has these facilities and there is limited on street parking available. Policy TP38 of the BDP seeks to ensure land use planning decisions support and promote sustainable travel and transportation officers raises no objections to this car free development. They note that servicing would take place on-street with a rear servicing corridor and route to refuse bin stores and cycle parking. As the site is located close to the City centre and parking on-street is all controlled they have no objection to zero on-site parking. All the key facilities residents and employees are likely to require including education, retail, health and leisure uses are located within at least 1.6km walking distance of the site and many are closer. They are also accessible via pedestrian and cycle routes and there is a frequent train/metro service from the Jewellery Quarter station. Although there is an objection to the lack of cycle parking the application provides 48 spaces which are considered to be adequate for the 37 apartments and commercial floor space. No objection is therefore raised to the application on highway grounds.

6.62 **Sustainability/ Ecology and Drainage**

- 6.63 Policy TP1 of the BDP set out the policies designed to reduce the city's carbon footprint. Actions are to be taken to help achieve this including supporting the delivery of the principles of sustainable neighbourhoods in residential development, requiring new developments to reduce CO2 emissions and water consumption, promoting and supporting low and zero carbon energy sources, promoting the use of CHP schemes and district heating and promoting sustainable transport systems including cycling and walking. Policy TP6 states that 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). Policy TP8 states that development which directly or indirectly causes harm to...*"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"*.
- 6.64 A Sustainable Construction and Energy Statement has been submitted with the application to demonstrate the measures incorporated into the development proposals to deliver a sustainable development which include:-
- A fabric first approach to design and construction in accordance with the energy hierarchy to reduce energy use and carbon emissions in line with the latest Building Regulations.
 - Provision of measures to tackle the impacts of climate change, including use of water efficiency measures, overheating assessment, and use of SuDS to manage surface water.
 - Specification of sustainable materials and sustainable procurement practices to ensure that local, sustainably sourced materials and labour are prioritised.
 - Provision of secure waste storage for residents and businesses with serrated bins to facilitate recycling
 - The development of a Residential Travel Plan to promote the sustainable location and use of sustainable modes of transport
 - Provision of measures to mitigate and enhance site biodiversity through the provision of bird and bat boxes and consideration of suitable landscape planting.

- 6.65 A Preliminary Ecological Appraisal (PEA), informed by an extended Phase 1 Habitat Survey and ecological records search, completed in November 2019 were submitted with the application. The site survey included a Preliminary Roost Assessment (PRA) which recorded evidence of roosting bats behind roller shutter doors under the archway which provides access from Tenby Street. The initial evidence suggested a maternity roost of Pipistrelle species and to provide confirmation of the roost's status, a series of bat roost characterisation surveys were completed in June and July 2020. A maximum of two common pipistrelle bats were recorded emerging from the roost feature behind the roller shutter door during the dusk surveys. No bats were recorded re-entering the roost during dawn survey. Based on the nocturnal survey results and assessment of bat droppings build-up, the bat roost is considered to be a day roost used by small numbers of non-breeding common pipistrelle bats.
- 6.66 The Council's ecologist agrees with the assessment from the applicant's ecologist that following the further survey work the bat roost is a day roost used by small numbers of non-breeding common pipistrelle bats, rather than a maternity colony, as was initially assumed. Natural England (NE) guidance in the Bat Mitigation Guidelines (Mitchell-Jones 2004) categorises non-maternity roosts used by small numbers of common/widespread bat species as being of low conservation significance. Loss of such roosts is predicted to have a low impact at the site level on the population of that species or on individuals. Mitigation/compensation for impacts on roosts of low conservation significance can be flexible in terms of provision of bat boxes, access to new buildings etc., however the aim should be to locate the replacement roost as close as possible to the roost to be lost, and provide for similar conditions in terms of size orientation/aspect and height.
- 6.67 The submitted PEA Addendum, Supplementary Ecology Information (SEI) and Bat Survey Results report, explain that a NE European Protected Species (EPS) Mitigation Licence will be required in order to enable demolition of the building to proceed. As the bat roost has been categorised as being of low conservation status, the demolition can take place under a NE Bat Mitigation Low Impact Class Licence (BMLICL) which is a more streamlined process for approving and undertaking works affecting bats on sites where there is a low impact compared to with the process of applying for an individual EPS Mitigation Licence if the presence of a maternity roost had been confirmed following the recent nocturnal surveys. A BMLICL can be used in situations to:
- Disturb and capture up to three "common or widespread" bat species
 - Damage or destroy up to three "low conservation status" roosts (i.e. feeding, day, night and transitional roosts)
- 6.68 The recently submitted Bat Survey Results report proposes the following to mitigate and compensate for the loss of a non-breeding day roost by:
- Pre-commencement toolbox talk for demolition contractors to be given by the Registered Consultant or other suitably qualified ecologist prior to commencement of demolition works.
 - Pre-works endoscopic inspection to inform method of demolition of bat roost feature and surrounding area.
 - Dismantling by hand of the bat roost feature and the surrounding area during the active season (April-October) to prevent disturbance for potentially hibernating bats, under the supervision of the Registered Consultant. Method/approach to demolition to be agreed with the Registered Consultant prior to commencement of works.
 - In the event a bat is found, it will be placed in a suitable enclosure, monitored by the Registered Consultant or other suitably qualified ecologist, and released on site at dusk the same day.

- Proving three integral bat bricks in the new building. The exact locations of these replacement roost features would be agreed by planning condition as recommended. One of the bat bricks would be installed in a position which mimics as closely as possible the conditions of the current roost feature and the two remaining bricks would be positioned in optimal locations on south-facing aspects of the new building.
 - New lighting would be designed to avoid illumination of the new roost locations and potential flight lines to the features. These requirements relating to installation of bat boxes and lighting would be controlled by condition.
- 6.69 The above mitigation/compensation measures are similar to those set out in the SEI, which were designed to mitigate and compensate for impacts associated with loss of a maternity roost. However, there are some changes that reflect the revised characterisation of the bat roost as a day roost used by small numbers of non-breeding common pipistrelles rather than a common pipistrelle maternity roost. These changes are consistent to guidance issued by Natural England relating to mitigation and compensation requirements. The key revisions are:
- Revised timing of demolition works – no longer a requirement to avoid the sensitive maternity period (May-August). Demolition now proposed to take place between April and October, therefore avoiding the hibernation period when disturbance to individual bats would cause greater harm.
 - No requirement for a temporary maternity roost to provide alternative roosting opportunities until the new permanent arrangements are available. Non-breeding bats use a variety of day roosts during the active season, therefore it can be anticipated the individual bats using the day roost at Tenby Street will make use of alternative day roosts in the surrounding area during the period when the roost at Tenby Street is unavailable.
 - No requirement for post-development monitoring of the new roost features.
- 6.70 Where the presence of a European Protected Species (EPS), in this instance common pipistrelle *Pipistrellus pipistrellus*, is confirmed, the Council, as a local planning authority, must consider the three tests in Regulation 55 of The Conservation of Habitats and Species Regulations 2017 before determining planning applications that may affect EPS (ODPM Circular 06/2005, paragraphs 99, 112 and 116). Regulations 55(2) and 55(9) define the circumstances where derogation is allowed for an affected EPS and a licence could be issued by Natural England.
- Test 1: the derogation is in the interests of preserving public health or public safety or other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.
 - Test 2: there is no satisfactory alternative.
 - Test 3: the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
- To comply with its statutory duty, in determining the planning application the Council needs to demonstrate that a decision has been reached in a manner that takes account of, and is consistent with, the requirements of the Regulations. This means the Council needs to consider the proposal to demolish the existing building and construct a new building in light of the three tests. Development that does not avoid harm to EPS and/or does not satisfy the three tests will be in conflict with the Regulations. If the Council fails to have regard for these issues, any planning consent granted for such a project may be in breach of the duty placed on LPAs by the Regulations.

- 6.71 With regard to Tests 1 and 2 the demolition of the existing building would have economic benefits by allowing the existing jewellery business to be retained on site in modern premises suitable for their needs. This would ensure its long term future can be retained within the Jewellery Quarter thereby sustaining the authenticity and economy of the Jewellery Quarter as an area of bespoke jewellery manufacturing. The applicant advises that Charles Green and Son are facing a number of challenges with their current premises due to a smaller workforce and the building no longer being fit for modern manufacturing and business practices. They wish the business to remain on the existing site but in modern bespoke manufacturing premises. They however need to continue to operate on site whilst the new facilities are being provided and the nature of their work means that this could not be achieved by altering or keeping the existing building which was built about 50 years ago when jewellery manufacturing was very different and is therefore underutilised. The retention of a jewellery manufacturing business on the site would support the character of the Industrial Middle and protecting the existing 30 jobs within the jewellery trade. Due to the location of the roost in a likely wall cavity accessed via a missing/damaged brick behind the shutter doors it could not reasonably be retained in its current position. The wall forms an integral part of the wider building which would need to be demolished in order to facilitate the construction of the proposed development. The applicants ecologist advises that Pipistrelle species are crevice dwelling species and readily adopt new roost sites, hence there can be confidence that, if designed and sited appropriately, it should be possible to accommodate the species elsewhere within the replacement building.
- 6.72 The Council's ecologist comments principally to the third test, deems that the development should have no detrimental effect on the favourable conservation status of an EPS. The Bat Survey Results report sets out the mitigation and compensation measures required to avoid harm to bats and ensure compliance with the legal protection as already summarised above. She is satisfied that these measures are appropriate to mitigate adverse impacts on bats and to provide compensation for loss of the roost feature of low conservation status. The measures are consistent with guidance issued by Natural England to address impacts on bat roosts of low conservation status. Implementation of the measures set out in the Bat Survey Results report will need to be secured by condition. Additional conditions will be required to agree details relating to exact positioning of the three integral bat bricks and to prevent lighting from illuminating the new roost locations and flight lines to the roost features. She is satisfied the three bat bricks can be installed at suitable locations as specified by the project ecologist in the recently submitted Bat Survey Results report.
- 6.73 The Council's ecologist is of the view that that demolition of the existing building, resulting in loss of a bat roost of low conservation status, would not have a detrimental effect on the favourable conservation status of an EPS (common pipistrelle), provided the mitigation measures described in the Bat Survey Results report are implemented. Therefore, the third test would be met. She also agrees with the assessment set out in the SEI that there is no reasonable alternative as the location of the current day roost, cannot reasonably be retained in its current position. Common pipistrelle is an adaptable, crevice roosting bat species which readily takes advantage of new roost sites and if suitably designed, it should be expected that individual bats will discover and adopt replacement roost features incorporated into the design of the new building.
- 6.74 Following the assessment of the scheme against the 3 tests it is considered that they can be met and an application for an EPS mitigation licence would probably be successful and that the action authorised would not be detrimental to the

maintenance of the population of the species concerned at a favourable conservation status in their natural range. Indeed, I regard it to be extremely likely that a licence will be provided. Therefore, it would be possible to consent the planning application in accordance with the LPA's obligations in relation to The Conservation of Habitats and Species Regulations 2017 (as amended). The conditions recommended by the Council's ecologist to secure implementation of the required bat mitigation and compensation measures are recommended as are other conditions to require nest boxes suitable for this black redstart and other urban bird species, that green infrastructure is provided on site to create a biodiversity net gain and compensation for the small areas of tall herb/ruderal habitat that will be lost, a suitably designed biodiversity roof and lighting scheme for biodiversity.

6.75 Objections have been on behalf of several residents that the LPA does not have sufficient evidence and information in order to be able to satisfy the first two tests and the applicant has only submitted a preliminary ecological appraisal and an addendum. Further surveys have recently been undertaken which have been considered by the Council's ecologist and mitigation measures are proposed to avoid harm to bats and ensure compliance with the legal protection. The case law mentioned by the objector has been considered and officers consider that the present application can be sufficiently distinguished from the examples provided. Moreover, I am satisfied that there is sufficient information to properly assess the ecological impacts of the development. Accordingly, the Council are satisfied that its statutory duties have been complied with and that there will be no unacceptable impact upon protected species as a result of the development.

6.76 In terms of site drainage the Lead Local Flood Authority originally objected to the application but have now advised that due to the challenges of meeting Policy TP6 of the BDP they would in this instance accept a contribution to reduce flood risk through the offsite provision of SuDS within the same River Catchment. This would be via Section 106 funding to offset the discharge rates from the development site within the River Rea catchment which they advise would align with a draft SPD that proposes the creation of SuDS Streets within the River Rea catchment area. The site is at the end point of discharge for surface water and they have requested £4,000 from the development to 'offset' the additional flows from the site.

6.77 Other matters

6.78 Conditions are recommended for a suitable lighting scheme and CCTV to assist in site security as requested by West Midlands Police having. Matters raised by local residents relating to loss of property values and views of Birmingham skyline and that existing services are over stretched are not planning matters that can be given weight. The potential disruption to local business/residents during the demolition and construction work would be short lived and a construction management plan can be required. The comment that consultation process should have been undertaken by the applicants with local residents/businesses is noted but there is no statutory requirement to do this. Three rounds of public consultation have been carried out with consultees and the local community as part of the application process and although there is a comment that some residents may not be able to respond to the amendments due to the coronavirus is noted a significant number of comments on the application have been received.

6.79 Planning Obligations

6.80 Policy TP31 of the BDP requires 35% affordable dwellings on site of 15 dwellings or more and TP9 seeks either on site public open space at 2ha per 1000 population or

contributions towards off site provision for developments of 20 or more dwellings. The applicant has submitted a financial assessment with the application that comments that the development is unviable in that it would not make a sufficient developer return. In order to resolve the viability deficit, it advises that the applicant has secured a debt facility and grant from the GBSLEP's Unlocking Stalled Housing Sites Programme and the terms of the grant requires the provision of the 7 discounted market sale units for key workers as set out in para 6.33. The development is also in a high value area for CIL which has been calculated to be about £156,000.

- 6.81 The viability report has been assessed by the Councils consultants who have concluded that the scheme (taking into account the grant) would produce a suitable developers profit with the inclusion of the 20% key workers housing provision and CIL payment. They consider that there is still sufficient headroom for a contribution of £85,000 together with the requested a £4,000 to offset SuDS. Originally the developers had offered to make the £85,000 contribution for off-site public realm improvements but following negotiations two (5%) of the dwellings have been offered as low cost market dwellings at a 20% discount of open market value in perpetuity. In addition the applicant has agreed to a requirement that the Charles Green & Son unit be provided at a discounted rent to the company for a period of 15 years at a maximum rent of £10 per square foot (index linked). This would give some certainty that the existing jewellery quarter business would remain on the site. However in the event that Charles Green & Sons vacate the building within the 15 year period the applicant has agreed that the building would be offered to another jewellery manufacturer or be used as affordable workspace at the maximum rent of £10 per square foot (index linked). This revised Section 106 offer would meet the necessity tests set out in the CIL Regulations. The applicant has agreed that a construction employments plan can be provided and secured via a condition.

6.82 **The Planning Balance**

- 6.83 The development would comply with several of the relevant BDP policies relating to the re-use of urban land and promotion of mixed use development within the City Centre, creating sustainable and high quality new places. It could also meet some of the objectives set out for the Jewellery Quarter in the BDP to create a vibrant and mixed use urban neighbourhood supporting its unique heritage. However there are also a number of conflicts between the application proposals and the development plan policies in that the BDP. Also the Jewellery Quarter Management Plan seeks to support the manufacturing and industrial heart of the Jewellery Quarter and would not therefore normally allow new residential development in this location. Accordingly, the development is contrary to the development plan strategy and the JQ Management Plan when considered as a whole. Considerable weight needs to be afforded to this conflict. Although the proposals would retain the existing business they also involve the overall loss of industrial floor space from the Conservation Area and the new building includes accommodation over 5 floors which would be higher than traditional properties in the immediate area. The conflict with the Development Plan policies and the "less than substantial harm" caused to the significance of designated heritage assets needs to be weighed against the public benefits of the proposals and these include the following:-

6.84 *Heritage Benefits*

- Retention of existing long established jewellery manufacturer Charles Green and Son on site in bespoke facilities supporting the character of the Industrial Middle in the Jewellery Quarter

- Removal of the existing low quality building from the site which currently detract from the architectural quality and historic townscape character of the conservation area.
- Removal of the gap in the street frontage and proving built form and sense of enclosure along Albion Street
- Removal of areas undeveloped land from the site currently used as car parking
- Expression of the historic building plot forms by providing 3 individual building designs
- Provision of a varied roof line which is a feature of the Jewellery Quarter Conservation Area

6.85 *Economic Benefits.*

- Rejuvenating a long-term existing business by providing it with a bespoke property
- Retention of jobs involved with the Jewellery Trade.
- Providing affordable workspace for rent to Charles Green and Son for at least 15 years.
- In the event that Charles Green and Son Ltd the building within the 15 year timescale it would be safeguarded for use by another jewellery manufacturer or for use as affordable workspace.
- Provision of an additional commercial unit for a mix of uses
- Increasing spending power for the local economy, through the additional number of persons occupying the site helping to sustain shops and other businesses in the Jewellery Quarter.

6.86 *Design*

- Replacing a poorly designed workshop with a building giving the appearance of individual blocks of differing characters that would provide variety to elevations and roofline and reintroduce a number of architectural features which are characteristic of the conservation area
- Providing large windows at ground floor level to provide activity and surveillance to the street frontages.

6.87 *Affordable Housing*

- Provision of two low cost market sale dwellings in perpetuity and 10 dwellings for key works (although for first time occupants only)

6.88 *Sustainability*

- Redevelopment of a brownfield site close to the City centre core and good accessibility by means other than the car via pedestrian and cycle routes, bus and train services nearby
- Would provide buildings designed to reduce energy use and carbon including use of water efficiency measures and sustainable materials
- Provision of a contribution offsite provision of SuDS Streets within the River Rea catchment area.

6.89 *Ecology*

- Inclusion of bat mitigation and compensation measures, bird nest boxes, green infrastructure and a green/brown roof which would enhance the biodiversity of the site.

6.90 The retention of the existing jewellery manufacturing business is a very important element of the proposals and although it is not possible to ensure that the business will be on site for the long term the new offer that the new premises will be made

available to Charles Green and Son for 15 years at an affordable rent provides some certainty in this regard. In addition if for some reason Charles Green & Sons vacate the site within the 15 year period the building would then be offered to another jewellery manufacturer or be used as affordable workspace thereby ensuring that commercial uses are retained in some form on the site for this time period. The most recent amendments have also given the company's entrance to the street its own identity to distinguish it from the neighbouring apartments. The other alterations made to the application have reduced buildings heights from those originally proposed and improved the relationship of the development with 36 Tenby Street as well as providing 2 low cost market sale dwellings.

- 6.91 It is acknowledged that there is a significant amount of local concern regarding the application as well as from Historic England and the Victorian Society. However there is support from several other businesses within the Jewellery Quarter who consider that it is important to the areas unique economy and reputation as a world-renowned centre of jewellery manufacture that modern commercial space along with new apartments are delivered in order to allow Charles Green & Sons to remain within the Jewellery Quarter its home for nearly 200 years. They consider that if the company are not allowed to remain in the Jewellery Quarter this would seriously undermine the commitment of other remaining business and that the Jewellery Quarter will only remain special if it evolves to meet the demands of a dynamic, modern city whilst respecting the heritage of the area. Therefore provided that applicants complete the Section 106 agreement to make the new premises available to Charles Green and Sons for at least 15 years at an affordable rent (or other jewellery manufacturer/as affordable workspace) and with the other requirements set out in paragraph 8.1 below this scheme can, on balance, be supported and the 'less than substantial harm' to heritage assets in line with paragraph 196 of the NPPG is outweighed by the public benefits.

7.0 Conclusion

- 7.1 The development proposal would be contrary to the development plan, having regard to section 38(6) of the Planning and Compulsory Purchase Act 2004. Moreover, it would give rise to less than substantial harm to heritage assets. These are factors that significantly weigh against the development. However, the proposals have been amended to address a number of the concerns raised by officers and consultees including height reductions and design and layout changes. The existing jewellery manufacturing business on the site requires more modern accommodation to survive and if it were lost it could leave a prominent site within the heart of the Jewellery Quarter vacant with the loss of jobs and an important local business. The applicant's viability appraisal shows that in order to provide a viable redevelopment of the site a mixed use development including apartments is required which even then would still require financial support. The density and integrity of the surviving industrial premises in the Industrial middle makes a powerful contribution to the character of the Jewellery Quarter conservation area and therefore the retention of the business is an important element of the proposals and is considered to carry significant merit and would set it apart from other sites in the Industrial Middle.
- 7.2 Although the concerns regarding the scale of the new buildings, their design, dwelling mix and impact on neighbouring properties are acknowledged, in my judgement the scale and residential led nature of the development are necessary to deliver a viable project and the benefits it offers in regenerating this site and retaining the existing jewellery business in the core of the Conservation Area. Overall and considering all the factors at play in my judgement this scheme can on balance be supported as the public benefits offered in favour of the development are of sufficient weight as

material considerations to justify departure from the development plan and overcome the identified harm and the presumption against development.

8.0 Recommendation

- 8.1 That application 2019/09845/PA be APPROVED subject to the prior completion of a Section 106 Legal Agreement to secure the following:
- a) That the replacement unit for Charles Green & Son will be provided to the company at a maximum rent of £10 per square foot (index linked) for a minimum period of 15 years.
 - b) That the replacement unit for Charles Green & Son is completed and made available for their use prior to the occupation of any residential floor space on the site
 - c) That in the event of Charles Green & Sons do not occupy the building or vacate it within the 15 years that the building be retained and be offered to another jewellery manufacturer or be made available for use as affordable workspace at the maximum rent of £10 per square foot (index linked) for a minimum period of 15 years.
 - d) The provision of 2 open market sale dwellings at a 20% discount on normal market rents in perpetuity.
 - e) The payment of £4,000 (index linked) to offset SuDS
 - f) Payment of a monitoring and administration fee associated with the legal agreement of 3.5% of the value subject to a maximum of £10,000.
- 8.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the 23 October 2020, planning permission be refused for the following reasons:-
- In the absence of a legal agreement to secure the retention of the existing Jewellery Manufacturing business on the site or affordable commercial floor space the proposal would be give rise harm to heritage assets and is thereby contrary to policy 2.2 of the Jewellery Quarter Conservation Area Character Appraisal and Management Plan SPG, Policies GA1.3 of the Birmingham Plan and TP12 of the Birmingham Development Plan and the National Planning Policy Framework.
 - In the absence of a legal agreement to secure any on-site affordable market sale dwellings the proposal conflicts with Policy TP31 of the Birmingham Development Plan and the National Planning Policy Framework.
 - In the absence of any legal agreement to secure contributions towards off site SuDs improvements the development is contrary to Policy TP6 of the Birmingham Development Plan and the National Planning Policy Framework.
- 8.4 That the City Solicitor be authorised to prepare, complete and seal an appropriate agreement under Section 106 of the Town and Country Planning Act.
- 8.5 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority by the 23 October 2020 planning permission for application 2019/09845/ be APPROVED, subject to the conditions listed below:-

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- | | |
|---|--|
| 1 | Requires the prior submission of a phasing plan |
| 2 | Requires the prior submission of a construction employment plan. |
| 3 | Requires the prior submission of a construction ecological management plan |
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4	Requires the prior submission of a demolition method statement and management plan
5	Requires the prior submission of a construction method statement/management plan
6	Prevents demolition prior to a redevelopment contract being entered into
7	Requires the prior submission of an additional bat survey if demolition does not take place by 1 July 2021
8	Requires the prior submission of a sustainable drainage scheme in a phased manner
9	Requires the submission of a Sustainable Drainage Operation and Maintenance Plan
10	Requires the implementation of the of contamination remediation scheme on a phased basis
11	Requires the submission of a contaminated land verification report
12	Requires the prior submission of a Noise Mitigation Scheme
13	Requires full architectural and specification details
14	Requires the submission of sample panels of all brickwork
15	Requires the submission of sample materials
16	Requires the prior submission of details of any roof top plant, structures, lift overruns, machinery and/or solar panels.
17	Requires the submission of boundary treatment details in a phased manner
18	Requires the submission of details for biodiversity roofs
19	Requires the implementation of the submitted mitigation/enhancement plan
20	Requires submission of a landscape and ecological management plan
21	Requires the prior submission of details of bird/bat boxes
22	Requires the submssion of a lighting design for biodiversity
23	Requires the submission of a CCTV scheme
24	Requires the submission of a lighting scheme in a phased manner
25	Requires the submission and completion of works for the S278/TRO Agreement
26	Requires the provision of cycle parking prior to occupation
27	Requires a further noise mitigation scheme for any hot food use
28	Requires sound insulation for Plant/Machinery

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- 29 Limits the noise levels for Plant and Machinery
 - 30 Requires the prior submission of noise insulation (variable)
 - 31 Limits the hours of use of the commercial units to 07.00 - 23.00.
 - 32 Limits delivery time of goods to or from the commercial premises to 7am-8pm
 - 33 Requires the glazing at ground floor level to the commercial unit to be clear and not obstructed.
 - 34 Removes PD rights for new windows
 - 35 Requires the submission details obscure glazing for specific areas of the approved building
 - 36 Requires the scheme to be in accordance with the listed approved plans
 - 37 Implement within 3 years (Full)
-

Case Officer: Lesley Sheldrake

Photo(s)



Photo 1: Aerial view of the site and surroundings



Photo 2: View of existing building on Tenby Street frontage



Photo 3: View of site from Albion Street frontage



Photo 4: View to rear of Tenby Street frontage showing the relationship with 36 Tenby Street



Photo 5 : Wider view along along Tenby Street



Photo 6: Wider view along Albion Street

Location Plan



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Committee Date:	08/10/2020	Application Number:	2020/02766/PA
Accepted:	08/04/2020	Application Type:	Full Planning
Target Date:	08/07/2020		
Ward:	Bordesley & Highgate		

Land at the corner of Essex Street and Bristol Street, Birmingham, B5

Demolition of existing buildings and site clearance for the erection of 28 storey tower to include 154 apartments (Use Class C3), ground floor commercial/retail unit (Use Classes A1/A3), with ancillary resident amenity space and all associated works

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

- 1.1. The application is seeking full planning permission for the complete clearance of the existing site and for the erection of 28 storey tower to include 154 apartments (Use Class C3), a ground floor commercial/retail unit, with ancillary resident amenity space and all associated works.
- 1.2. The proposed development provides for 154, 1 and 2 bedroom residential apartments, and a 3 bedroom penthouse apartment delivered through a 28 storey building. The footprint of the proposed building would take up almost the entirety of the application site, with frontages on both Bristol Street and Essex Street. The entrance to the commercial unit would be off Bristol Street with residential access provided on Essex Street.
- 1.3. At ground and mezzanine level, the scheme includes a 232 sq.m commercial unit providing an active frontage onto Bristol Street. The main entrance to the residential apartments is via Essex Street with a double height reception area at ground floor level with a foyer, parcel & post room, concierge and security room. The 'back of house' area at ground floor level includes the refuse store; bike store; and bike workshop area to allow residents to undertake maintenance work on their bikes in a secure area. All plant equipment is proposed at mezzanine level, with a sub-station and switch room at ground floor level.
- 1.4. The scheme also includes ancillary amenity space for residents with a multimedia room/gym proposed at Level 1 and a roof garden. The proposed roof garden includes areas of seating and includes provision for a rooftop cinema space for use by residents.
- 1.5. The proposed replacement tower would be of a slender design finished in a combination of smooth and grooved natural red terracotta cladding incorporating a diagonal style engraved pattern to the feature corner on Essex Street/Bristol Street. Across the elevations living room windows are generally larger, whereas bedroom windows would be smaller, as a method of expressing the layout of the building

externally. The windows would have a dark grey finish and would be framed by bronze finish horizontal metal tramline fins running between each floor of the tower.



Figure 1 – Tower viewed from Bristol Street

- 1.6. The commercial unit would occupy the ground floor and mezzanine level and would contain a higher proportion of glazing, complimented by terracotta coloured slotted panels and vertical fins to match the terracotta cladding above. A horizontal bronze feature band would be situated above the mezzanine level marking the transition to residential use above. This horizontal bronze band is replicated at the buildings crown providing a sense of continuity in the towers appearance



Figure 2 – Ground floor commercial unit with bronze feature band

- 1.7. In terms of the main residential accommodation, this is located from Levels 1 through to Level 27. All apartments include open plan living/dining areas, with 1, 2 or 3 bedroom/s and bathroom/s. All of the units meet the nationally described space standards for their respective number of bedrooms, with 5no. 2 bed units falling 1sq.m short of the standard for 4 person occupancy. The scheme provides for 154 residential apartments, constituting 1 and 2 bedroom accommodation, with a 3 bedroom penthouse. The split between 1 bed and 2/3 beds is circa 45%/55%. The unit mix is shown in the table below:

Apartment Types	No.	Mix
1 Bed 1 Person	64	42%
1 Bed 2 Person	6	4%
2 Bed 3 Person	78	51%
2 Bed 4 Person	5	3%
3 Bed (Penthouse)	1	1%

Apartment Types	No.	Mix
1 Bed	70	45%
2 Bed	83	54%
3 Bed	1	1%

Figure 3 – Unit mix breakdown

- 1.8. In recognition of its sustainable location, and due to the constrained nature of the site, no on-site parking facilities are provided. The scheme does propose cycle storage provision for up to 66 bicycles.

- 1.9. This application is supported by: Completed planning application, CIL Additional Information Form, full set of Architectural Drawings, Design and Access Statement, Tall Buildings Assessment, Daylight; Sunlight and Overshadowing Assessment; Wind Micro-Climate Desktop Study, Phase 1 Desk Study Report (Ground Conditions), Sustainable Drainage Assessment, Preliminary Ecological Appraisal, Noise Assessment, Air Quality Assessment, Heritage Statement, Heritage Statement Addendum, Transport Assessment, Travel Plan, Energy Statement, Sustainable Construction Statement, Draft HoTs, Affordable Housing Statement; and a Financial Viability Appraisal.
- 1.10. [Link to Documents](#)
2. Site & Surroundings
- 2.1. The application site is occupied by what were once four Victorian properties, dating from the late 19th century (partly with a stone ground floor treatment from the early 20th century). Since their construction the properties have been amalgamated, and altered and ultimately fallen out of use. The properties are currently in a neglected state, with part of the building fronting Bristol Street having cracking/missing render and an incongruous modern ground floor frontage. The buildings are three storeys in height, with dormers. Single storey outbuildings/wings are situated to the rear. There is an undeveloped part of the site fronting Essex Street that is overgrown.
- 2.2. The corner building appears to have last been in use as a bank with retail/commercial/restaurant units to either side on Essex Street and Bristol Street.
- 2.3. The wider area houses a wide range of uses. Essex Street includes a Night Club (opposite) with what appears to be residential use above, a karaoke bar/restaurant and a late night bar/club. Further east are the Southside and iLand large scale residential apartment developments. Immediately behind the site is a car showroom with parking associated with vehicle hire (fronting Bristol Street) beyond. This part of the Bristol Street frontage also includes a hairdresser, solicitors, bank and further clubs and food businesses.
- 2.4. Bristol Street – the A38 – runs directly in front of the application site. This 8 lane highway forms the key arterial route into the city core from the south and dominates the pedestrian environment around the site. Beyond Bristol Street there is the O2 Academy music venue and a multi-storey car park.

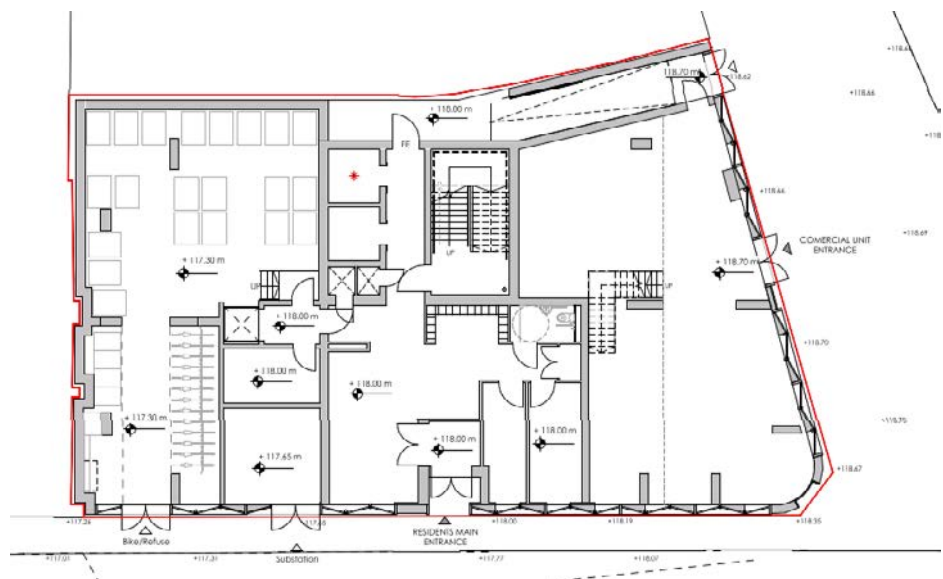


Figure 4 – Ground floor plan

3. Planning History

- 3.1. 01/12/2017 – 2017/06696/PA – Demolition of existing buildings and erection of a part 7, part 18 storey tower to provide two ground floor (A1, A2, B1(a), D1) commercial units and 68 no. apartments above. Approved subject to S.106 agreement.

4. Consultation/PP Responses

- 4.1. Transportation Department – Given the site's sustainable location within the city centre, zero parking provision is deemed acceptable as too is the provision of 66 cycle parking spaces. Request conditions to prevent doors from opening onto the highway, the submission of a demolition and construction management plan, refuse facilities provided before the building is occupied and cycle parking provided before the building is occupied.
- 4.2. Regulatory Services – no objection subject to a condition requiring a scheme for noise insulation and mitigation.
- 4.3. Lead Local Flood Authority – Accept the principles within the submitted SuDS assessment but require further details of the proposed drainage scheme, and therefore recommend a condition to secure these additional elements.
- 4.4. Leisure Services – No objection. Requests a Section 106 contribution of £312,000 to be spent on the enhancement and maintenance of public open space within the Bordesley and Highgate Ward.
- 4.5. Severn Trent Water – No objection subject to conditions requiring the submission of details to ensure the disposal of foul and surface water, and implementation of said details.
- 4.6. West Midland Police - Provide specific advice and guidance regarding lighting, security etc.
- 4.7. Historic England – Have been consulted and any comments received will be reported.

- 4.8. The Victorian Society – Object to the demolition of the existing historic buildings currently occupying the site and consider the proposed 28 storey tower would have a negative impact on the character and appearance of this part of the city centre.
- 4.9. Birmingham Civic Society – Support the high standard of design and quality of materials proposed which represents a positive departure from many of the sheer glazed and metal clad buildings currently present in the city. The loss of the existing buildings is regrettable but accepted. Requested additional views in cityscape.
- 4.10. Employment Access Team – No objection subject to condition requiring the submission of a construction employment plan or appropriate clauses within any S.106 agreement.
- 4.11. Shabana Mahmood MP – Comments on behalf of a neighbouring business owner who is concerned excavations to facilitate the construction of the proposed tower would be detrimental to her building and the ongoing noise and disruption during the construction period would have a further negative effect on her business.
- 4.12. Site and Press Notices displayed. Neighbouring occupiers, Ward Members, Southside BID, Civic Society and Resident's Associations consulted with the following representations received.
- 4.13. 1 representation from a member of the public supporting the application on the basis of quality design, investment into the area, delivering affordable homes and improving safety and security of the area.
- 4.14. 9 objections received from members of the public citing the following reasons:
- Loss of existing buildings which are of historic merit/architectural quality
 - Noise, dust and air quality issues
 - Highway disruption during the construction of the building
 - Lack of parking
 - Lack of local school and healthcare facilities
 - Building is too tall, would create an urban canyon effect
 - Loss of privacy / loss of light / loss of views
 - Detrimental impact on the safety of LGBTQ+ community
 - Over development of the area
 - Out of scale and out of character with the area
 - Potential for noise complaints to arise that would affect late night businesses
- 4.15. A number of objections have been received from directors of a development company and from Glenn Howells Architects on behalf of the company. This

company own the remaining properties on the wider block within which the application site sits, with the exception of 14 – 16 Bristol Street.

- 4.16. A neighbouring land owner raises the following concern:
- Viability of the scheme. It will not be possible to construct the scheme without oversailing their land, which they would not agree to.
 - Lack of parking for commercial or residential units, limited cycle parking.
 - Scale and mass of the building is unsuitable. A tall building would be more suited on their site at the corner of Bromsgrove Street and Bristol Street.
 - Windows on the southern and eastern elevations of the proposed tower would directly overlook their site, separation distances are not sufficient and approval would sterilise future development of their site.
 - The orientation of the tower is not favourable for potential future development of their site.
 - They are currently unable to develop 10-12 Bristol Street as they do not own 14-16. If the proposed development was approved it would result in a blank façade and the potential for an uncomfortable gap in the street frontage.

5. Policy Context

- 5.1. Birmingham Unitary Development Plan 2005 (Saved Policies); Birmingham Development Plan (BDP) 2017; Places for All SPG; Car Parking Guidelines SPD; High Places SPG; Public Open Space in New Residential Development SPD; Affordable Housing SPG; Shopfronts Design Guide SPG; Places for Living SPG; and the National Planning Policy Framework 2019. Also, the draft Development Management DPD and the non-statutory Big City Plan (BCP).

6. Planning Considerations

POLICY

Local

- 6.1. The BDP Policy TP31 sets out that in developments of 15 or more dwellings a contribution of 35% of the scheme as affordable housing will be sought. Policy PG3 sets out the requirement for place making, setting out the key considerations that contribute to a successful place.
- 6.2. The application site lies within the Southside and Highgate wider City Centre area of change as set out in the BDP. In support of the city's ambitious growth agenda, this wider area is recognised as an opportunity for cultural, entertainment and residential development. The Smithfield and Southern Gateway Areas of Transformation are situated to the east/northeast – which are part of the plan's ambition to see the expansion of the City Centre Core southwards. The Big City Plan identifies Bristol Street as a poor pedestrian environment and a barrier to east/west movement.
- 6.3. The saved policy 3.14 of the Birmingham UDP provides specific guidance in relation to how to achieve good urban design
- 6.4. High Places, the city's guidance for development including a tall building, sets out the detailed requirements and the potential impacts of tall buildings within the city. It requires the impact upon key views to be tested and sets key design principles, such

as ensuring the building has a positive relationship with the immediate street environment. It also sets out appropriate locations for such buildings, which is supplemented by the more recent Big City Plan.

- 6.5. Key issues for consideration are the principle of the development; design/townscape impacts; amenity; highway impact; sustainability; and viability/S106 issues.

PRINCIPLE

- 6.6. Considering housing mix, the BDP sets the following targets for market dwellings: 1-bedroom 13%, 2-bedroom 24%, 3-bedroom 28%, and 35% 4-bedroom. By comparison the proposed housing mix for this 154 apartment scheme would have a circa 45% - 55% split between one and two bedroom apartments, with the addition of one 3 bedroom penthouse. Although the housing mix figures are not ceilings, given the city's overall housing requirement, there is a need to ensure that the right type and mix is provided in the city as a whole.
- 6.7. It is accepted that in the city centre a higher percentage of one and two bedroom apartments are going to be delivered. This is on the basis of development land being at a premium, and the types of households that are likely to want to reside within a city centre locale. All of the units meet the nationally described space standards for their respective number of bedrooms, with 5 no. 2 bed units falling 1sq.m short of the standard for 4 person occupancy. Given that all of the units meet the standard and that the remaining 5 narrowly miss the target for 4 person occupancy, the development is considered to provide a good standard of living accommodation and is deemed acceptable in that respect. Given the overall housing needs of the city and the site's location the proposed mix is considered acceptable.
- 6.8. The site benefits from existing planning approval 2017/06696/PA which has established, in principle, the ability of the site to accommodate a tall building. Furthermore, the proposed development is consistent with the broad policy context outlined above. The scheme would deliver residential accommodation in a sustainable city centre location whilst providing a level of commercial activity on the street frontages. My Strategic Planning Officer raises no objections to the principle of the residential-led redevelopment of the site. Therefore, subject to more detailed considerations explored below, I raise no objection to the principle of the proposals.

DESIGN / TOWNSCAPE

Design

- 6.9. The tower's design incorporates a curved feature corner constructed with the use of curved glass, tramline horizontal band detailing in a bronze finish, curtain articulation of ground floor glazing and an extended crown feature which all provide visual interest. The use of a limited palette of grooved and smooth red terracotta cladding and aluminium framed windows is supported, and this is representative of the existing context. The geometric pattern design on the terracotta cladding panels also provides interest and acknowledges the Moorish mosaic tiles present on the existing corner building. The location of a tall building on this corner has already been established under the existing consent and the increase in height to 28 storeys is deemed acceptable in the context of emerging tall buildings in the vicinity.



Figure 5 - Extended crown feature

SECTION 7.00

7.22 Elevations – Façade Concept Design
Terracotta façade

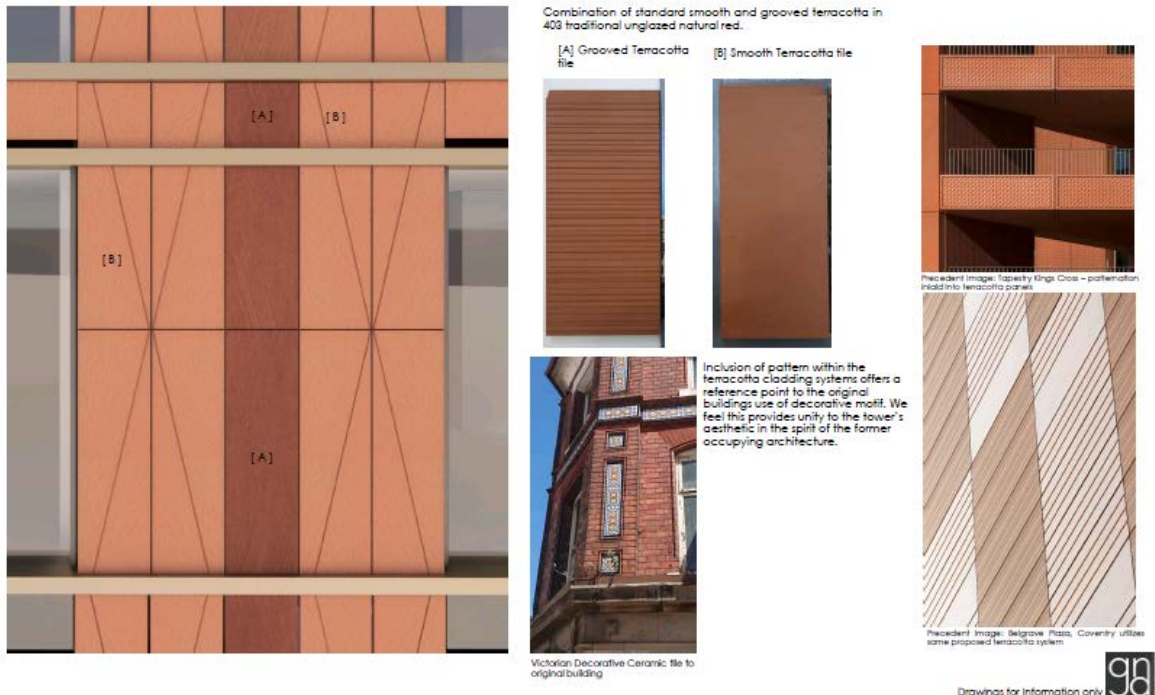


Figure 6 - Façade treatment details

- 6.10. It is recognised that the adjacent terraces, both to the east and south of the application site may be redeveloped at some point in the future. Concerns have been highlighted by the adjoining landowner. The proposal seeks to address any potential overlooking that may arise by applying graduated fritting to the windows on said elevations at levels 1 – 6 (inclusive). This treatment will reduce the potential for overlooking on any development that may occur on the adjoining site. In order to allow enough daylight into the affected apartments, the number of windows on the southern and eastern elevations has been increased. On balance, it is considered

this trade-off is acceptable given the benefits the obscured glazing would have in terms of potential over look reduction.



Figure 7 - Proposed window fritting to address potential overlooking

- 6.11. The site is particularly constrained, with only a 850mm and 870mm gap at the narrowest point between the proposed building and the boundaries to the east and south respectively. Although a limited gap would remain, it is considered acceptable in a city centre location and it would be possible for adjoining future developments to respond without compromising a scheme entirely. It is considered the development has been designed in such a way that it does not sterilise potential future adjoining development, but it is worthy to note that the proposed scheme must be judged on its own merits and in the context of the surrounding built environment that currently exists.

Tall Building

- 6.12. The High Places SPD sets out the potential benefits of tall buildings as:
- ability to act as landmarks aiding legibility
 - clusters of tall buildings can signal the location of the centre of the city
 - a distinctively designed tall building or group of buildings can assist in giving the city a unique skyline that is easily recognisable in an international context
 - marking important facilities (e.g. civic buildings, universities, etc)
 - high quality tall buildings could help attract more international companies to the city



Figure 8 - View from Holloway Circus



Figure 9 - View from Bristol Street looking towards Holloway Circus

- 6.13. The proposed tower falls outside of the designated location for tall buildings ('appropriate locations') set out in High Places but is on the boundary of the extended zone set out in the BCP. The SPD states that where outside of defined locations or the tower is not marking important facilities a case must be made for exceptional circumstances, considering the merits of the particular scheme against the wider policy context.
- 6.14. High Places sets out a series of further requirements for tall buildings to ensure that only high quality design that successfully integrates into its surroundings is supported. These include that the building:
 - must be of the highest quality in form, design and materials

- must respond positively to local context
- should contribute to legibility
- should provide a good place to live
- should be sustainable
- must be lit at night by well-designed lighting

6.15. At 28 storeys, the height of the tower has been designed to reinforce the status of Bristol Street as an arterial route into the city centre and respond to the width of the A38. The building would have a visual relationship with existing and proposed tall buildings that will form a small cluster on the Smallbrook Queensway/Hurst Street junction and act as a gateway into the Southern Gateway / Smithfield areas of transformation to the east set out in policies that have emerged since High Places (2003). In addition, the scale is set such that it would remain subservient to the towers located at the Pagoda Island which is marked the Sentinels (31 storeys) and the Radisson Blue Hotel (39 storeys) and defined as a tall building cluster in the BCP. In addition, the proposal would be in keeping in terms of scale with future development proposals emerging along Bristol Street and on Smallbrook Queensway.

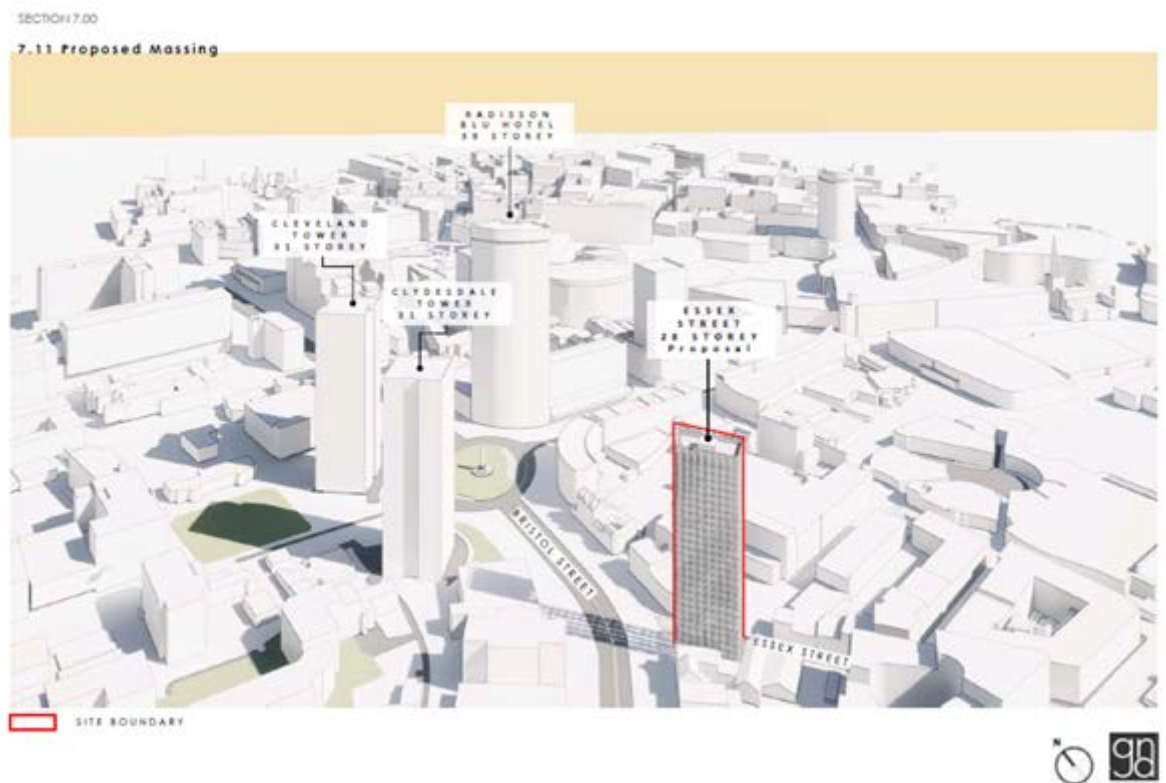


Figure 10 - Tower in context of cluster of tall buildings

6.16. Whilst the building is taller than its immediate neighbours, it would not be an overly dominant feature in the street scene given its slender design and orientation. The proposal should also be viewed in the context of existing consents yet to be implemented and emerging schemes in the vicinity and it is considered the proposal would make a complimentary contribution to the developing city skyline in this area along Bristol Street and in the vicinity of Smithfield. The tower would also be viewed in the context of the built up environment of the city centre, often with other tall buildings sharing the vista.

- 6.17. The supporting statements and plans show that the building successfully integrates with the street environment, creating shelter at ground level that also emphasises the base of the building. The top of the tower is emphasised by a raised crown which is architecturally distinct and provides interest from longer views. Details provided show a feature corner and use of quality materials that are in keeping with the locality and the wider city centre context. Supporting statement confirm that the building will offer shade and relief at points at ground level, while it would not result in an adverse microclimate as a consequence of wind tunnelling.

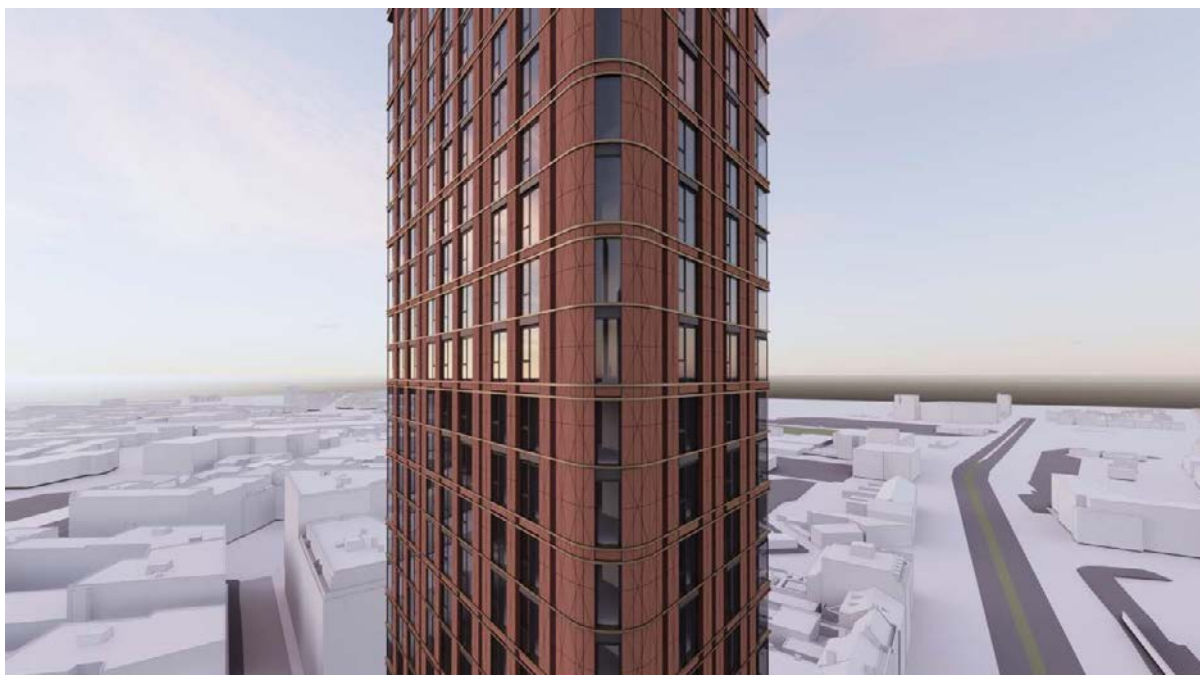


Figure 11 - Feature corner with curved glass.

- 6.18. It is considered that it has been demonstrated that the proposed development would deliver a high quality development that would reinforce the location of the City Centre and aid legibility marking a gateway to the Southside Area of Transformation / Smithfield to the east. As such the development complies with the exceptions test set out in the High Places SPG and I conclude that proposed tower, subject to suitable safeguarding conditions, is acceptable.
- 6.19. I therefore conclude that subject to safeguarding conditions ensuring that the quality articulated in the supporting statements is carried through to construction, including the use of high quality materials, the design of the proposal is satisfactory.

HERITAGE

- 6.20. Nos. 31 & 32 Essex Street are 3-storey former shops and warehouses constructed in 1890 and modified in 1924. In 1931 the bank was extended into No. 6 Bristol Street, an earlier 19th century Gothic Revival 3-storey building. Following this amalgamation the two adjacent buildings became nos. 6-8 Bristol Street.
- 6.21. The Essex Street building is particularly decorative, of red brick construction with terracotta detailing, polychromatic brickwork and decorative bands of ceramic tiles. Nos. 6-8 Bristol Street is of red brick although this has been masked by render which is now failing. These buildings have lost much of their architectural character, including historic window openings, and have a poor quality 20th century shop front. Despite the condition of the buildings they retain some historic interest and group

value with 31 & 32 Essex Street and therefore could be considered as a non-designated heritage asset.

- 6.22. It is necessary to consider the statutory duties of the local authority set out in sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66 requires that the local authority *'shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'* Section 72 states that when considering development within conservation areas *'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.'* The development site does not fall within a conservation area so section 72 does not apply in this instance.
- 6.23. The Heritage Statement which accompanies this application (Roper Pressdee Heritage, May 2020) assesses the impact of the development on the setting of a number of heritage assets in the vicinity, including the grade II listed Back-to-Backs on Inge Street and Hurst Street along with a number of locally listed buildings. The Heritage Statement asserts that although the proposals will see a new tall building within this element of setting, this will not impinge on any element of setting which contributes to the significance of this building. The proposed development would appear as part of the wider urban surroundings, and will not detract from the significance of the Grade II listed building. I concur with this assessment, as does my Conservation Officer. As such, the proposed development would retain the significance of this listed building, and this significance would be preserved as required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.24. The assessment has identified one listed building (Grade II) and three non-designated heritage assets as having potential to be affected through the proposed development. The listed building is 1, 2 & 3 Inge Street, whilst the three non-designated heritage assets are The Ringway Centre, Smallbrook Queensway (locally listed, Grade B), the Church of St Catherine (locally listed, Grade B), and the buildings within the Site (not included on the Local List).
- 6.25. Paragraph 193 of the NPPF states: *'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.'*
- 6.26. The assessment has found that there will be no harm to the listed building nor to the locally listed buildings identified, whether from the removal of the existing buildings on the site, or with the proposed redevelopment. There will however be harm to the non-designated heritage assets that currently occupy the site by way of their demolition.
- 6.27. Paragraph 197 of the NPPF requires that *'the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.'*
- 6.28. Although the buildings currently occupying the site have some architectural merit which holds some weight when considering the planning balance, given the low

significance of these buildings and their current state of repair, their loss is considered to be outweighed by the high quality proposed development.

- 6.29. Furthermore, it is worthy to note that the site benefits from an extant permission for the demolition of the existing buildings, and the principle of their removal has already been established. Whilst I note comments received through the public participation process seeking to retain the existing buildings, I consider that the heritage impacts of the proposal are justified and raise no objection on such grounds.

RESIDENTIAL AMENITY

- 6.30. The supporting contamination desk study has not raised any fundamental issues and recommends that further studies, including on site testing, are carried out.
- 6.31. A noise assessment produce by Accon (dated 18 September 2020) has been submitted in support of the application. The assessment has specifically addressed the effects of night time economy noise on the potential occupiers of apartments closest to the noise sources and in particular from 'Chic' nightclub.
- 6.32. EPU guidance states that 'as a general principle, the aim should be that music and noise emanating from existing entertainment premises...should not be audible within the proposed noise sensitive premises'. Whole building space heating would be provided by Mechanical Ventilation & Heat Recovery system which would enable occupiers to keep their windows closed for much of the time whilst having access to fresh air drawn in from outside. Purge ventilation would be made possible by openable windows to all units with a 10cm maximum opening. The use of high-performance acoustic glazing has been proposed and specified in the noise assessment though it is noted that detailed acoustic performance is not generally available for low frequencies.
- 6.33. The noise report concludes by proposing a pre-commencement planning condition which requires a scheme of noise insulation and mitigation which seeks to meet an agreed and achievable target aimed at minimising the risk of or eliminating adverse effects on future occupiers of the development. On this basis, the EPU officer has no objections to the proposed development. I concur with the officer's assessment and recommend the suggested condition.
- 6.34. There is the potential for an increase in general noise generation should the development be approved and occupied, attributable to general use of the building by prospective occupants. Given the application site's location in the city centre, it is not considered that additional residents in this location would create additional noise that would adversely affect existing residents or businesses.
- 6.35. There is potential for noise to be generated during demolition and construction works, however this would be regulated by the 'Control of Pollution Act 1974' and does not need to be controlled via the planning system.
- 6.36. In relation to apartment sizes, the proposals meet the nationally described space standards, with the all of the two bedroom units meeting the size standard for three person occupancy and 5 of them falling 1 sq.m short of the standard for 4 person occupancy. The detailed plans demonstrate that a satisfactory furniture layout can be provided in all units. Additionally the apartments would benefit from a satisfactory outlook.

- 6.37. Whilst I note the comments received regarding loss of light, privacy and outlook, the proposals would not materially harm the residential amenity of occupiers of dwellings within the vicinity. The proposed development would be some 43m from the side of the i-land development which does incorporate a limited number of windows on the upper set-back level on this elevation. These separation distances are acceptable in a City Centre context considering the scale and nature of the proposed development.
- 6.38. A daylight, sunlight and over shadowing report has been submitted to support the application. The report acknowledges that there is likely to be some change in daylight and sunlight, due the existing site conditions, which contain a building that is of an appreciably smaller scale than the local context. However, the results of the study confirm that, with the exception of some VSC reductions to one property, all the neighbouring residential rooms would satisfy the BRE guidelines.
- 6.39. For daylight and sunlight amenity within the proposed development, the report confirms that the vast majority of habitable rooms tested would exceed the target values for their use in respect of daylight and sunlight. I concur with the findings of the report and consider findings positive in such an urban context.
- 6.40. A wind microclimate assessment has also been submitted which concludes the erection of the tower would not make the microclimate considerably worse at any of the analysed locations. The study also finds that wind conditions are likely to become more comfortable at certain locations (generally Inge Street) due to the shielding effect the proposed building would have upon prevailing winds from the south and south westerly directions.
- 6.41. Given the matters discussed above, I raise no objections on amenity grounds subject to appropriate safeguarding conditions.

ECOLOGY

- 6.42. The City Ecologist accepts the findings of the Preliminary Ecological Assessment submitted to support the application. No bats were recorded emerging from, or returning to, the buildings during the nocturnal surveys, and no bat activity was recorded whilst the surveyors were on site. The site's urban location and the presence of street lighting along Bristol Street and Essex Street limits its value to bats. Based on these survey results, the proposed development is unlikely to impact on roosting bats and no further survey work is required prior to determination. If demolition works have not commenced by June 2021, an update survey will be required to assess any changes in the bat roost status of the site. This is proposed to be secured via planning condition.
- 6.43. The Ecologist has also requested conditions be appended to ensure biodiversity enhancement of the development, which can be achieved via the roof top garden, the inclusion of bird/bat boxes, and a condition to ensure implementation of the requirements. I agree with requested conditions and they are specified at the end of this report.

HIGHWAY MATTERS

- 6.44. The supporting Transport Statement assesses the existing highway and sustainable transport network, provides an analysis of the proposed development and draws overall conclusions on the impact to the network. The report outlines the sustainable location of the site, which is within easy walking distance of amenities and a

comprehensive public transport network of busses, trams and trains. The report predicts that few, if any, residents are likely to have private vehicles and that the vast majority of trips are likely to be on foot. It is worthy to note that local roads are the subject of parking control measures, which are strictly controlled.

- 6.45. The development is proposed to be car free, which is in accordance with the emerging Parking SPD that stipulates such a requirement for development within the city centre (Zone A). The development does propose the provision of 66 cycle parking/storage spaces, and although this falls below the '1 space per 1 unit' guideline with the emerging SPD, I consider the provision acceptable given the limited footprint of the site and its close proximity to the city centre and a variety of sustainable transport options. In addition, the adopted Car Parking Guidelines SPD specifies that no more than a maximum of 1 space per 1 dwelling should be provided in this location. This is a maximum and not a target that must be achieved.
- 6.46. The Transport Development team concur with these conclusions and have recommended conditions be imposed requiring a construction management plan, gates to be set back from the highway and for cycle storage provision to be provided prior to occupation of the building.
- 6.47. The condition requiring a Construction Management Plan is requested in order to assess the effects on the public highway, however any encroachment on the highway during construction would be dealt with through separate highways legislation and no particularly unusual highway impacts are envisaged. I therefore do not consider such a condition necessary. Transportation have also request a condition to ensure any gates proposed as part of the development are set back from the highway. I do not feel this condition is necessary in this instance given the plans do not indicate there is the potential for gates to obstruct the highway.
- 6.48. The condition regarding cycle storage to be provided prior to occupation of the building is recommended. On the basis of the above, I raise no highways based concerns.

SUSTAINABILITY & DRAINAGE

Energy Efficiency

- 6.49. Policy TP3 of the BDP requires development to be designed and constructed in ways that maximise their sustainability credentials, limiting the overall impact of the works. This includes maximising energy efficiency, use of low carbon energy, conserving water, reducing flood risk, use of sustainable materials, building in flexibility, minimising waste and maximising recycling in construction and operation, and enhancing biodiversity value.
- 6.50. The Energy Strategy submitted in support of the application sets out various technologies and provides reasoned justification as to why they are not suitable for the development. In terms of the lighting the building will emphasise on prevention of over lighting, lighting efficacy and control. The building is designed with U values for external walls, floors, roof areas, windows and doors in excess of current building regulation standards. Heating to all apartments is to be provided with electric panel heaters. Domestic hot water will be provided by high efficiency domestic hot water cylinders. Mechanical Ventilation Heat Recovery (MUHR) will be provided to each apartment for individual specific ventilation. CHP plant is not be a viable option due to fluctuations in hot water demand. There is no District heating/energy network in the vicinity of the building. Biomass boilers along with biomass CHP would be

unsuitable due to storage space and transport requirements. Photovoltaics and Solar Thermal technologies were discounted due to lack of adequate roof space required for solar panels.

- 6.51. However, the statement goes on to states that energy efficiency measures will deliver a carbon dioxide reduction of 2.56% when compared against the minimum buildings regulations standard. Chapter 4 of the statement also implies that the energy consumption and carbon dioxide emissions of the buildings are designed to meet the required building regulations standards of Part L1A.
- 6.52. Although the Council's adopted Guidance Note on Sustainable Construction and Energy Statement paragraph 3.11 states Residential development will be encouraged to aim for a reduction in carbon dioxide emissions of least 19% against the Target Emission Rate (TER) of the 2013, this remains guidance and is not statutory policy. Given that a reduction in carbon is still achieved, and the rationale provided which prevents the figure from being higher, I am satisfied that proposal represents a suitably energy efficient development and complies with Policy TP3 of the BDP.

Drainage

- 6.53. The proposed development represents the intensive re-use of a brownfield site situated in a sustainable city centre context. The LLFA have requested a condition that requires the sustainable drainage systems to be installed and implemented prior to occupation of the building. This is likely to be in the form of a green roof, but further details are required. Severn Trent Water have also requested a condition requiring the submission of a foul and surface water drainage strategy. Neither body objects to the proposal subject to the conditions outlined.
- 6.54. The site is within Floodzone 1, the category least at risk from flooding, and I am not aware of any critical drainage problems. I therefore conclude that the development has taken opportunities, where feasible, to introduce sustainable measures and subject to conditions, the proposal is acceptable on that basis.

EQUALITIES ACT

- 6.55. The Equalities Act 2010 requires that Local Authorities take special account of people or groups with 'protected characteristics'. The application site is located on the edge of Birmingham's Gay Village, and in close proximity to a number LGBTQ+ friendly bars and nightclubs. As such, the development proposal has the potential to affect a community that is defined as having protected characteristics under section 12, Part 2 of the Act.
- 6.56. Section 149 of the Act, Public Sector Equality Duty states: *'A public authority must, in the exercise of its functions, have due regard to the need to— ... (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.'*
- 6.57. As regeneration has taken place in and around the Gay Village in recent times, the LGBTQ+ community and proprietors of local bars and clubs have raised concerns that the community is being eroded by the increasing number of residential developments in the area. The application site is currently occupied by semi-derelict buildings which do not contribute to the community or its economy, the redevelopment of the site has the potential to contribute to both. It is considered that the development proposal is suitable in this location and would not cause harm to a

community with protected characteristics in this instance. The provision of more residential units in this location may give a greater opportunity for people from the LGBTQ+ community to live in the area. The potential for an increased residential population to come into conflict with the local night time economy is addressed earlier in this report.

- 6.58. In addition, the LGBTQ+ forum has been consulted as part of the wider planning consultation process and no comments on the proposal have been received. As such, the LPA has given due consideration to a community with protected characteristics as legislated for under the Equality Act 2010.

SECTION 106 & FINANCIAL VIABILITY

- 6.59. The Public Open Space SPD and the BDP set out the requirement for development to contribute towards the provision, improvement and maintenance of public open space and affordable housing.
- 6.60. This application is supported by a Financial Viability Statement that sets out the viability position of the scheme. The original report concludes that the scheme would only become financially viable if all Section 106 obligations were waived.
- 6.61. This report has been the subject of independent assessment on behalf of the city council, and the conclusions reached reference the high build costs associated with a constrained site and a challenging design and the likely residential values that could be achieved in this part of the City Centre.
- 6.62. I concur with the independent assessor's view that the economics of the proposals could not sustain a policy compliant contribution, with the maximum amount that would continue to result in a viable development being the provision of 8 No. affordable apartments (5.2% of unit total) for low cost home ownership. The units would comprise 7 No. one bedroom apartments and 1 No. two bedroom apartment to be sold at 20% discount on market value, in perpetuity.
- 6.63. I agree with the independent assessors conclusion that this is the highest number of affordable units that can be provided without affecting viability of the scheme and consider this a reasonable position in this instance, and note the wider public benefits of the high quality design, and the slender nature of the tower (which is economically less efficient than a bulkier building), and the provision of some affordable units in the city centre.
- 6.64. Leisure Services have calculated that the development generates a requirement of £312,000 towards the provision of public open space, which they suggest should be spent in the Bordesley and Highgate Ward, which is below the BDP target of 2ha per 1000 people.
- 6.65. The independent assessors report concludes that after their adjustments the appraisal is still only showing a return of 11.54% on GDV, well below what is considered to be an appropriate benchmark profit of 17.5% on GDV. Taking this assessment into account, it is not considered reasonable to require a contribution towards POS in this instance, with the priority deferring to the provision of on-site affordable housing.
- 6.66. The Employment Access Team has requested that local employment is secured during the course of construction of the development I concur with this recommendation.

6.67. The development does not attract a CIL contribution.

7. Conclusion

7.1. This proposal represents a high quality development that makes efficient use of a brownfield site. The scheme will play a part in meeting the city's housing demand identified over the current plan period. Through rigorous testing and review, I conclude that the site is suitable for a tall building, with the scheme providing a valid contribution to the city's skyline. In addition an affordable housing contribution of 8 units for sale at 80% of current market value to be retained in perpetuity would be provided via a Section 106 agreement. Therefore, subject to appropriate safeguarding conditions, I recommend that this application be approved.

8. Recommendation

8.1. Approve application number 2020/02766/PA subject to the conditions listed below and a Section 106 Legal Agreement to secure the following:

- i) The provision of 8 No. on-site affordable housing units to be sold at 20% discount on market value, in perpetuity.
- ii) a financial contribution of £3,570 for the administration and monitoring of this deed to be paid upon completion of the legal agreement.

8.2 In the absence of a planning obligation being completed to the satisfaction of the Local Planning Authority by the 6th November 2020, planning permission be refused for the following reason:-

- i) In the absence of a legal agreement to secure an onsite affordable housing contribution the proposal conflicts with Policies 8.50-8.54 of the Birmingham Unitary Development Plan 2005 (saved policies) and Policy TP31 and paragraph 10.3 of the Birmingham Development Plan

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

8.4 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority by the 6th November 2020 favourable consideration is given to this application, subject to the conditions listed below.

-
- | | |
|---|--|
| 1 | Implement within 3 years (Full) |
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | Requires the prior submission of a construction employment plan. |
| 4 | Requires the prior submission of a demolition method statement |
| 5 | Requires the prior submission of an additional bat survey |
-

-
- 6 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
 - 7 Requires the prior submission of details of bird/bat boxes
 - 8 Requires the implementation of the submitted mitigation/enhancement plan
 - 9 Requires the provision of cycle parking prior to occupation
 - 10 Requires the prior submission of noise insulation (variable)
 - 11 Requires the prior submission of a contamination remediation scheme
 - 12 Requires the submission of a contaminated land verification report
 - 13 Requires the submission of a SuDs drainage strategy.
 - 14 Requires the submission of a foul and surface water drainage strategy.
 - 15 Requires the submission of construction material details.
 - 16 Requires development to be carried out in accordance with the following approved details.
 - 17 Removes PD rights for telecom equipment
-

Case Officer: Tom Evans

Photo(s)



Figure 12 - Application site (centre of image) looking east

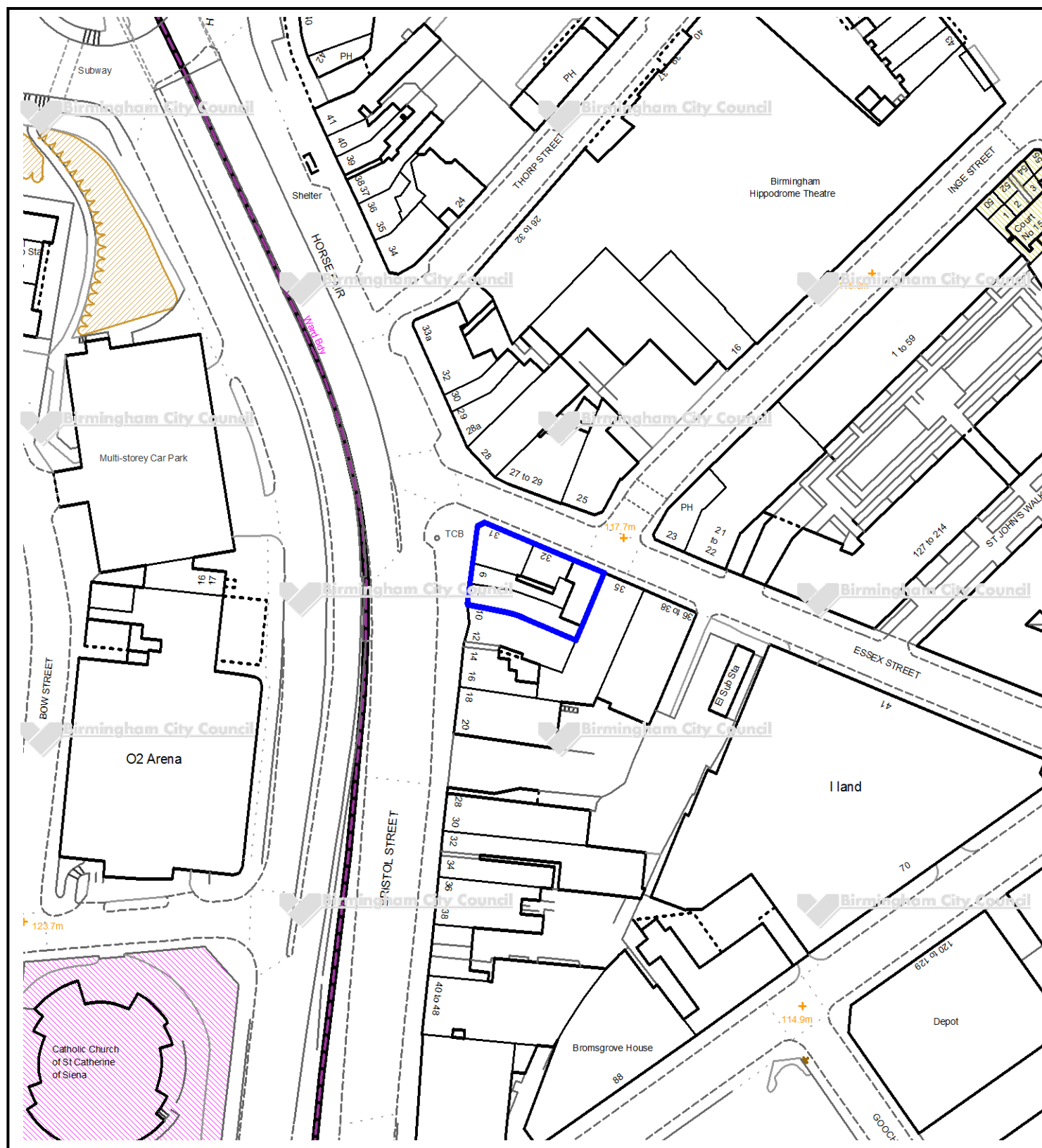


Figure 13 - Inge Street – site in the distance



Figure 14 - Panoramic View of Bristol Street

Location Plan



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Committee Date:	08/10/2020	Application Number:	2020/02655/PA
Accepted:	03/04/2020	Application Type:	Full Planning
Target Date:	06/11/2020		
Ward:	Soho & Jewellery Quarter		

Land bounded by 51 Northwood Street and Mary Street, Jewellery Quarter, Birmingham, B3 1TX

Demolition of existing buildings and erection of new part three and part four storey buildings to provide flexible floor space comprising retail (Use Class A1), office (Use Classes A2 and B1), restaurant (Use Class A3), health centres and clinics (Use Class D1) and 27 one and two bedroom residential dwellings and associated cycle parking and landscaped courtyard.

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

- 1.1. The application proposes the re-development of a site of 0.14 ha currently occupied by a 2-storey office building on Northwood Street and Mary Street with a linking warehouse between the two and lies within the Jewellery Quarter Conservation Area. The application proposes to demolish all the existing buildings and replace them with three and four storey buildings around a central courtyard. The scheme would provide 27 apartments on the upper floors (6 x 1 bed and 21 x 2 bed) totalling approximately 1,910sq.m NIA and 20 commercial units at ground floor level (one building would be wholly commercial) totalling approximately 1,229sq.m NIA. As a result, 39% of the total development would be commercial and 61% of the development would be residential. Presently the site comprises of a total of 876sq.m warehouse space and 383sq.m of office space. The remainder of the site floor space is occupied by a surface carpark.
- 1.2. The proposed dwelling mix would provide:-
 - 6 (22%) – 1 bed x 2 person apartments (50.9sq.m – 53sq.m)
 - 1 (4%) – 2 bed x 3 person apartments (74sq.m)
 - 18 (74%) – 2 bed x 4 person apartments (70sq.m – 96sq.m)
- 1.3. The proposal would provide a range of commercial floor space suitable for up to 20 small to medium businesses for A1, A2, A3, B1 and/or D1 uses. The proposed commercial element would be provided at ground floor level across the entire development and within the whole of building M1 on Mary Street (as referred to as building M1 in submitted plans):-
 - Ground Floor – 11 units (40.4sq.m – 92.1sq.m)
 - Whole of building M1 – (625.6sq.m in total)

Following an appraisal of the applicant's viability report by the Council's consultants it has been agreed that 358.7sq.m of the commercial space would be sold at 80% of

market value. The applicant has proposed the following 6 no. units to be provided as affordable workspace:-

- Unit N1_0_U1 – 80.2sq.m
- Unit N1_0_U2 – 67.7sq.m
- Unit M2_0_U1 – 50.9sq.m
- Unit M1_0_U1 – 70.1sq.m
- Unit C_0_U1 – 49.4sq.m
- Unit C_0_U2 – 40.4sq.m

- 1.4. The proposed layout for the development would provide five linked buildings of three to four storeys which would be located to the back of pavement line on Mary Street (West) along Mary Street (North) and into Northwood Street surrounding a central courtyard. The proposal therefore retains the historic street frontage lines and the narrowness of Mary Street (North) and encloses a courtyard approximately 20 metres long and 10 metres wide at its narrowest point.



Figure 1. Proposed view along Northwood Street



Figure 2. Proposed view along Mary Street (North)



Figure 3. Proposed view of Mary Street corner



Figure 4. Proposed view along Mary Street (West)

- 1.5. The design arranges the buildings as five defined blocks to break up the elevation. The form of each building ensures there is not a continual parapet line, but rather more a variation in eaves and cornice lines. The development would be built of red brick with dark grey powder-coated aluminium windows and a mixture of flat and pitched roofs and roof terraces. The pitched roofs would be finished with a black zinc shingle. The flat roofed buildings would have tall parapets. The architectural concept is based on articulating the hierarchy of the streets around the development. Northwood Street is a primary street in the Jewellery Quarter and therefore comprises of greater architectural interest than the elevations on the secondary Mary Street (West) and the tertiary Mary Street (North). A smooth red brick of a consistent colour is proposed for the buildings on the Northwood Street elevation, with terracotta and glazed brick features being used to emphasise the special character of the Northwood Street – Mary Street (North) corner building. The elevation to Mary Street (North) has the simplest detailing but has stepped fenestration reflecting the location of staircases and resonating with the higgledy-piggledy nature of the former buildings on the site. The Mary Street buildings would be constructed of a varied multi-tone brick, appropriate to their location on secondary and tertiary streets.

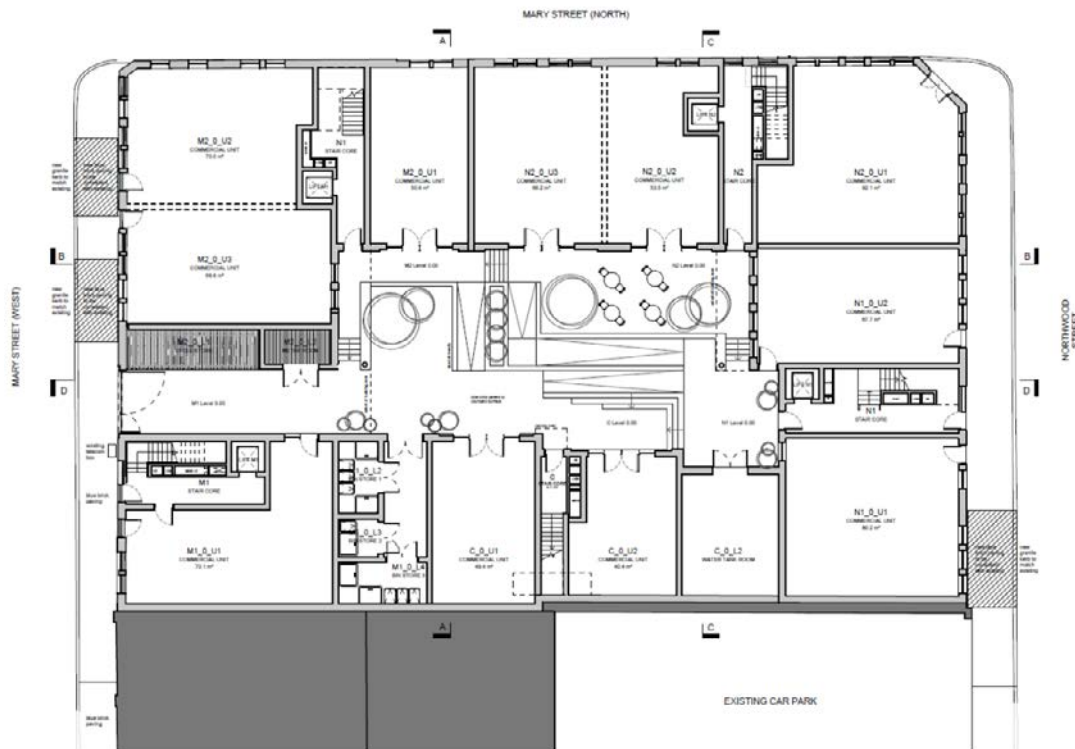


Figure 5. Proposed Ground Floor Layout

- 1.6. Windows throughout the proposed development would be vertically proportioned and set in bays that reflect the proportions of the traditional buildings in the neighbourhood. Architectural devices would be used to add weight to the ground floors, such as pairing the windows under shared lintels, separated with bands of brickwork that imitate historic rustication. The middle floors would have simpler detailing and the top floors would be expressed with a parapet frieze of projecting brick ribs, which is used as a unifying feature to all street frontages (except the N2 corner building and building M1 on Mary Street (West), which would have pitched roofs).
- 1.7. The landscaped areas would provide amenity space for commercial occupiers and residents. Building C on the south side of the courtyard would comprise of residential duplexes over the ground floor commercial units. The staircases to each unit would extend up to a studio room on the partial third floor and give access onto private roof terraces.
- 1.8. The private, internal courtyard is entered from Mary Street (North) by means of a wide, gated, pedestrian alley, with stepped elevations on the south and west sides. The courtyard has areas of hard landscape and planting at different levels, connected by gently sloping ramps and broad steps, accommodating the natural changes of level in both directions across the site.
- 1.9. The proposed scheme comprises of no car parking spaces, however 34 secure cycle parking spaces would be provided. New blue brick pavers would be installed to improve the condition of Northwood Street and Mary Street (West). Furthermore, photovoltaic (PV) panels are proposed for installation at the flat roofed elements of the new buildings. The applicant's Energy Report makes reference to the insulation and the thermal elements of the buildings in order to reduce the carbon emissions of

the building above Building Regulation Requirements. Improving the thermal performance of the ground floor will also contribute to overall CO2 reduction.

1.10. The application is supported by the following documents:-

- Heritage Impact Assessment
- Design and Access Statement
- Sustainable Drainage Assessment
- Noise Assessment
- Energy Report
- Financial Viability Assessment
- Transport Statement
- Phase 1 Geo-Environmental Desk Study Report
- Bat Assessment

1.11. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The site has a rectangular plan form with a total area of approximately 0.14 ha with frontages to Northwood Street and to both sections of Mary Street, which is referred to by the applicant as Mary Street (North) and Mary Street (West). The site is currently occupied by mid-20th Century business premises, comprising a large portal-frame warehouse with two-storey narrow-plan office 'bookends' fronting Northwood Street and Mary Street (West), and a second, smaller warehouse extending along part of the Mary Street (North) frontage, again with a two-storey office element to Northwood Street. Beyond the smaller warehouse is a cleared site, in the Mary Street internal angle, which is tarmacked and used for staff car parking.
- 2.2. The site is located within the Jewellery Quarter Conservation Area with a number of listed buildings located in close proximity to the site. The site lies directly adjacent to a grade II listed building at 67-71 Northwood Street and north east of a grade II listed early 20th Century manufactory (34-44 Northwood Street). 27-32 Mary Street (grade II listed) is situated to immediately to the north west of the proposals site.
- 2.3. There is a mix of uses in the vicinity of the site including retail, office, workshops leisure, residential and live work units. It falls within the designated Industrial Middle part of the Jewellery Quarter Conservation Area.



Figure 6. Aerial view of site looking East

3. Planning History

- 3.1. 03/12/2008 – 2008/00723/PA – Demolition of buildings on site to allow for mixed use redevelopment including commercial space, live/work units and 14 apartments. Withdrawn.
- 3.2. 27/7/1999 – 1999/02907/PA – Change of use from storage to jewellery manufacture. Approved subject to conditions.

AE Harris Site (Land fronting Northwood Street, James Street, Graham Street, Brook Street, Newhall Street and Regent Place)

- 3.3. 28/08/2020 – 2018/04882/PA – Partial demolition of buildings, change of use of retained buildings at 109, 123 & 128 Northwood Street from B2 to A1-A4, B1 and C3 uses, change of use of retained building at 199 Newhall Street from B2 to B1, conversion and erection of new buildings to provide 305 one, two and three bed apartments and 9,132 sqm of non-residential floorspace for A1-A5, B1 & D2 uses with associated parking and landscaping. Approved subject to conditions.

34-44 Northwood Street

- 3.4. 26/02/2020 – 2019/00964/PA – Part demolition of existing buildings and erection of new part three and part four storey buildings, conversion and refurbishment of retained buildings to provide 48 one and two bed apartments and associated cycle parking and landscaped courtyards. Approved subject to conditions.

50-60 Northwood Street

- 3.5. 18/10/2006 – 2006/02301/PA – Residential development of 44 no. apartments, 32 no. parking spaces and access. Approved subject to conditions.
4. Consultation/PP Responses
- 4.1. BCC Employment Team – Request that Employment Obligations or conditions are attached to any permission to secure a construction employment plan.
- 4.2. BCC Regulatory Services – No objection in principle subject to the following:
- If any part of the proposed commercial space is to be occupied by a restaurant/café or any non-residential use a noise assessment, noise mitigation scheme and details of any proposed plant or equipment including noise impacts and the measures to be used to minimise the transmission of noise and vibration shall submitted prior to their use;
 - No external discharge of extraction from food preparation or cooking from any A3 use;
 - Restrictions to noise levels from plant and machinery;
 - Prior to the commencement of construction, a scheme of noise mitigation measures;
 - Noise insulation scheme between the commercial and residential premises;
 - Hours of operation for commercial uses shall be restricted between the hours of 08:00 – 23:00;
 - Site delivery hours restricted to before 08.00 hours and after 20.00 hours; and
 - Submission of demolition management plan, construction management plan, contamination remediation scheme and contaminated land verification report.
- 4.3. BCC Transportation Development – No objection subject to conditions for the following:
- A suitable highway agreement for the redundant footway crossings to be reinstated, to BCC specification at the applicant's expense and works completed before the development is occupied;
 - Cycle parking provided before occupation; and
 - A Construction Management Plan.
- 4.4. Historic England – Do not wish to offer any comments and suggest the views of BCC specialist conservation and archaeological advisers are sought.
- 4.5. Birmingham Civic Society – Support the proposals. The design team have thoroughly considered the context, referring to historic precedents, creating new buildings which respond to the setting while being contemporary in character. This is a challenging task which has been achieved with a great deal of success.
- 4.6. Local Lead Flood Authority – Raise objections to the application on the grounds that a suitable sustainable drainage scheme has not been provided. And have been re-consulted with additional information. Any update will be provided in due course.
- 4.7. West Midlands Police – Pleased that the proposed the cycle store is to be enclosed with secure gates, however recommend the following:-
- That CCTV is made a condition and that it covers the following: an external view of all the residential entrances, commercial units, fire exits, lifts, bike store, refuse;
 - Recommend that a second layer of access control is designed / installed for entrance into the apartments and lobby area. An access control system with video monitoring and remote access control is installed; and

- Recommends the applicant considers the principles adopted in the Police Crime Reduction Initiative 'Secured by Design' guidance.
- 4.8. West Midlands Fire Service – The development will need to comply with National Guidance on Provision for Fire Fighting and approval of Building Control will be required to Part B of the Building Regulations 2010.
- 4.9. Severn Trent – No objections subject conditions to ensure –
- Development should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority,
 - The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- 4.10. Ward Councillors, MP, residents associations, Jewellery Quarter Development Trust, Jewellery Quarter Business Improvement District, local residents and businesses notified site/press notices displayed. Four letters received in response of the application including the following objections:
- Concerns regarding car parking provision;
 - Traffic management during the construction phase;
 - Impact of construction noise;
 - Proposed dormer windows have no place in the Jewellery Quarter;
 - Scheme as proposed represents an overly dense development of a land-locked site;
 - Significant impact on residential amenity through the associated increased in vehicle traffic on the surrounding narrow streets;
 - Negative impact on the setting of several designated heritage assets as a result of the poor quality of design proposed both to Mary Street itself and Mary Street North.

5. Policy Context

- 5.1. Birmingham Development Plan 2017, Birmingham Unitary Development Plan 2005 (saved policies), Draft Birmingham Development Management DPD; Places for Living SPG, The Jewellery Quarter Conservation Area Character Appraisal and Management Plan, Jewellery Quarter Conservation Area Design Guide, Conservation Through Regeneration SPD; Car Parking Guidelines SPD; Public Open Space in New Residential Development SPD; Affordable Housing SPG 2001 and National Planning Policy Framework.

6. Planning Considerations

Land Use Policy

- 6.1. Policy PG1 of the Birmingham Development Plan (BDP) quantifies the provision of additional homes at 51,000 within the built up area of the City which should demonstrate high design quality, a strong sense of place, local distinctiveness and that creates a safe and attractive environments. Policy GA1 promotes the City Centre as the focus for a growing population and states that residential development will be continued to be supported where it provides well designed high quality environments. The majority of new housing is expected to be delivered on brown field sites within the existing urban area.

- 6.2. The Jewellery Quarter has a Conservation Area Character Appraisal and Management Plan SPG which divides the conservation area into eight sub areas. The application site is shown as being within the Industrial Middle characterised by industrial uses largely related to the jewellery and small metal trades with some commercial and retail uses. The document seeks to protect the industrial heart of the Jewellery Quarter from new residential development which could dilute the character of the conservation area. Thus Policy 2.2 of the JQ Management states that the Council will not normally permit new residential uses, whether by conversion of existing buildings or new build in the areas defined as the Golden Triangle and the Industrial Middle.
- 6.3. The explanatory text to policy 2.2 states that the density and integrity of the surviving industrial premises in the Golden Triangle and Industrial Middle makes a powerful contribution to the character of the Jewellery Quarter such that it is considered inappropriate to permit any change of use of industrial or commercial premises to residential usage. The Conservation officer considers that the complete loss of industrial uses from this site is regrettable and although a similar amount of new commercial floor space is proposed there would still be change in character on the site with the provision of 27 apartments which at 61% forms the majority of the new floor space. It is important to note that the existing site does not comprise of any industrial use and is predominantly made up of both office and storage space. However, this change in character of the site would cause harm to the significance of the Conservation Area. This is considered to be less than substantial harm and in accordance with Paragraph 196 of the NPPF will need to be weighed against other material considerations and any public benefits resulting from the development which are set out further below.

Demolition

- 6.4. The redevelopment proposed would require the demolition of all the existing buildings on the site. As they are within the Jewellery Quarter Conservation Area there is a statutory requirement to have special attention to the desirability of preserving or enhancing the character or appearance of the area. Policy TP12 of the BDP states great weight will be given to the conservation of the City's heritage assets and the Jewellery Quarter Conservation Area Appraisal and Management Plan states that demolition of buildings will not normally be permitted. The NPPF requires the conservation of heritage assets in a manner appropriate to their significance and in considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
- 6.5. The existing buildings date to the mid-late 20th century and replaced several early 19th century buildings including the Barley Mow Public House on the corner of Northwood Street which was demolished in the mid-20th century. At the corner of Mary Street (North) and Mary Street (West) is a vacant plot of land formerly the site of light engineering works and previous 19th century buildings but which is currently an unsightly gap site of hard standing used for car parking. The proposal will involve the demolition of the existing mid-late 20th century warehouse and office buildings. Whilst these are utilitarian buildings of limited architectural quality they must still be recognised as forming part of the continued development of the Jewellery Quarter throughout the 20th century and are characteristic of the mid-20th century development of larger scale, deep-plan commercial premises in light industrial use.
- 6.6. The Council's Conservation Officer notes that the buildings fronting Mary Street (West) and Northwood Street are reasonably unobtrusive in the townscape being of

a scale of 2-storeys but do present an unsightly large brick expanse elevation to Mary Street (North). This coupled with the area of hard standing car park to the corner of Mary Street is considered to negatively impact on the character and appearance of the Jewellery Quarter conservation area and on the setting of the listed buildings on Mary Street. The demolition therefore presents an enhancement opportunity in the conservation area.

- 6.7. Originally the site was developed with fine grain, dense plots with frontages to Mary Street (North and West) and round into Northwood Street. This was very much characteristic of early Jewellery Quarter development and subsequently lost through the amalgamation of these plots to facilitate the existing development. Based on this assessment the Council's Conservation Officer would support the loss of these buildings and the redevelopment of the site subject to a high quality, well-designed scheme of an appropriate scale and the re-instatement of a finer grain and continued street frontage to Mary Street (North and West).
- 6.8. The City Design Manager considers the removal of the existing buildings to be beneficial and the nature of the scale, form and use of the proposed new build to be positive to the character of the area. The Birmingham Civic Society has raised no objection and support the proposed development. Historic England has also raised no objection to the demolition of the existing buildings and therefore this can be supported subject to appropriate replacement buildings being provided.

Scale and Layout

- 6.9. Policy PG3 of the BDP states that all new development will be expected to be designed to the highest possible standards which reinforces or creates a positive sense of place, safe and attractive environments. The revised NPPF in Para 124 states that good design is a key aspect of sustainable development and creates better places to live and work. The JQ Management Plan requires the design of new development to respect the scale, form and density of the historic pattern and form of the Jewellery Quarter and the Jewellery Quarter Design Guide outlines principles for good design including guidance on scale, form, grain, hierarchy and materials. New buildings are normally limited to a maximum height of 4 storeys.
- 6.10. The proposed scheme is a mix of 3 and 4 storey buildings which follows a back of pavement line from Mary Street (W) along Mary Street (N) and into Northwood Street and encloses a rear courtyard. Whilst one development, the scheme consists of a number of blocks each with its own identity in terms of scale, design, detailing and materials and which reference the hierarchy of the streets. The applicant's heritage statement states that the height, proportions and design of the proposed buildings relate well to their historic neighbours, particularly on Northwood Street. The Council's Conservation Officer is in agreement with the comments made within the applicant's accompanying heritage statement. The 3 storey element with pitched roof accommodation on Mary Street (W) respects the scale of the Mary Street listed buildings, and the streets generally, with a drop in topography allowing a 4 storey element to successfully address the corner of Mary Street (W) and Mary Street (N).
- 6.11. The 4-storey element to the Mary Street (N) elevation is read as two buildings with a variation in roof height and the fourth floor articulated in contrasting brick detail. The less detailed elevations reference the tertiary nature of this street and a more simple contemporary approach is supported. Moving from Mary Street (N) into Northwood Street the development has taken advantage of the corner plot of this primary street to present a more detailed element at four storeys with pitched roof. Again a drop in topography allows for some additional height as does this more prominent corner

location and the introduction of a pitched roof creates a welcomed variation in roof form. The Northwood Street element is a building of 4-storeys and again takes advantage of this primary street location. To the rear of this building a 3-storey courtyard wing has been introduced which respects the characteristic subservient scale and historic form of rear courtyard buildings in the Jewellery quarter.

- 6.12. In terms of overall scale and form the mix of 3 and 4-storey development offers a variation in height which has recognised the street hierarchy and is acceptable within the context of this site, its relationship to the surrounding listed buildings and to the character and appearance of the Jewellery Quarter Conservation Area. The retention and reinstatement of a back-of pavement line to the perimeter of the site and the use of varying 'blocks' of buildings references the historic form and visually reinstates the urban grain and is supported by the Council's Conservation Officer.
- 6.13. The new development will mend the urban grain by reinstating the back of pavement development to the sites entire perimeter and reintroduction of an irregular shaped courtyard with the same horizontal orientation to the sites historic courtyard spaces. The proposed courtyard is a minimum 10m wide to meet current minimum requirements for privacy, amenity and daylight.
- 6.14. Objection raised by a nearby occupier regarding the overly dense nature of the scheme has been noted. However, as explained within the Jewellery Quarter Design Guide "the close urban grain of the Jewellery Quarter is particularly distinctive and should be retained and whenever necessary enhanced by new development" "Where the characteristically dense grain of the area has been eroded...it should be reinstated to reflect the traditional form." The Council's City Design Manager supports the concept of breaking the block up into a number of buildings and considers the scheme to respond well to the urban grain of the area.

Design

- 6.15. The design of this scheme, in terms of detailing and contrast to elevational treatments, has been well considered and breaks up this single development into identifiable individual elements giving a variety to the design of the overall development. There are obvious responses to the existing architecture of the Jewellery Quarter such as diminishing proportions, deeply recessed windows and a mix of flat and pitched roofs and parapets which are recognised in a contemporary response. The Council's Conservation Officer has noted that street hierarchy has been considered and this is reflected in the design. Furthermore, the form of each building ensures there is not a continual parapet line, but rather more a variation in eaves and cornice lines which is supported by the Council's City Design Manager.
- 6.16. Concerns regarding the proposed dormers along Mary Street (West) have been discussed with the applicant and revised drawings have been submitted with the design now incorporating more of a combined dormer topshop arrangement which is better suited to the Jewellery Quarter area. The Council's Conservation Officer is supportive of this approach.
- 6.17. The proposed use of two varieties of orange red brick with traditional bonds, as well as the use of terracotta and glazed bricks on the more prominent elevations is fully supported by the Council's Conservation Officer. The Council's City Design Manager also supports the use of a mix of Flemish and English Bonds, subject to suitable samples being provided and a condition is recommended to control the quality and type of brick.

- 6.18. The inclusion of terracotta is considered positive to the design and responds well to the Jewellery Quarter. However, the Council's City Design Manager comments that the details of unit size and application are important and therefore a condition requiring approval of the size and fixing of terracotta has been recommended.
- 6.19. Although an objection has been raised to building designs from a neighbour Birmingham Civic Trust consider that the development has successfully responded to the setting while being contemporary in character. Overall the proposed development has taken account of the historic context of the site, of its position within the Jewellery Quarter Conservation Area and as forming part of the setting of the identified heritage assets. The Council's Conservation Officer does not consider the new building designs would be harmful to the significance of the heritage assets and if well executed (as secured by conditions) will offer an enhancement to this part of the Jewellery Quarter Conservation Area.

Impact on Heritage Assets

- 6.20. The Planning (Listed Buildings and Conservation Areas) Act 1990 provides specific protection for buildings and areas of special architectural or historic interest. The Act states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. The NPPF requires heritage assets to be conserved in a manner appropriate to their significance and requires an applicant to describe the significance of any heritage assets affected and to assess how that significance may be affected by a proposal. The BDP and Jewellery Quarter SPG's also contain other guidance regarding the need for new development within the Conservation Area to pay special attention to the desirability of preserving or enhancing the character or appearance of the area and provides various criteria relating to siting, scale and design against which new development will be judged.
- 6.21. The paragraphs above relating to the proposed demolition and design of the new buildings have commented on their impact on the Conservation Area. The applicant's heritage statement has considered the impact of the development on other heritage assets nearby including the listed buildings. Although the existing buildings on site are not listed, there are several listed and locally listed buildings near the site. The applicant's heritage statement considers that the following heritage assets could potentially be affected by the development:-
- 27 – 32 Mary Street (West) (listed grade 2)
 - 4 – 5 Mary Street (West) (listed grade 2)
 - 67 – 71 Northwood Street (listed grade 2)
 - 13 – 15 Caroline Street / 73 Northwood Street (listed grade 2)
 - 34 – 44 Northwood Street
 - Reliance Works, 62-64 Street (unlisted)
- 6.22. It concludes that the redevelopment of the site as proposed would have no impact and will not harm the significance of these buildings. The Council's Conservation Officer is in agreement with this and considers that the proposed development has taken account of the historic context of the site, of its position within the Jewellery Quarter Conservation Area and as forming part of the setting of the identified heritage assets.

Dwelling Mix and Residential Amenity

- 6.23. BDP policy TP30 states that proposals for new housing should deliver a range of dwellings to meet local needs and support the creation of mixed, balanced and sustainable neighbourhood and seeks high density schemes in the city centre. The development would provide 6 (22%) one bed apartments all of which would be 50 sq.m or larger and therefore suitable for occupation by 2 persons according to the nationally described space standards. The remaining 19 (78%) would provide a mix of 2 bed apartments ranging in size from 70 – 96 sq.m.
- 6.24. The development would provide approximately 300 sq.m of amenity space for commercial occupiers and residents. Building C on the south side of the courtyard would comprise of residential duplexes over the ground floor commercial units. The staircases to each unit would extend up to a studio room on the partial third floor and give access onto private roof terraces.
- 6.25. The private, internal courtyard is entered from Mary Street (North) by means of a wide, gated, pedestrian ginnel, and the courtyard has areas of hard landscape and planting at different levels, connected by gently sloping ramps and broad steps, accommodating the natural changes of level in both directions across the site. The Council's Landscape Officer has raised no objection subject to high quality hard and soft landscaping. The requirement of hard/soft landscaping details has been conditioned accordingly.
- 6.26. Conditions have been attached in relation to the operating hours of the commercial premises, which will allow for a period of time within the day where the courtyard will be accessed by residents only. Conditions have also been attached requiring the submission of a Noise Impact Assessment and Noise Mitigation Strategy prior to any restaurant/café or any other non-residential use operating within the proposed commercial units. This is in order to ensure that appropriate measures are in place to safeguard the amenity of existing and future residents.
- 6.27. Objections have been raised by local residents regarding construction traffic and noise; and the impact of parking and congestion levels during the construction phase and operational phase on existing residents. BCC Regulatory Services have raised no objection to the proposed development subject to the prior submission of a demolition management plan and construction management plan. Overall, it is considered that there is a satisfactory noise environment for the proposed development and whilst it is acknowledged that this is a temporary impact, given the nature of the site this is appropriate in this context.

Transportation Issues

- 6.28. Although, objections have been received from local residents that there is no on site car parking proposed and that this would make access difficult, generate greater volumes of traffic and increased congestion in the area no objections have been raised by Transportation subject to cycle parking provision, a construction management plan and highway agreement. The site also lies in close proximity to the City Centre and to a range of facilities, frequent bus, rail and tram services and there is an extensive footway network in the area. As per paragraph 109 of the NPPF development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. Overall it is considered that there are no significant highway safety implications.

Other Matters

- 6.29. The comments made by West Midlands Police and Fire Service are noted. Some of the points mentioned are controlled by other legislation but conditions are recommended to require a lighting scheme and CCTV.
- 6.30. The Local Lead Flood Authority has raised an objection to the proposed development on the grounds that there is insufficient information to demonstrate that the proposed development could meet the requirements of Policy TP6 of the adopted Birmingham Plan. The applicant has since submitted a revised Sustainable Drainage Assessment reducing the discharge rate to 5l/s which has been achieved by increasing the size of the attenuation tanks under the courtyard. Further comments from the LLFA who have been re-consulted are awaited and conditions have been attached requiring the prior submission of a Sustainable Drainage Assessment and Operation and Maintenance Plan.
- 6.31. The applicant's ecological report demonstrates the site has negligible potential for roosting bats, but does have good suitability for nesting birds. Appropriate mitigation measures are recommended in the report to minimise the risk of harm to wildlife and ensure compliance with protected species legislation. The Council's Ecology Officer has raised no objection subject to the development implemented in accordance with the recommendations for bats and birds in Section 5 of the applicant's Bat Assessment – Preliminary Roost Assessment which has been conditioned accordingly.
- 6.32. The proposals should also deliver a biodiversity net gain. It has been identified that this can be achieved through the provision of integral bat and bird boxes and an ecologically-led planting scheme in the courtyard amenity space. Installation of biodiversity roofs in association with the PV panel array would further enhance the site's ecological value; provision of these features is therefore also desirable and should be encouraged. As a result, a further condition has been attached requiring a scheme for ecological/biodiversity enhancement measures.

Planning Balance

- 6.33. The development would comply with several of the relevant BDP policies relating to the re-use of urban land and promotion of mixed use development within the City Centre, creating sustainable and high quality new places. It could also meet some of the objectives set out for the Jewellery Quarter in the BDP to create a vibrant and mixed use urban neighbourhood supporting its unique heritage. However there are also a number of conflicts between the application proposals and the development plan policies in the BDP including the lack of affordable housing. Furthermore, the Jewellery Quarter Management Plan seeks to support the manufacturing and industrial heart of the Jewellery Quarter and would not therefore normally allow new residential development in this location. Accordingly, the development is contrary to the development plan strategy and the JQ Management Plan when considered as a whole. Considerable weight needs to be afforded to this conflict. The conflict with the Development Plan policies and the "less than substantial harm" caused to the significance of designated heritage assets needs to be weighed against the public benefits of the proposals and these include the following:-
- 6.34. Heritage Benefits
- Removal of the existing low quality building from the site which currently detracts from the architectural quality and historic townscape character of the conservation area.

- Removal of areas undeveloped land from the site currently used as car parking along Mary Street (North) and Mart Street (West).
- Removal of the gap in the street frontage and providing built form.
- The form of each building ensures there is not a continual parapet line, but rather more a variation in eaves and cornice lines which is a feature of the Jewellery Quarter Conservation Area.
- Expression of the historic building plot forms by providing 5 no. buildings surrounding a central court.
- Improve the condition of the pavement at Northwood Street and Mary Street (West) via the installation of blue brick pavers.

6.35. Economic Benefits

- The proposed development will provide accommodation for up to 20 separate businesses in 1,229sqm of commercial floor space, with the potential to employ 204 people.
- 6 no. of commercial units would be sold at 80% of market value. This is viewed as a considerable benefit to this part of the Jewellery Quarter as it would ensure the retention of commercial space and encourage small start-ups to take advantage of the affordable commercial space available.
- Increasing spending power for the local economy, through the additional number of persons occupying the site helping to sustain shops and other businesses in the Jewellery Quarter.

6.36. Design

- Replacing a poorly designed warehouse with buildings of differing characters that would provide variety to elevations and roofline and reintroduce a number of architectural features which are characteristic of the conservation area.
- Creation of active frontages along Northwood Street and Mary Street (West).

6.37. Sustainability

- Redevelopment of a brownfield site close to the City centre core and good accessibility by means other than the car via pedestrian and cycle routes, bus and train services nearby.
- Would provide buildings designed to reduce energy loss and improvements to thermal performance at ground floor level and dwellings will be provided with high efficient heat recovery ventilation units.
- Roof mounted PV panels are also proposed.

- 6.38. Provided that the applicants complete the Section 106 agreement to provide 6 no. commercial units at 80% of market value this scheme can, on balance, be supported despite the 'less than substantial harm' to heritage assets in line with paragraph 196 of the NPPG.

CIL and Section 106 Obligations

- 6.39. The proposed development does not lie in an area requiring CIL. A Viability Statement has been submitted with the application to demonstrate that the site cannot meet the full BDP requirements for affordable housing and public open space (POS). This has been independently assessed by the City Council's consultants and although affordable housing would normally be sought as the site lies within the Industrial Middle part of the Jewellery Quarter Conservation Area affordable workspace has been prioritised. This has resulted in 6 no. commercial units equating

to a total of 358.7sqm being offered as low cost market commercial space for sale at 80% of market value. This equates to a subsidy of £166, 023 which is considered to be fair and justifiable and would comply with the CIL regulations. The development could not fund affordable housing and POS as well but is to provide new blue paving to the street frontages where it is currently missing. If the entire subsidy was diverted to affordable housing only, this would provide 3 no. affordable residential units.

7. Conclusion

- 7.1. The BDP encourages further residential development in the City Centre however the site is within the Industrial Middle locality of the Conservation Area where further housing is not normally permitted other than live-work units as part of a mixed use scheme. This is in order to protect the significance of the conservation area and its industrial heritage. However, the proposed development would be providing a reasonable proportion of commercial space equating to 39% of the overall development and favourably compares with the current on site floor space of 1259sq.m. The proposal will not only provide a significant quantity of commercial business units to the area, a large number of them would be offered at 80% of their market value, which will significantly help with the sustainability of the Jewellery Quarter as an area seeking to retain and foster commercial businesses. Overall, considering all the factors at play in my judgement, this scheme can on balance be supported as the public benefits offered in favour of the development are of sufficient weight as material considerations to justify departure from the development plan and overcome the identified harm to the Conservation Area.

8. Recommendation

- 8.1. That application 2020/02655/PA be APPROVED subject to the prior completion of a Section 106 Legal Agreement to secure the following:
- a) The provision of 6 no. affordable workspace units (totalling 358.7sqm) to be sold at 80% of market value in perpetuity.
 - b) Payment of a monitoring and administration fee associated with the legal agreement of 3.5% of the value subject to a maximum of £10,000.
- 8.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the 6th November 2020, planning permission be refused for the following reasons:-
- In the absence of a legal agreement to secure any on-site affordable commercial space the proposal is contrary to policy 2.2 of the Jewellery Quarter Conservation Area Character Management Plan SPG, Policies GA1.3 of the Birmingham Plan and TP12 of the Birmingham Development Plan and the National Planning Policy Framework.
- 8.3. That the City Solicitor be authorised to prepare, complete and seal an appropriate agreement under Section 106 of the Town and Country Planning Act.
- 8.4. That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority by the 6th November 2020 planning permission for application 2020/02655/PA be APPROVED, subject to the conditions listed below:-

1	Implement within 3 years (Full)
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2	Requires the scheme to be in accordance with the listed approved plans
3	Requires the prior submission of a construction method statement/management plan
4	Requires the submission of hard and/or soft landscape details
5	Requires the submission of a lighting scheme
6	Requires the submission of a CCTV scheme
7	Requires the submission and completion of works for the S278/TRO Agreement
8	Requires the provision of cycle parking prior to occupation
9	Requires the prior submission of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan
10	Requires the prior submission of a demolition method statement
11	Requires the prior submission of a contamination remediation scheme
12	Requires the submission of a contaminated land verification report
13	Prevents demolition prior to a redevelopment contract being entered into
14	Limits delivery time of goods to or from the site
15	Limits the hours of operation
16	Requires the submission of a Noise Impact Assessment and Noise Mitigation Strategy prior to the operation of a restaurant/cafe
17	Requires the submission of a Noise Impact Assessment and Noise Mitigation Strategy prior to the operation of any D1 use
18	Limits the noise levels for Plant and Machinery
19	Requires the prior submission of a Noise Mitigation Scheme
20	Requires the prior submission of noise insulation (variable)
21	Requires the submission of architectural and specification details
22	Requires the submission of sample materials
23	Requires the prior submission of details of bird/bat boxes
24	Requires the submission of a scheme for ecological/biodiversity/enhancement measures
25	Requires the glazing at ground floor level to the commercial unit to be clear and not obstructed.
26	Limits the hours of use of the commercial units to 08.00 - 23.00.

Case Officer: Miriam Alvi

Photo(s)



Photo 1: View at corner of Northwood Street and Mary Street



Photo 2: View of site looking north along Northwood Street

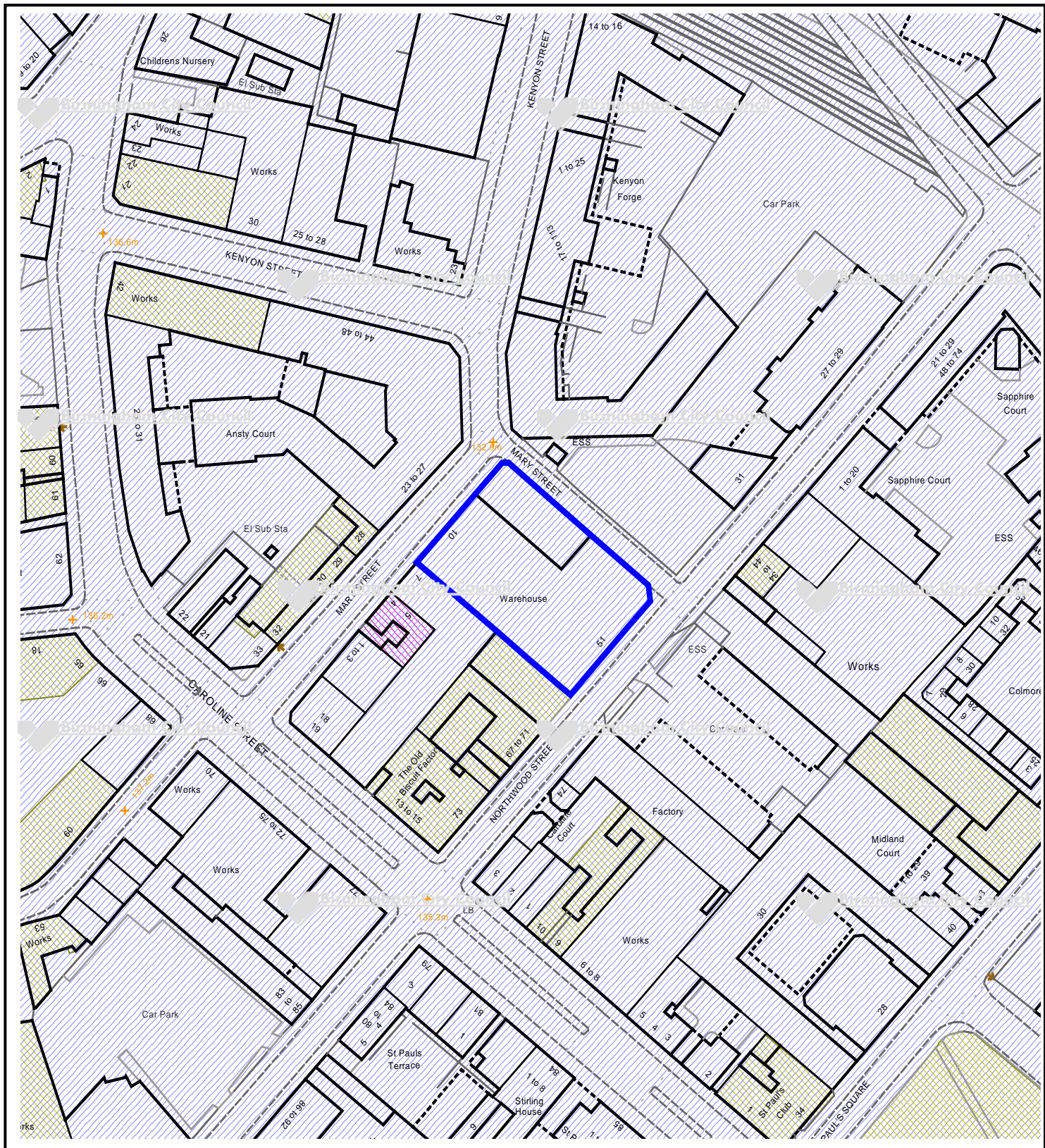


Photo 3: View of surface car park at corner of Mary Street looking south



Photo 4: View of site along Mary Street looking north

Location Plan



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Committee Date:	08/10/2020	Application Number:	2020/03829/PA
Accepted:	02/06/2020	Application Type:	Full Planning
Target Date:	06/11/2020		
Ward:	Newtown		

Lancaster Wharf, 5 Princip Street, Birmingham, B4 6LE

Demolition of existing building and erection of development of 266 apartments in linked blocks with heights of 6, 7 and 23 storeys with basement car parking, new access from Princip Street, landscaping, amenity space and associated works.

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

- 1.1 The application relates to a site of approximately 0.27ha which lies within the Gun Quarter district close to the junction of Princip Street and New Town Row (A34). It has its main frontage to Princip Street and a short frontage to New Town Row where is set behind a grassed area reserved for road widening. The site is currently occupied by a storage depot with associated parking but has been vacant since late 2019. The application proposes the regeneration of the site to provide a private rental scheme of 266 apartments and associated communal facilities. The application is a resubmission following withdrawal of an earlier application in 2018.
- 1.2 The proposal would demolish the existing building and replace it with linked blocks of 6, 7 and 23 storeys. The 23 storey tower would occupy the corner of the plot facing New Town Row and extend around part of the Princip Street frontage. It would then reduce in height to 6 storeys for the remainder of the Princip Street frontage and to 7 storeys facing towards New Town Row. The building would also extend to the Birmingham and Fazeley Canal to the rear of the site with a 6 storey wing fronting the canal as well as two courtyard garden spaces.



Figure 1: Proposed elevations to New Town Row

- 1.3 The development would provide 266 apartments comprising 132 x 1 bed (49.6%) and 134 x 2 bed (50.4%). The apartments would range in size from 43 – 54.6 sq.m for the 1 bed and 62 – 83 sq.m for the 2 bed units, providing an even mix of 1,2,3,4 person accommodation. Following a review of the applicants financial viability statement by the Councils consultants 19 (7%) of the dwellings have been offered as private rented units at a discount of 20% of open market rent.
- 1.4 The development would provide apartments for rent and proposes a range of shared communal amenity spaces for residents on the ground floor and 23rd floor. These comprise a reception and lounge with meeting areas, garden room and club room covering 401 sq.m. There would also be two communal garden areas adjacent to the canal and a roof terrace on the 23rd floor providing a total area of 922 sq.m. Some of the apartments facing the canal would also have their own small terrace or balcony.



Figure 2: Proposed Elevations to the canal and view of courtyard garden

- 1.5 The development has been designed to give the appearance of group of linked buildings. The lower height blocks would be of brickwork in a style similar to the detailing of the original building that occupied the site. They would have large floor to ceiling recessed windows arranged with a brickwork frame with a parapet detail to the flat roof. The tower would use a similar brick frame but with a double order window arrangement. It would be attached to the 6 storey block on Princip Street by a glazed link. Ground floor frontages would be activated by the principle entrance and amenity spaces, and the ground floor living accommodation is raised above stall risers, but provides duplex units with living rooms fronting the street.



Figure 3: Proposed Princip Street Elevations and relationship to listed building

- 1.6 The stall risers proposed on the Princip Street frontage would provide ventilation into a semi basement car park with 28 (10.5%) car parking spaces. Cycle storage for 115 cycles and 2 motorcycles have been provided at basement and ground level.
- 1.7 Key sustainable measures within the development include a fabric first approach to reduce the buildings energy demand. It would have energy efficient lighting systems and measures to reduce water consumption during occupation through a range of efficiency measures including low flow sanitary fittings. There would also be measures to enhance site biodiversity through new native planting and creation of new habitats and a brown roof on the lower 6 storey block.
- 1.8 In front of site boundary to New Town Row and not included within the site boundary, is a landscaped area of open space which the applicants propose to upgrade. The land is reserved for possible road widening but as this is not likely to happen in the foreseeable future the applicants propose to improve its appearance with new landscaping and enclosing it with 1.4 metre high railings. A sum of £210,000 for these public realm works forms part of the applicants Section 106 offer.



Figure 4: Proposed site layout

- 1.9 The application has been supported by a Design and Access Statement, Planning Statement, Pedestrian Wind Comfort and Safety Statement, UXO Risk Assessment, Television and radio Signal Survey & Television and Radio Reception Impact Assessment, Townscape Visual Impact Assessment, Arboricultural Impact Assessment, Preliminary Ecological Appraisal and Preliminary Roost Appraisal, Transport Statement/Travel Plan, Sustainability Design and Construction Statement, Noise Impact Assessment, Housing Market Report, Heritage Statement, Economic Impact Statement, SuDS Assessment Report, Daylight and Sunlight Study, Ground Investigation Phase I, Archaeological Desk Based Assessment, Air Quality Assessment and Financial Viability Statement. An EIA screening has been undertaken confirming that an Environmental Statement is not required.
- 1.10 [Link to Documents](#)

2. Site & Surroundings

- 2.1 The site is situated along on the north side of Princip Street at the junction point onto New Town Row (A34), which is a major vehicular route between the city centre and Newtown Middleway, on the city's middle ring-road. The site adjoins the Birmingham and Fazeley Canal to the north and an existing Grade II listed building, 16-18 Princip Street, to the west. Immediately to the east of the site is an area of Council owned land which provides a buffer between the application site and New Town Row and also contains a large double sided digital advert.
- 2.2 The site is currently occupied by a brick storage depot with ancillary offices situated towards the rear of the plot abutting the canal wall. On the Princip Street frontage is a service yard entrance enclosed with gates and a brick wall which incorporate a traditional former entranceway to the Soho Pool Warehouse that previously the site and was destroyed in a fire in the late 1980's. The wider site also contains a large two storey high steel frame structure which extends across the plot and the site frontages and abuts the neighbouring listed building. The front section of the site facing towards Newtown Row provided a car parking area and landscaping.
- 2.3 There is a mix of uses in the vicinity of the site including retail, office, workshops, leisure and residential. A number of existing tall buildings lie within close proximity of the site, mainly on the opposite side of Newtown Row which provides student accommodation. There is also a further lower rise development student scheme known as The Globe Works on the opposite side of the canal which also fronts towards Newtown Row.
- 2.4 The site is not within a conservation area but is within the locality of a number of listed buildings. These include the Cathedral Church of St Chads (Grade II*), The Gunmakers Arms (Grade II), 47 Princip Street (Grade II), 37/38 Princip Street (Grade II) and Barker Bridge over the Birmingham and Fazeley Canal (Grade II).
- 2.5 [Site Location](#)

3. Planning History

- 3.1 2020/03845/PA - Current Application for Listed Building consent to alter the boundary wall of 16-18 Princip Street in association with the proposed redevelopment of the current site. Decision pending.
- 3.2 2018/10285/PA – 23/9/19 - Application withdrawn for demolition of existing buildings and erection of a residential development of 295 apartments in two linked blocks of 19 storeys and 4-11 storeys with associated car parking and amenity space
- 3.3 1995/01139/PA – 19/05/1995 – Planning permission granted for change of use from B2 to B8 administration, tailoring and garment inspection. Storage of uniforms and changing facilities
- 3.4 1991/01225/PA – 15/08/1991 – Planning permission granted for the erection of B1/B2 industrial unit with showroom and formation of access and car parking.

4. Consultation/PP Responses

- 4.1 Transportation - No objection subject to conditions requiring the redundant crossings on Princip Street to be reinstated and new site access provided, alterations to Traffic Regulation Orders to relocate pay and display bay and pole and define area for

servicing; cycle parking be provided prior to occupation and requiring demolition and construction management plan. Comment that landscaping works are shown on the New Town Row frontage on land in the ownership of BCC Transportation covered by a Highway Improvement Line for a dual carriageway although this is not funded or in any programme. Agreement will be required separately for this landscaping and its maintenance.

- 4.2 Regulatory Services – Object to the application on the basis that it may adversely impact the wider air quality compliance with the CAZ and that the scheme is creating new residential exposure in an area with significant air quality challenges. There is also the potential for a significant adverse impact on the proposed development from air quality and commercial noise which would lead to harm to health and quality of life for future residents.
 - 4.2.1 With regard to contaminated land Regulatory Services note the site investigation undertaken submitted concludes the need for a full intrusive Phase 2 investigation including a ground gas assessment which they consider can be conditioned. Consideration has been given to the applicants additional Noise Technical Note and Regulatory Services consider this has addressed previous comments raised. The note suggest that a further traffic noise assessment should be carried out and conditioned accordingly. They also consider road traffic noise can be adequately mitigated but express concerns about noise from the adjacent press shop based on a precautionary approach to avoid a new noise sensitive use effectively restricting the flexibility of an existing premises to operate or develop within its use.
 - 4.2.2 For Air Quality Regulatory Services are comment that the air quality assessment submitted is out of date being based on 2017 data and they also have a number of technical issues with the information provided. Concern is also expressed that air quality on the Lancaster Street/Newtown Row frontage is predicted to be in excess of the 40ug/m3 objective. The report provided has not addressed the CAZ and they cannot reconcile the predicted façade levels with actual measured data from nearby tubes. In the absence of a full consideration of the CAZ in the air quality assessment they are greatly concerned that if this development goes ahead it could have a major impact on the Council's ability to deliver the CAZ as planned and may extend the compliance date.
 - 4.2.3 Since receipt of these comments from Regulatory Services the applicants have provided a further air quality assessment and any additional comments from Regulatory Services will be reported at committee.
- 4.3 Local Services – No objections but as the scheme of over 20 dwellings and permission should be it would be subject to an off-site POS contribution in accordance with the BDP. They calculate this to be £520,000 which would be spent on the provision, improvement and/or biodiversity enhancement of public open space, and the maintenance thereof at St Georges Park, Tower Street Recreation Ground and Newtown POS all within the Newtown Ward.
- 4.4 Education - No objections. Request a contribution towards provision of places at local schools estimated (subject to surplus pupil place analysis) as Nursery Places - £107,141, Primary places - £2,756,412, Secondary Places - £2,053,050.
- 4.5 BCC Employment Team – Request any permission includes employment obligations requiring the prior submission of a construction employment

- 4.6 Lead Local Flood Authority – No objections subject to conditions requiring detailed surface water drainage scheme and a Sustainable Drainage Operation and Maintenance Plan.
- 4.7 Severn Trent Water - No objection subject to a drainage condition being imposed for the disposal of foul and surface water. Comment that there may be a public sewer located within the application site which may not be built close to, directly over or be diverted without consent.
- 4.8 Canal and River Trust - Canal and River Trust – Originally objected recommending refusal on the grounds of height, scale, location and orientation dominating the canal and historic environment. They also considered insufficient information has been provided in relation to protection/retention of the structural integrity of the canal and the protection of the water quality. Following the submission of additional details the Canal and River Trust accept that some matters can be controlled via conditions but still object on the grounds that insufficient information has been provided to meet policy requirements. They comment that:
- Additional information is still required in relation to protection/retention of the structural integrity of the canal and the protection of the water quality and quantity. This must be provided prior to any planning permission being granted to ensure the development is appropriate for this location and has suitable ground conditions in order to avoid unacceptable land instability as the site boundary is formed by the waterway wall.
 - Information is required regarding how the former canal basin was sealed off and whether any below ground seepage is occurring as this could contaminate the canal water.
 - There is a need for a black redstart survey before permission is granted.
 - Conditions should be imposed to control the surface water system and flooding overflows to ensure that there is no discharge into the canal
 - Wish to see an amended set of planting and landscape proposals to mitigate the shading impacts on the canal by providing high quality amenity space, biodiversity and ecological improvements. This could be controlled via a condition together with controls over external lighting.
 - Request a heritage interpretation board be provided on the canal side.
 - That the developer makes a financial contribution towards improvements to the access to the canal network particularly a more direct link to the towpath from Newtown Row bridge and towards signage and wayfinding
- 4.9 Historic England – Originally raised concerns that despite the application's proximity to the Grade II* Roman Catholic Cathedral of St Chad, the application did not consider the impact of the development on its significance. A further addendum report was provided and Historic England consider that the proposal will cause less than substantial harm to the significance of the Cathedral of St Chads due to the cumulative impact of this proposal within the wider context of existing, emerging, and permitted developments within this area which risk crowding out and overwhelming this significant part of Birmingham's heritage. As a result the City Council should weigh this harm against the public benefits.
- 4.10 Birmingham Civic Society – Objected to the original submission as the heritage statement did not address the impact on the Grade II* St Chad's Cathedral application. They comment that the proposal is significantly better than the previous scheme for the site although it could be improved by more horizontal emphasis in terms of how it sweeps around the corner. However the impact on the Grade II* St Chad's Cathedral which would be unacceptable as this important place of worship is

becoming hemmed in from all sides by new development, and will 'disappear' from view along this key approach, particularly with a brick tower directly behind it. Following the receipt of a further heritage assessment they comment that they feel the additional information is sufficient, and while we don't agree that the proposed development would 'not affect the significance of the Cathedral Church of St Chad' as the addendum concludes they consider it will amount to less than substantial harm in accordance with the NPPF.

- 4.11 West Midlands Police – No objections but comment that the most important part of any building and request security provision for all main access points and that the design of the building in its entirety be compartmentalised which the current design would allow. They assume all other aspects of the build of the apartments will adhere to Building Regulations.
- 4.12 West Midlands Fire Service – No objections subject to construction being in accordance with Building Regulations. Comments provided regarding access to riser inlets, firefighting shafts and lifts, and requirements for a sprinkler system.
- 4.13 Ward Councillors, MP, residents associations, local residents and businesses notified of the original proposals, site/press notices displayed. One letter received which makes the following comments:-
 - This is a really high quality, attractive development. Reflecting the scale of the original warehouse and including the signage is a nice touch but please look into retaining the original warehouse entrance in some way as with all the developments in this area we are slowly eroding what little history is left
 - If the original warehouse entrance cannot be preserved in situ, perhaps it could make an attractive sculpture in the landscaped area of the gardens with a small explanatory plaque?
 - There are very few commercial units in this area, please consider replacing the duplexes on the ground floor fronting the street with commercial space for cafes, bars or shops. This will make the area livelier and safer

5. Policy Context

- 5.1 Birmingham Development Plan 2017, Birmingham Unitary Development Plan (saved polices), Big City Plan, Canal Corridor Framework SPG, Places for Living SPG, Loss of Industrial Land to Alternative Uses SPD, Places for All SPG, Places for Living SPG, Car Parking Guidelines SPD, Public Open Space in new Residential Development SPD, Affordable Housing SPG , Draft Birmingham Development Management DPD and NPPF.

6. Planning Considerations

Land Use Policy

- 6.1. The Birmingham Development Plan (BDP) in Policy GA1 promotes the City Centre as the focus for a growing population and states that residential development will be continued to be supported where it provides well designed high quality environments. The majority of new housing is expected to be delivered on brown field sites within the existing urban area. Policy GA1.3 relating to the Quarters surrounding the city centre core states that development must support and strengthen the distinctive characteristics, communities and environmental assets of each area. The site is within the Gun Quarter where the aim is to maintain the area's important employment role but also to complement this with a mix of uses around the canal and improved

connections to neighbouring areas. Policy TP28 regarding the location of new housing states that it should not be in conflict with other BDP policies in particular those for protecting core employment areas.

- 6.2 The existing building on the site was built in the early 1990's as a B1/B2 industrial unit with showroom and in recent years has been used as a B8 storage depot with associated car parking. As the site's use is as employment land its proposed redevelopment for residential use needs to be assessed against Policy TP20 (protection of employment land) within the BDP. 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. The "Loss of Industrial Land to Alternative Uses" SPD 2006 sets out the information required to justify the loss of industrial land but also states that within the City Centre it is recognised that a more flexible approach towards change of use from industrial to residential is required to support regeneration initiatives. Proposals involving the loss of industrial land will be supported, but only where they lie in areas which have been identified in other planning policy documents as having potential for alternative uses.
- 6.3 The application site is covered by the City Centre Canal Corridor Framework which states that there are a number of significant conversion and redevelopment opportunities for mixed use activities in close proximity to the canal within the Gun Quarter including around Lancaster Circus and around Lancaster Street. These include creation of new generators of life and activity alongside the Birmingham and Fazeley Canal which could be developed for an extensive mix of uses, including commercial/office space and residential uses with frontage buildings to address the A34 New Town Row, Lancaster Street and Corporation Street. A number of residential buildings have been erected in recent years along the east side of New Town Row / Lancaster Street and this development would extend the pattern of frontage buildings to the west side of this major route and regenerate this underused brown field site. In principle the redevelopment of the site for housing is therefore supported and it would add to the mix of uses close to the canal. Therefore the benefits in bringing forward this site for residential use are considered to outweigh its retention for employment purposes.

Demolition

- 6.4 The existing buildings on the site would be demolished and the site cleared. The demolition includes the boundary wall on the Princip Street frontage adjacent to the neighbouring listed building which incorporates a traditional former entranceway to the Soho Pool Warehouse that previously the site and was destroyed in a fire in the 1980's. Other than this entrance the development on site dates from the 1990's and the building is a large single storey modern warehouse constructed from red brick with stone dressings connected to a steel frame structure which extends across the wider site. It is not in a conservation area, is not statutorily or locally listed and not considered to be of any historic, architectural or visual merit.
- 6.5 Birmingham Civic Society comment that it is not clear what will happen to the old entrance gate and a local resident asks that it be retained due to its historical interest. Although the old entranceway is an interesting feature it appears out of keeping within the modern section of walling which abuts it and could not be realistically and suitably retained as part of the built form within the new development. The applicant has now advised that they could reuse it internally, such as the doorway to the residents lounge off reception. Whilst this would not be visible from any public viewpoint its retention within the development is welcomed. The archaeological desk-

based assessment submitted with the application has shown that no heritage assets of archaeological interest are likely to be present of the site.

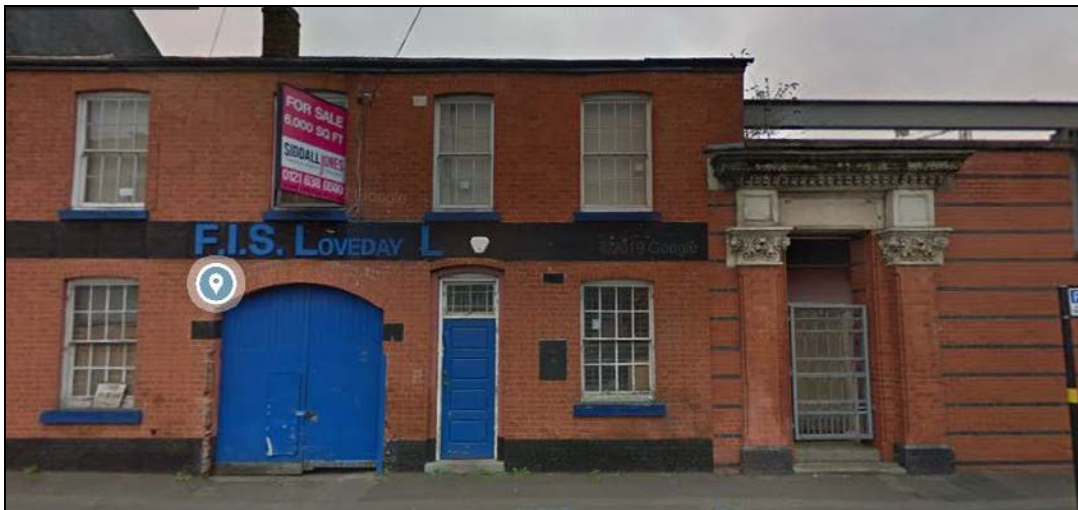


Figure 5: View of neighbouring listed building and gateway to former warehouse

Tall Buildings Policy

Principle

- 6.6 The proposed building has been designed as one block with a tower of 23 storeys fronting towards Newtown Row and extending around the junction with Princip Street. On the Newtown Row frontage the shoulder section would be 7 storey's high building and 6 storeys high fronting Princip which also has a 6 storey rear wing fronting the canal. As the design includes a tall building the City Council's SPG on tall buildings High Places 2003 needs to be considered. The site is located just outside of the 'central ridge zone' identified within the High Places SPG, is not identified as a location for a tall building and as it adjoins a listed building a tower would not normally be acceptable unless there are exceptional circumstances.
- 6.7 The cityscape of Birmingham has changed significantly since 2003 and the Gun Quarter area, particularly sites around the canal corridor and A34 Newtown Row frontage continue to be developed with taller buildings such as the 16 storey student accommodation block adjacent to the canal on Bagot Street and the 21 storey residential tower under construction as part of the Snow Hill Wharf development on Shadwell Street. The site is also within a location where many of the existing buildings are under used or vacant and create a poor environment that requires regeneration and transformation.
- 6.8 Elsewhere within the city centre canal corridor such as on Brindley Place and the Mailbox tall buildings have been allowed to aid the regeneration and transformation of the area. In the case of the Gun Quarter the proposed tall buildings could regenerate the site, create activity on the canal edge and add passive surveillance of the area. The majority of the canal towpath is within cuttings or hemmed in on both sides by buildings which makes navigating difficult whereas a tall building could help to signpost the canal and create legibility. The canal towpath route is currently quiet, poorly lit and an under-utilised piece of Birmingham's industrial infrastructure and requires transformation but also needs way finding buildings that can help people navigate along this route. A tall building in the location proposed would also follow the pattern of development on the other side of New Town Row towards Lancaster Circus where there is now a line of tall buildings on the street frontage. Subject to the

consideration of the detailed design, the impact on the setting of the Canal, St Chad's Cathedral other heritage assets in the vicinity it is considered that a tall building could be allowed in this location.

- 6.9 In terms of design Policy PG3 of the BDP requires all new development to be of a high quality contributing to a strong sense of place and Policy TP27 expects new housing to contribute to making sustainable places, characterised by a strong sense of place with high design quality so that people identify with, and feel pride in, their neighbourhood. The NPPF seeks to ensure new developments are visually attractive as a result of good architecture and layout, are sympathetic to local character and history, including the surrounding built environment. High Places SPG sets out the criteria against which a tall building should be judged and states that it should:-
- respond positively to the local context and be of the highest quality in architectural form, detail and materials;
 - not have an unacceptable impact in terms of shadowing and microclimate;
 - help people on foot to move around safely and easily;
 - be sustainable and good places to live;
 - consider the impact on local public transport; and
 - be lit by a well-designed lighting scheme.
- These criteria are addressed below:-

Local Context and Design

- 6.10 The site layout would provide development fronting Princip Street and facing towards Newtown Row. The site does not directly abut New Town Row as there is a triangular area of open land immediately fronting the road but it is proposed to landscape this land under licence to enhance the wider area and the setting of the development. The proposed 23 storey tower would be located behind the vacant plot with lower blocks on either side which would be 7 storeys on New Town Row and 6 storey building fronting Princip Street. To the rear of the Princip Street block there would also be a 6 storey rear wing fronting the canal with gardens/terraces to either side fronting the canal.



Figure 6: Proposed elevations to Princip Street and New Town Row

- 6.11 The proposed tower has a slightly curved form to follow the road line would be linked to the 6 storey wing fronting Princip Street with glazing but otherwise the main material would be a red/orange brick arranged as a frame between large floor to ceiling windows separated by the use of brick bands. The verticality of the tower is expressed through vertical panels of recessed brickwork and the central glazed cut through. At ground floor level facing Princip Street would be a vehicular entrance into a semi basement car park with 28 spaces and of row of duplex apartments with living rooms at street level to provide a degree of activity and natural surveillance. The main entrance to the development would be from the glazed link and the ground floor of the tower would provide a large reception and communal area with seating and meeting spaces. The plant/bin and cycle storage areas would be located directly to the rear of the vacant plot in case it is eventually needed for road widening. The elevations to the block fronting the canal included balconies with raised terraces to some apartments fronting the courtyard gardens.
- 6.12 A Town Visual Impact Assessment has been submitted with the application to assess the nature of the change as a result of the proposals upon the existing townscape character and visual environment within which the site is located. The results of the assessment conclude that the proposal aligns with the immediate setting with relatively tall buildings, acting as a gateway for the city centre. The proposed built form is not significantly higher than other existing buildings and therefore, would not be at odds with what presently exists. In addition, the report concludes that the application site and its environment has the capacity to accommodate the proposals and will not result in significant harm to the townscape character or visual environment.
- 6.13 The City Design Officer comments that the principle, position and height of the tower and its relationship with the emerging cluster of tall buildings is appropriate. The proposed tall buildings would add to the cluster of tall buildings along a key route into Birmingham which act as landmarks at an important gateway into the city. This cluster of towers includes Lancaster Street (26 storeys), Onyx (26 storeys) and Bagot Street (16 storeys) so is appropriate to local context. He considers the proposal has a solid built form which would re-establish the street pattern in a prominent location of the Gun Quarter strengthening the traditional street layout that has been lost. He considers the lower rear wing would provide an efficient form which responds to the approved Globe Works scheme on the northern edge of the Canal opposite site. It also forms a sense of place and allows for private courtyards as amenity space. The residential amenity proposed on the corner of the curve of the ground floor would provide a link through to the external courtyard which forms a distinct break in the floorplate to create accessibility for all residents.
- 6.14 With regard to the design the City Design officer considers the three blocks proposed at 6, 7 and 23 storeys are distinguishable with their varying heights, mass, form and layout however cohesively work together in their architecture. The proposed corner tower provides a simple yet interesting design with a curved element providing a distinct treatment. Bay details and relief to the elevations, the window proportions and use of materials, brick recesses would all provide variation but also result in a high quality development which offers a hallmark design. The details of the brick detailing, projections and mortar are all vital in the quality of the scheme and would need to be conditioned. The façade treatment shows a liner recessed panel within the window frame and bricks accentuated in a vertical design which breaks up the facade. The proposed duplex apartments within the 6 storey block fronting Princip Street provide a double height glazing element on the facades and therefore would appear more residential in scale of architecture and more respectable to the listed building. The

materials proposed which predominantly use red/orange bricks are considered to be suitable and appropriate for this location.

- 6.15 Comments have been received requesting that the duplex apartments be changed to commercial units such as cafes, bars or shops to make the area livelier and safer. Although ground floor retail uses would be welcomed the applicant does not consider that they would be viable in this location. The scheme has sought to provide activity to the frontages by locating active ground floor uses facing the street including the main entrance, reception area and residents lounge as well as the living rooms within the duplex apartments.

Microclimate and Shadowing

- 6.16 Daylight/sunlight and wind/microclimate assessments have been submitted with the application. In terms of sunlight/daylight the report assesses the impact of the development on the light received by the neighbouring properties at 16 to 18, 19, 20, 53 to 60, 61, 62 & 63 to 68 Princip Street, 2 & 115 Bagot Street, The Globe Works and 23 to 34 & 31 to 32 Cliveland Street. The results confirm that the majority of windows at the neighbouring properties will continue to receive acceptable levels of daylight and sunlight. The 3 front windows to each of the dwellings at 61 and 62 Princip Street would however fall short of the BRE daylight recommendations. However these properties would be demolished as part of current application 2020/00999/PA which proposes their redevelopment with adjoining land with apartment blocks of 6, 11 and 25 Storeys.
- 6.17 The property that would experience the most significant impact as a result of the proposed development is the student development known as the Globe Works which lies on the opposite site of the canal fronting Cliveland Street. Here 30% of the windows at this property would fall short of the BRE daylight recommendations mainly due to the existing development site being occupied by a low-rise building so that current light levels are higher than normal for an urban location. In addition the design of the building means that light to some windows are already hampered by a projecting wing on one or both sides of them. There are also 5 windows which that would not meet the BRE sunlight recommendations but these rooms have another window which faces due south and meets the annual probable sunlight hours targets.
- 6.18 Although the development would affect light available to rooms in the Globe Works this is a student housing scheme and used by occupants for a limited period of time. In addition most of the rooms affected are bedrooms and the development provides a wide range of external and internal communal spaces for residents to use.



Figure 7: Model showing proposals in relation to neighbouring development

- 6.19 Comments have also been received from the Canal and River Trust that the tower element would overshadow the canal. This has also been assessed and the report confirms that 90% of the area will continue to receive 2 hours sunlight on 21 March and therefore it exceeds the 50% BRE recommendations for amenity space by a significant margin. Although there would be isolated areas of sunlight loss, there is unlikely to be a noticeable impact, as the majority of the canal and towpath area space would remain unaffected by the proposed development. The Canal and River Trust also recognise that there would be benefits to the canal in providing the apartments and courtyard gardens overlooking it.
- 6.20 In terms of the microclimate the report concludes that for the areas of public realm, within the site they would be compliant with the minimum target comfort levels to ensure a wind microclimate that is suitably comfortable and safe for the proposed pedestrian uses. The report considers the main entrance from Princip Street would benefit from the inclusion of local screening to ensure enhanced pedestrian/user comfort which could be achieved by local screen planting and/or wind planter arrangements. Conditions can be imposed to require this.

Helping People Move Around

- 6.21 The proposals do not amend existing routes around the site and the development itself would help define the edge of the Gun Quarter. Together with the other existing and emerging tall buildings on the A34 Newtown Row frontage it would form part of a cluster act framing views into and out of the City and forming a local landmark to help legibility within this part of the City Centre. The ground floor commercial uses and entrances into the development would provide activity to ground floor frontages and with the arrivals square on Lionel Street would all make the streets feel safer. All the main entrances would be at street level and suitable for people with disabilities and are designed to provide suitable and safe access for all members of the community.

Sustainability and Providing Good Places to Live

- 6.22 The proposed development will reuse a brownfield site in a location with good access to services and facilities within the City Centre core by public transport and by foot. It is also close to bus stops and within walking distance of the metro and Snow Hill and Moor Street stations. On site cycle parking is included to encourage the use of alternative modes of transport. Key sustainable measures included within the development include:-
- A fabric first approach to reduce the buildings energy demand, maximising the use of insulation, stringent airtightness standards and energy efficient lighting systems
 - Measures to reduce water consumption during occupation through a range of water efficiency measures including low flow sanitary fittings
 - SuDS to reduce the impermeable area of the site and achieve an 84% betterment in rate of surface water run-off.
 - Measures to mitigate and enhance site biodiversity through new native planting and creation of new habitats
 - Use of sustainable materials and construction methods which reduces resource use and reduces the environmental impact of development through good design
- 6.23 High Places and Policy TP27 of the UDP require that tall places should be good places to live and deliver a strong sense of place so that people identify and feel pride in their neighbourhood. A range of one and two bed apartment sizes would be provided all of which would meet the guidance set out in the Nationally Described

Space standards. There is a range of private shared amenity areas included within the design including provision of a club room, garden lounge and large reception area with seating and meeting spaces. External space includes a roof terrace on the tower element as well as canal side gardens/terraces. Some of the apartments also have a balcony or private terrace.

Impact on local public transport

- 6.24. A Transport Assessment has been submitted in support of the planning application which confirms that the highway network is adequate to support the vehicle movements and servicing arrangements for the proposed development so as not to be detrimental to the highway safety of road users. The site is also located in a highly sustainable city centre location within walking distance of retail, leisure and employment opportunities, along with bus, metro and rail services and is adjacent to the canal towpath.

Lighting

- 6.25 The application does not include a detailed lighting scheme which can be required via conditions. The applicants advise that a detailed lighting strategy will be developed taking into consideration the amenity of residents and adjacent sensitive receptors, including the canal. The comments from West Midlands Police and the Canal and River Trust regarding lighting will also be taken into account when agreeing the scheme details.

Conclusions

- 6.26 Overall, I consider that the design of the scheme is to a quality that the development would meet the criteria for Tall buildings as set out in High Places. Conditions are recommended to secure samples of materials, suitable landscaping and lighting.

Impact on Heritage Assets

- 6.27 In determining this application the LPA must comply with the statutory duties relating to listed buildings and conservation areas. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires LPA's to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Case Law has now firmly established that the "special regard" duties of the LB Act require that the decision maker should afford "considerable importance and weight" to the desirability of preserving a listed building along with its setting. It has also been established that "preserving" means "doing no harm" for the purpose of interpreting the LB Act duty.
- 6.28 Policy TP12 of the BDP states that great weight will be given to the conservation of the City's heritage assets and that development affecting a designated or non-designated heritage asset or its setting, will be expected to make a positive contribution to its character, appearance and significance. The NPPF states that in determining applications, LPA's should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal. Great weight should be given to the conservation of heritage assets and any harm to, or loss of the significance of a designated heritage asset should require clear and convincing justification. LPA's should look for opportunities for new development within Conservation Areas and

within the setting of heritage assets, to enhance or better reveal their significance. Para 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

- 6.29 The key heritage issue to be taken into consideration in assessing the proposed development is the indirect effect of the proposals on the significance and setting of nearby designated heritage assets, as a result of development proposed within their setting. The applicants have submitted a Heritage Assessment which has considered the significance of heritage assets in the vicinity of the site and the impact of the proposed development on them. The heritage assets considered include 16-18 Princip Street (grade II listed), 47 Princip Street (grade II listed), 37-38 Princip Street (grade II listed), Barker Bridge over Birmingham and Fazeley Canal (grade II listed), The Comet Works, Princip Street (Locally Listed), Shot Tower to the rear of 23-34 Cliveland Street (Locally Listed), Birmingham and Fazeley Canal and St Chad Cathedral (grade II* listed).

16 -18 Princip Street

- 6.30 The site lies immediately adjacent to 16-18 Princip Street a small two storey industrial canal side works dating from the mid-19th century (c.1840- 1850). The list description refers to it as a *'modest but unaltered works elevation of early to mid C19 type now a rarity in what remains of the gun quarter and with its rear facade with loading bay on to the canal'*. A separate application has been submitted under reference 2020/03845/PA for listed building consent to alter the boundary wall of 16-18 Princip Street as when the former warehouse that occupies the application site was destroyed by fire and replaced with the current building a new boundary wall was erected and is now proposed for removal although it appears that the original party wall with the listed building was left intact.



Figure 8: Photos showing Soho Pool Warehouse that previously occupied the site

- 6.31 In the applicant's Heritage Statement it notes that the original setting of the listed building has significantly changed over time through redevelopment of the surrounding area and it now sits within the context of smaller scale buildings to the west and much larger and taller buildings to the east. The Conservation officer agrees with this assessment and adds that at the moment there is an uncharacteristic open feel to the setting of the listed building due to the nature of the existing development on the application site.
- 6.32 The application proposals would replace the existing building and boundary wall with a 6 storey building on the Princip Street frontage. This would be of a similar height

and form to the former warehouse which although had 4 storeys of accommodation provided largely commercial floor to ceiling heights. The Conservation officer supports the proposals to reinstate a similar historic built form to the street adjacent to 16-19 Princip Street and re-providing a back-of-pavement building line and a tighter and more characteristic urban grain along Princip Street. She also considers architecturally the proposal is more cohesion to the Princip Street frontage with ground floor duplexes creating activity and an obvious response to the form and appearance of the former warehouse building through the use of red and blue brick and brick detailing which creates a better relationship with the listed building. The Conservation officer therefore concludes that this part of the proposal is therefore not considered to be harmful to the setting of the listed building and can be supported.

- 6.33 With regard to the proposed 23 storey tower which would lie further east of the listed building, the applicants heritage statement comments that its setting has significantly changed over time through redevelopment of the surrounding area and is now viewed within a mixed context with smaller traditional / modern buildings to the west and larger, taller buildings to the east. The proposed development will be situated within this heavily altered context and the listed building is primarily and directly experienced from along Princip Street, adjacent to its principal frontage to the street. The applicants assessment considers that although the tower element will be clearly visible it will not affect those aspects of setting which contribute to the significance of the listed building.
- 6.34 The Conservation Officer notes that the tower has been sited furthest away from the listed building on the corner of Princip Street and Lancaster Street. Also that it is positioned opposite other tall buildings on New Town Row which currently form the backdrop to Princip Street to the east. Although she acknowledges that a tower in this location can be read in relation to the other tall buildings in this area and could potentially enhance the current townscape along New Town Row this proposal would not have the physical separation of the main road. Instead it would introduce a tall building to the corner of Princip Street in the immediate setting of the listed building. Although the design and materiality of the tower is much improved she considers a building of this height in this location and by the very nature of scale will cause a degree of harm to the setting of the listed building. This harm would be less than to less than substantial harm to the significance of a designated heritage asset, and therefore needs to be weighed against the public benefits of the proposal in accordance with para 196 of the NPPF.

Impact on historic townscape of the Gun Quarter.

- 6.35 With regard to the impact of the development on the other listed and locally listed buildings within the Gun Quarter that are within the vicinity of the site the applicants heritage statement concludes that the proposed development would not appear dominant in views such that it would detract from the significance of nearby heritage assets. The form of the tower whilst prominent within certain views is not considered to compete with nearby listed buildings. In addition it considers the overall layout, siting and design responds to the nearby listed buildings and locally listed buildings and will reinstate the tight urban grain historically found within the area.
- 6.36 The Conservation Officer however considers that whilst the application site itself does not contribute positively to the setting of these heritage assets the replacement buildings are substantially larger and include a tower so that there would be some impact on the setting of the historic townscape of two and three storey buildings within the Gun Quarter. Although she acknowledges that the 6 storey block proposed adjoining 16-18 Princip Street would provide a transition in height and helps reinstate

a street frontage and historic urban grain, the conservation officer considers the tower element of the proposal is naturally at odds with the existing setting of the heritage assets within an established low-scale historic townscape. The scale of the proposed building is substantially different from these historic buildings and therefore she considers it to be harmful and that public benefits of the scheme will need to suitably outweigh the less than substantial harm caused to the identified heritage assets.

Birmingham and Fazeley Canal

- 6.37 The Birmingham and Fazeley Canal abuts the northern boundary of the site and although not listed is of local architectural and historic interest due to its functional appearance and role in the historic development and the subsequent expansion of Birmingham. The applicants heritage statement considers that in light of the high quality design of the proposed development, its positive interaction with the canal edge together with existing precedent for large scale 30 buildings along the canal frontage elsewhere in Birmingham, it is considered that the proposed development would sustain the significance of the non-designated asset.
- 6.38 The Conservation Officer agrees that the proposal to be harmful to the setting of the canal. She considers the reinstatement of canal facing frontages is a positive aspect of this proposal, as is the creation of a landscaped outdoor amenity space and access which links the development to the canal. The height and massing of the canal elevation is considered to work in this location and there is a better separation between the building and the rear of the listed building and outbuildings. Although the tower element of this proposal is fully visible and would be prominent from the canal the design a suitable juxtaposition has been achieved between elevated new built form and a canal space. The Canal and River Trust also raise no objection to the impact of the development on the historic environment of the canal but express concerns that the development does not enhance its historic interest by including any interpretation about the former wharf in the external spaces which they consider to be a missed opportunity to celebrate the heritage of the site and surrounding area.

St Chads Cathedral

- 6.39 The applicants original heritage statement did not include any assessment of the impact of the development on the setting of St Chads Cathedral but following objections to this omission a statement assessing the impact has now been provided. This comments that the list description notes the building is “very much mutilated both in itself and in its setting” and is in a highly changed setting. It is already experienced in combination with a number of modern and taller buildings and is located in an area where additional buildings of height are generally encouraged and anticipated. The application site is also separated from the church by intervening development and changing topography levels and the proposed development will not be visible from those aspects of setting which contribute to the significance of the listed building.
- 6.40 The statement acknowledges that the proposals will be visible above the nave of the church in an elevated view from the flyover at the junction of Great Charles Street and Newhall Street it comments that only part of the nave of the church is visible in this view, with the distinctive spires concealed. It however comments that the significance of the building is not readily appreciable in this view and as such, is not considered to be an aspect of setting which contributes to its significance. Whilst the ability to experience the proposed development in this view will result in a visual change, National Planning Practice Guidance establishes that it is the degree of

harm to the asset's significance rather than the scale of the development or extent of change that is to be assessed. The statement therefore concludes that the proposed development will not screen or impede important views of the church nor does it conceal or disrupt its distinctive spires. It will be visible above the nave, like other modern development, but will not diminish an appreciation of its width and mass. The proposals will introduce a vertical element within the skyline but it will not compete or disrupt the horizontal form of the listed building.

- 6.41 The conservation officer comments that in terms of the wider setting of the development the TVIA shows the view from the A4400 at the junction with Newhall Street. This shows the dominance of the tower element of this scheme which would form a back-drop to the built form of the grade II* listed St. Chad's Church and impact on its prominent form. She considers this to be a harmful effect of this application. Historic England comments that although the cathedral's listing description acknowledges that both Pugin's original building and its setting are 'very much mutilated' this situation has been continually exacerbated in recent years with the addition of a number of dominant developments within the immediate setting of St Chad's. Despite the conclusions reached in the applicant's heritage statement, both consider that the information presented appears to show some further continuation of this trend, adding to a number of recent additions crowding out and this highly significant part of Birmingham's heritage. They feel that this would result in some, less-than-substantial, harm being caused to its significance, further diminishing its presence in the street scene. In accordance with the NPPF, the City Council should therefore weigh this harm against the public benefits.
- 6.42 Birmingham Civic Society also object to the unacceptable impact on the Grade II* St Chad's Cathedral. They refer to the image provided by the applicant as part of their townscape analysis as below and consider this important place of worship is becoming hemmed in from all sides by new development, and will 'disappear' from view along this key approach, particularly with a brick tower directly behind it.



Figure 9: Photo showing the proposed building position relative to St Chads Cathedral

Conclusions

- 6.43 In relation to the impact of the application proposals on heritage assets in the vicinity of the site it is concluded that there are a number of positive benefits to this scheme from a heritage point of view notably the re-introduction of built form to the street frontage and back-of-pavement line reflective of historic street and the modern re-interpretation of the former warehouse that occupied the site. However the proposed 23 storey tower would cause some harm due to its scale on the on the setting of the adjacent grade 2 listed building at 16-18 Princip Street, other historic

assets in the Gun Quarter and on the II* listed Cathedral Church of St. Chad. The degree of harm will be less than substantial contrary to the statutory duties contained within Section 66 of the Listed Building Act. This harm must be afforded considerable importance and weight and engages the presumption against development. It also gives rise to conflict with policy TP12 of the development plan and therefore engages paragraph 196 of the NPPF whereby the harm needs to be weighed against the public benefits of the development.

Residential Amenity

Living and Amenity Space

- 6.44 The proposed apartments are almost equally split between 1 and 2 bed units and would vary in size between 43.sqm for a one bed x 1 person to 83 sq.m for the largest 2 bed x 4 person unit. The development would also provide a variety range of internal and external communal areas for residents totalling 1323 sq.m equivalent of approximately 5 sq.m per apartment. Several apartments would have the benefit of private terraces. The development would include a number of energy measures to save energy consumption. The separation distances between the blocks at the rear of the site wings at the rear of the site vary between 18.7 -29.8 metres and although the distance to the boundary with the listed building is less at 13.6 metres it lies adjacent to a single storey workshop wing. The scheme would therefore provide a good standard of living and amenity space.
- 6.45 In addition the application proposals include proposals to improve the appearance of the grassed area of amenity space that lies between the east boundary of the site and New Town Row. Transportation officers advise that this plot of land, which falls outside the application site, is in the ownership of BCC Transportation as it is covered by a Highway Improvement Line for a dual carriageway. As this improvement work is not funded or in any programme it is unlikely to be required for highway improvements in the foreseeable future and it would enhance the appearance of the development, the outlook for residents and from New Town Row if the land was improved. This would be undertaken via separate agreement with the Council as landowner but conditions are recommended to ensure these improvements are undertaken prior to occupation of the development.

Noise and Air Quality

- 6.46 With regard to noise Regulatory Services consider that traffic noise can be satisfactorily addressed via conditions. They are however concerned that the vacant press shop within the neighbouring listed building could be reoccupied and that new development should not restrict the flexibility of an existing premises to operate or develop within its use class. This part of the Gun Quarter is however undergoing redevelopment and a number of other sites on Princip Street have either been redeveloped for housing, are under construction or have planning permission. In addition there is a current application for a scheme of 337 apartments on the site of former industrial buildings on the opposite site of Princip Street. It is therefore unlikely that the neighbouring listed building would be used as a press shop again. However the applicants have offered to provide an updated glazing and ventilation specification for facades closest to, and facing out onto, the listed building and to revisit the position through the discharge of conditions. This is considered to be appropriate and suitable conditions are recommended.
- 6.47 With regard to air quality Regulatory Services have raised an objection in principle to the scheme on the grounds that it may adversely impact the wider air quality

compliance with the CAZ and that the scheme is creating new residential exposure in an area with significant air quality challenges. As such they consider there is the potential for a significant adverse impact on the proposed development from air quality which would lead to harm to health and quality of life for future residents. Regulatory Services have criticised the air quality information submitted by the applicants and the lack of any assessment on the CAZ.

- 6.48 Following further discussions between Regulatory Services and the applicants a further air quality assessment has recently been provided. The report comments that as the proposed development is located within the Birmingham CAZ, all vehicles will be required to comply with CAZ emissions standards or be charged. The proposals include only 10.5% car parking provision and electric vehicle charging points can be provided. Taking into consideration the results of the road traffic emissions impact assessment, the likely influence of the CAZ charging structure on future vehicle use and the sustainable location of the site it is considered that the proposed development would not influence the CAZ or BCC's ability to achieve compliance with the annual mean NO₂ objective in the shortest time possible as set out in the business case. The site would also be suitable for the proposed use for the year of first occupation. However they suggest a planning condition could be attached to any planning consent, requiring NO₂ monitoring at the site which could be undertaken during the detailed design stage. If any exceedances of the NO₂ annual mean objective are identified, mitigation measures can be incorporated into the ventilation strategy for the proposed development to safeguard future residents.
- 6.49 Any further comments from Regulatory Services are awaited, however the implementation of the CAZ should mean that air quality in the vicinity of the site is improved. In the event that this does not happen before occupation of the development scheduled to be in 2023, then suitable mitigation can be included within the design. This can be controlled via conditions.

Impact of neighbouring development

- 6.50 The closest dwellings to the site are the pair of semi-detached dwellings on the opposite side of Princip Street no's 61-62. They lie about 15 metres from the edge of the proposed 6 storey block and paragraph 6.16 of this report explains that the front windows to these properties would experience a loss of daylight below BRE recommendations. However these two dwellings are proposed for demolition as part of application 2020/00999/PA and would be replaced with a 6 storey block of apartments similar to the current proposals. In the event that the dwellings are not redeveloped there would be a loss of light compared to the existing situation however light levels are currently relatively high as the site is occupied by a low rise building. There was for many years a similar height building on the application site before the former warehouse was destroyed by fire in the late 1980's.
- 6.51 A number of windows within the student housing scheme at the Globe Works would also suffer a loss of daylight/sunlight but these serve mostly bedrooms as detailed in paras 6.19 – 6.20 above. This development lies on the opposite site of the canal is approximately 21 metres from the proposed 7 storey wing forming part of this scheme and this separation distance is considered to be adequate to ensure that there is no undue loss of privacy or overlooking for residents of either developments.

Impact on the Canal

- 6.52 The Canal and River Trust have raised objection to the application on the grounds that the development could adversely affect the structural integrity of the canal and

the protection of the water quality and quantity. They consider details of the works to adjacent to the canal wall must be provided prior to any planning permission being granted to ensure the development is appropriate for this location and has suitable ground conditions in order to avoid unacceptable land instability. As they do not know how the former canal basin that occupied the site was sealed off below ground seepage could be occurring which could contaminate the canal water.

- 6.53 In response to these comments the applicants comment that they fully understand the CRT's concern over the need to maintain the integrity of the canal structure as well as the protection of the waters flowing within it and that it is their intention to take that every measure to maintain and protect this asset. They advise that the current building on the site limits the extent of meaningful investigations possible at this stage but a phase 2 site investigation post planning would include boreholes rotary drilled into the bedrock as well as trial pits and samples. This will inform follow-on design of any constraints including the canal wall and associated elements. The findings in relation to the Canal structure are not expected to be of great hindrance given the slight set back and the carpark area is at a lower ground floor rather than full 'basement'. They do not expect any undermining the canal structure but further investigations will inform design in due course where adjustments will be made as necessary to avoid any risk to the Canal. They are aware of the need to prevent migration of contamination into the canal waters and that the desktop study highlighted previous site uses and possible below ground tanks. This would be dealt with in the appropriate manner but a detailed proposal cannot be ascertained until intrusive post-demolition investigations are possible. They therefore propose that the demolition is segregated into superstructure and ground floor slab followed by detailed investigations after which appropriate decommissioning, removal and/or remediation as appropriate can be undertaken.
- 6.54 Conditions are recommended to require a demolition and construction method statements and further detailed proposals for works adjacent to the canal. Similar conditions were imposed in connection with application 2017/09308/PA at Shadwell Street (Snow Hill Wharf) which involved development up to the edge of the Birmingham and Fazeley Canal. Conditions can also be imposed to require submission of details of the surface water system and overflows to ensure that there is no discharge into the canal and for the planting and landscaping to ensure that a high quality amenity space is provided with appropriate lighting, biodiversity and ecological benefits.

Ecology

- 6.55 The Birmingham and Fazeley Canal Site of Importance for Nature Conservation (SLINC) is adjacent to the north-western boundary of the site and there are records of legally protected/notable species in the vicinity of the site, including a variety of bats and black redstart. A Preliminary Ecological Appraisal (PEA) and Preliminary Roost Assessment (PRA) report has been submitted in support of the application informed by a site survey completed in October 2018.
- 6.56 The Canal and River Trust comment that a black redstart survey should be provided prior to any planning permission be granted, however the Council's ecologist agrees with the PEA's conclusion that black redstart are unlikely to nest on the building, due to the building's modern construction, with its lack of structural "complexity" and few enclosed ledge/crevice features favoured by black redstart as nesting sites. She therefore considers a detailed black redstart survey is not required in support of the application. The ecologist however comments that there is a need to ensure that appropriate mitigation for nesting birds is implemented and that the development

complies with the legal protection afforded to wild birds and their nests. Therefore demolition and vegetation clearance should take place outside of the bird breeding season but if this is not possible, demolition and vegetation clearance should only take place once a suitably qualified ecologist has completed an inspection for nesting birds. The PEA recommends a Construction Ecological Management Plan (CEcMP) should be produced as a means to ensure these precautionary measures are implemented and a suitable condition for this is recommended. This also can require appropriate good practice control measures to ensure the canal is adequately protected from polluted runoff, construction waste etc.

- 6.57 The Councils ecologist also advises that although the site currently has limited intrinsic ecological value, the proposed development represents an opportunity to deliver ecological enhancements by integrating green infrastructure and artificial habitat features into the scheme design. Careful selection of ecologically beneficial plants will maximise the value of the site for birds, bats, pollinating insects and other invertebrates. The new buildings should incorporate integral habitat features for crevice roosting bats and urban bird species in suitable locations. In addition, the proposals should include habitat enhancements for black redstart and other birds, including biodiversity roofs on the lower sections of all buildings. These features would enhance the scheme's wider environmental performance and also contribute to net zero objectives. The new lighting adjacent to the canal corridor should be also be designed to ensure light is low level, and directed downwards and into the site, rather than spilling onto the canal. Conditions are recommended to cover these matters.

Transportation Matters

- 6.58 The application includes a semi basement area with parking for 28 cars (10.5%) cars and which can accommodate electric vehicle charging points. It would be served by a new access from Princip Street. Cycle storage for 115 (43%) cycles and 2 motorcycles have also been provided at basement and ground floor levels. Transportation officers comment that there are parking restrictions on many roads on the southern part of the site, but generally to the north these are unrestricted and generally fully parked on weekdays. The low parking level has the potential to lead to increased pressure for on street parking but as the site is close to the City centre and the BCC parking guidelines are maximums no objection is raised to this proposal subject to conditions. The unrestricted on-street parking is also due to be removed as part of the Clean Air Zone scheme.

Planning Obligations

- 6.59 Policy TP31 of the BDP requires 35% affordable dwellings on site of 15 dwellings or more and TP9 seeks either on site public open space at 2ha per 1000 population or contributions towards off site provision for developments of 20 or more dwellings. The applicant has submitted a financial assessment with the application that concludes the development would not make sufficient return to enable any on site affordable housing to be provided. This has been assessed by the Councils consultants and an offer of 7.15% affordable provision has been negotiated which would comprise of 19 units for market rent at a 20% discount on open market rent in perpetuity. The mix offered is 11 x 1 bed 1 person apartments, 4 x 2 bed 3 person apartments and 4 x 2 bed 4 person apartments.
- 6.60 In addition the applicant claims that there is a high cost involved for the clearance and high quality landscaping on the BCC owned land fronting New Town Row. They advise that these external public realm works cost about £210,000 and this forms

part of their Section 106 offer which together with on-site affordable provision takes the total contribution to around a 10% affordable provision. Whilst these public realm works are supported the costs seem high and it is recommended that a detailed breakdown of the costs, specification and expenditure form part of the any Section 106 agreement. The Canal and River Trust are seeking off site contributions towards access improvements to the access to the canal network particularly a more direct link to the towpath from Newtown Row Bridge and towards signage and wayfinding. If there is any surplus from the £210,000 public realm money once the works to the amenity space next to New Town Row have been undertaken this could be put towards these improvements as has been negotiated on other nearby schemes.

- 6.61 Section 106 contributions have also been requested from Local Services and Education but in view of the viability position it is considered that priority should be given to on site low cost housing and public realm improvements. The applicant has agreed that a construction employment plan can be provided and secured via a condition.

7.0 The Planning Balance

- 7.1 The development would comply with several of the relevant BDP policies relating to the re-use of urban land and promotion of mixed use development within the City Centre, creating sustainable and high quality new places. It would also meet the objectives and policies set out for the Gun Quarter and for sites adjacent to the canal network which support mixed uses around the canal including new housing. Although the site is also not proposed for a tall building within the High Places SPG it is considered to be a high quality and would provide an attractive living environment adjacent to the canal.

- 7.2 However there are also a number of conflicts between the application proposals and the heritage policies of the development plan as BDP policy TP12 states that great weight will be given to the conservation of the City's heritage assets and that development affecting a designated or non-designated heritage asset or its setting, will be expected to make a positive contribution to its character, appearance and significance. This is due to the proposed 23 storey tower causing some harm, due to its scale on the on the setting of the adjacent grade II listed building at 16-18 Princip Street, other historic assets in the Gun Quarter and on the II* listed Cathedral Church of St. Chad. Although these conclusions are strongly disputed by the applicants heritage consultants who consider that the proposals would not compete with or diminish the significance of any listed buildings, this conclusion is disputed by the Councils Conservation officer and Historic England and Birmingham Civic Society also consider the tower would affect the significance of the Cathedral Church of St Chad

- 7.3 The degree of harm would be less than substantial and contrary to the statutory duties contained within Section 66 of the Listed Building Act which must be afforded considerable importance and weight. This therefore engages paragraph 196 of the NPPF whereby the harm needs to be weighed against the public benefits of the development and these include the following:-

7.4 *Heritage Benefits*

- Removal of the existing low quality warehouse building from the site and the uncharacteristic lack of enclosure to the street frontage
- Reinstatement of a similar historic built form and re-providing a back-of-pavement building line and a tighter and more characteristic urban grain along Princip Street.

- Providing more cohesion to the Princip Street frontage with ground floor duplexes creating activity and a design and detailing which creates a better relationship with the listed building.
- Improvements to the site frontage to the Birmingham and Fazeley Canal
- Re-use of the gateway to the building previously occupying the site

7.5 *Economic Benefits.*

- Redevelopment of a vacant site
- Providing a significant level of housing with ancillary communal facilities creating a high quality living environment
- Better use of a brownfield site and making a positive contribution to the overall mix of uses in the area;
- Increase in natural surveillance of the surrounding area reducing fear of crime
- Creation of part-time and full-time jobs associated with the management of the Build-to-Rent development.
- Investment in the city and area equating to approximately £48.6 million during the construction phase
- Encouraging the wider regeneration of the Gun Quarter and canal frontage
- Increasing spending power for the local economy, through the additional number of persons occupying the site helping to sustain shops and other businesses in the Gun Quarter.

7.6 *Design*

- Replacing a poorly designed warehouse with high quality buildings with the appearance of individual blocks to the street frontage
- Opening up views of the canal and increasing its natural surveillance by provision of amenity gardens to the canal frontage.
- Providing large windows and activity at ground floor level to enhance overlooking of the street frontages and reducing the fear of crime.

7.7 *Affordable Housing*

- Provision of 19 low cost market rental dwellings in perpetuity

7.8 *Sustainability*

- Redevelopment of a brownfield site close to the City centre core and good accessibility to local services via pedestrian and cycle routes and with good bus, metro and train services nearby
- Providing buildings designed to reduce energy use and carbon including use of water efficiency measures and sustainable materials
- Provision of a sustainable drainage scheme

7.9 *Ecology*

- Inclusion of suitable native planting, bird/bat boxes, green infrastructure and a green/brown roof which would enhance the biodiversity of the site.
- Providing landscaping and tree planting to the unkempt plot adjacent to New Town Row

7.10 These public benefits in developing the site as proposed are considered to outweigh the 'less than substantial harm' to heritage assets.

8.0 Conclusion

8.1 The proposals for this site have been amended since the original application for its redevelopment was submitted in 2018 and now provide a suitable high quality

development for the site. Although the tower element of the scheme is considered to cause some harm to heritage assets this would be less than substantial harm which is outweighed by the public benefits offered in favour of the development are of sufficient weight as material considerations to justify approval of the application subject to the Section 106 agreement and conditions as recommended below:-

9.0 Recommendation

- 9.1 That application 2020/03829/PA be APPROVED subject to the prior completion of a Section 106 Legal Agreement to secure the following:
- a) The provision of 19 units for market rent at a 20% discount on open market rent in perpetuity comprising 11 x 1 bed 1 person apartments, 4 x 2 bed 3 person apartments and 4 x 2 bed 4 person apartments.
 - b) The provision of £210,000 of works to improve the open space adjacent to New Town Row with any surplus in expenditure being used for improvements to the adjacent Canal.
 - c) Payment of a monitoring and administration fee associated with the legal agreement of 3.5% of the value subject to a maximum of £10,000.
- 9.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the 6 November 2020, planning permission be refused for the following reasons:-
- In the absence of a legal agreement to secure any on-site affordable market rent dwellings the proposal conflicts with Policy TP31 of the Birmingham Development Plan and the National Planning Policy Framework.
 - In the absence of any legal agreement to secure contributions towards off site public realm improvements the development is contrary to Policies PG3 and TP39 of the Birmingham Development Plan and the National Planning Policy Framework.
- 9.3 That the City Solicitor be authorised to prepare, complete and seal an appropriate agreement under Section 106 of the Town and Country Planning Act.
- 9.4 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority by the 6 November 2020 planning permission for application 2020/03829/PA be APPROVED, subject to the conditions listed below:-

-
- | | |
|---|---|
| 1 | Requires the prior submission of a demolition management plan |
| 2 | Requires the prior submission of a construction method statement |
| 3 | Requires the prior submission of a ecological construction mangement plan |
| 4 | Requires the prior submission of a method statement for demolition works adjacent to the canal |
| 5 | Requires the prior submission of a method statement for construction works adjacent to the canal. |
| 6 | Requires the prior submission of a contamination remediation scheme |
| 7 | Requires the submission of a contaminated land verification report |
| 8 | Requires the prior submission of a drainage scheme |
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- 9 Requires the prior submission of plans for the disposal of foul and surface water flows
 - 10 Requires the prior submission of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan
 - 11 Requires the prior submission of details to dismantel, protect and reuse the gateway to the former warehouse
 - 12 Requires details of proposals for the reinstatement of the gateway.
 - 13 Requires the prior submission of level details
 - 14 Require the submission of an employment constuction plan
 - 15 Requires the submission of sample brickwork
 - 16 Requires the prior submission of archictural details
 - 17 Requires the submission of a detailed section of the proposed brick work recess details.
 - 18 Requires the submission of details of balconies and roof top enclosures
 - 19 Requires details of proposed external access ramps and steps
 - 20 Requires the submission of boundary treatment details
 - 21 Requires the submission of hard and/or soft landscape details
 - 22 Requires the submission of hard and/or soft landscape details for the amenity land adjacent to New Town Row
 - 23 Requires details of wind mitigation measures
 - 24 Requires an air quality study and management plan
 - 25 Requires a schme of noise mitigation measures
 - 26 Limits the noise levels for Plant and Machinery
 - 27 Requires the submission of a scheme for ecological enhancements
 - 28 Requires the prior submission of details of bird/bat boxes
 - 29 Requires submission of lighting design strategy for biodiversity
 - 30 Requires the submission of details of biodiversity roofs
 - 31 Requires the submission and completion of works for the S278/TRO Agreement
 - 32 Requires the provision of cycle parking prior to occupation
 - 33 Requires the submission of a CCTV scheme
-

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- 34 Requires the provision of a vehicle charging point
 - 35 Requires the scheme to be in accordance with the listed approved plans
 - 36 Implement within 3 years (Full)
-

Case Officer: Lesley Sheldrake

Photo(s)



Photo 1: Aerial view of site and adjacent amenity space



Photo 2: View of site from New Town Row



Photo 3: View of site and surroundings from Princip Street



Photo 4: View of site from New Town Row looking towards the canal

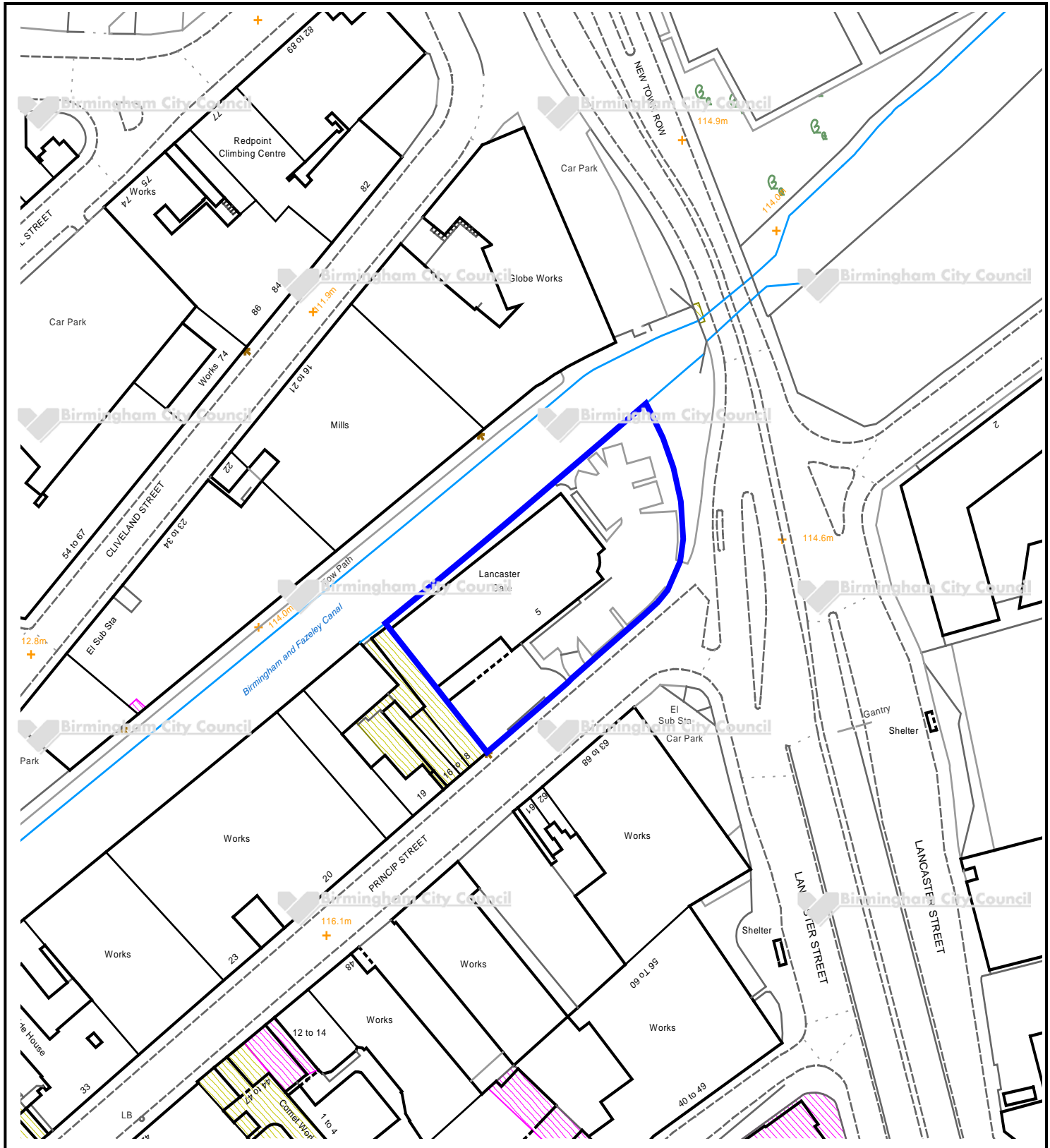


Photo 5: View of site frontage to the canal



Photo 6: Birds Eye view of site and its surroundings

Location Plan



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Birmingham City Council

Planning Committee

08 October 2020

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Conditions	10	2018/08593/PA Land at junction of Highgate Road & Stratford Road and land at Stoney Lane Sparkbrook Birmingham B12 8DN Comprehensive redevelopment of site to include demolition of existing buildings, removal of public car park, stopping up of public highway; erection of mosque and mixed-use building to comprise community centre, school, residential flats and retail units; basement car park and surface car parking areas; access, landscaping and associated works
Approve – Subject to 106 Legal Agreement	11	2019/09234/PA Land to the rear of Longmore House 100 Tindal Street Balsall Heath Birmingham B12 9QL Partial demolition of buildings to the rear of Longmore House and erection of new buildings to provide 25no. new apartments including landscaping, parking and associated works

Committee Date:	08/10/2020	Application Number:	2018/08593/PA
Accepted:	19/11/2018	Application Type:	Full Planning
Target Date:	09/10/2020		
Ward:	Sparkbrook & Balsall Heath East		

Land at junction of Highgate Road & Stratford Road, and land at Stoney Lane, Sparkbrook, Birmingham, B12 8DN

Comprehensive redevelopment of site to include demolition of existing buildings, removal of public car park, stopping up of public highway; erection of mosque and mixed-use building to comprise community centre, school, residential flats and retail units; basement car park and surface car parking areas; access, landscaping and associated works

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. The application seeks planning permission for the comprehensive redevelopment of the site to include demolition of existing buildings, removal of public car park, stopping up of public highway and erection of mosque and mixed-use building to include community centre, school, residential flats, retail units, basement and surface car parking and associated works at land on the junction of Highgate Road and Stratford Road; and land at Stoney Lane.
- 1.2. **Demolition of existing buildings** - The application seeks to demolish the existing buildings on the application site, namely the commercial properties at nos. 7 – 15 Stoney Lane including ancillary workshop buildings to the rear; the former Brewers Arms Public House (locally listed Grade B) at 309 Highgate Road and the former public conveniences at 17 Stoney Lane (locally listed Grade C), currently in use as restaurant and commercial shop; and nos. 291-293 Stratford Road which is currently used for retail purposes. As part of the proposal, the scheme proposes to close part of Stoney Lane (to the north of its junction with Highgate Road) and the applicant has submitted a separate S247 application for the stopping up of the public highway. This also includes the purchase of the existing public car park from Birmingham City Council, located on the corner of Highgate Road and Stratford Road.
- 1.3. **Proposed Mosque Building** - The proposed mosque building would be located on the prominent corner of Highgate Road and Stratford Road and would have an oval shape to follow the site's boundaries. The scheme seeks a design with an arced form stepping back from Stratford Road as it rises up to seven storeys (ground floor plus six upper storeys) in height when viewed externally. The ground and first floor would be double-storey internally, therefore viewed as five storeys plus a dome above. The overall height of the building would be approximately 25 metres (28 metres including dome) and is set back from the public highway to allow for landscaping along the buildings' ground floor frontage. The modern design

aspirations are reflected in the external appearance of the building with proposed materials combining a mix of bronze, white and grey triangular shaped cladding panels on a metal frame together with a mix of curtain wall, frosted and clear glazing, dark grey framed windows, glass balustrading and a pre-patinated copper dome above. There would be a large triangular shaped opening within the metal frame façade towards the Highgate Road/ Stratford Road corner to reduce the overall massing and open the building to the prominent road corner. At the rear (towards the Aldi supermarket car park), the scheme proposes to end the arced form and provide a large gable wall with the primary material being decorative cladding in line with the proposed panels to the main façades.

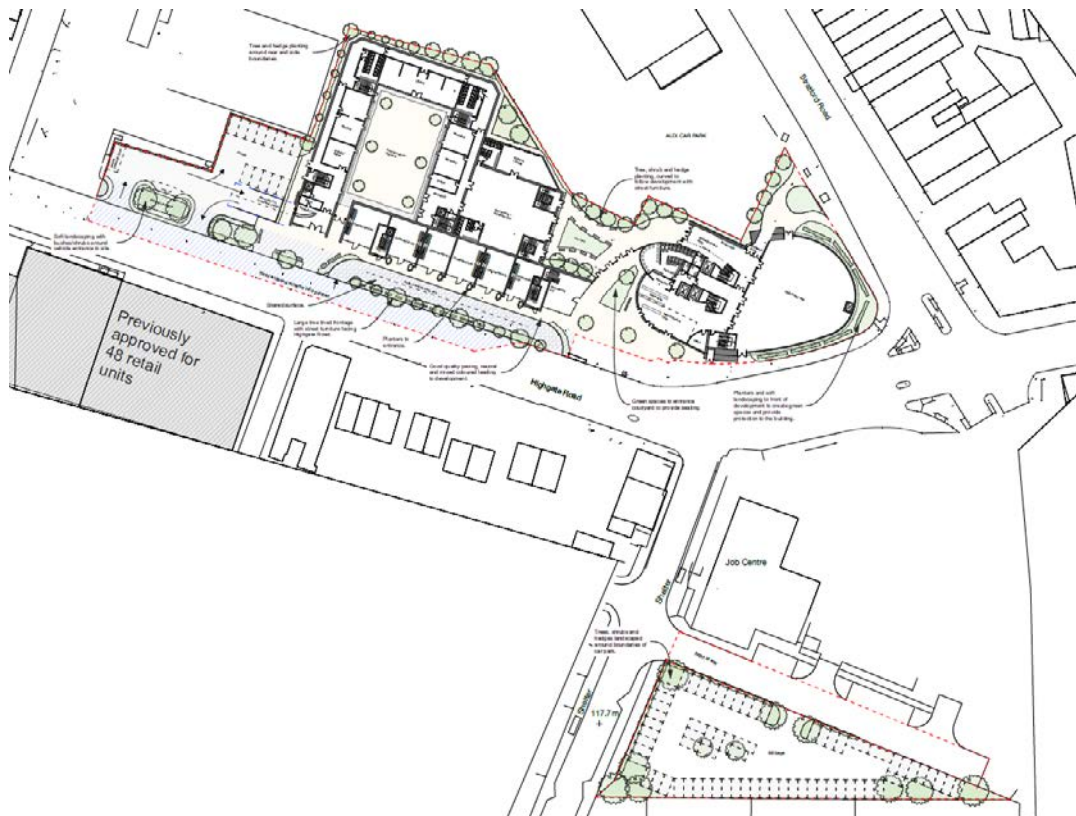
- 1.4. Internally the mosque building would provide for a large daily prayer hall (approximately 640 sqm), including separate men and ladies entrance areas, reception and offices on the lower/ground floor. The prayer hall would be of double-height, also covering part of the first floor. On the second floor the majority of the building would be provided as a ladies hall with additional offices and lobby areas. The third floor would be used as a conference hall with an additional board room, kitchen facilities and store. The fourth and fifth floor area would be used as exhibition halls as well as a library whilst there is also access to a roof garden (approximately 85sqm) from the fourth floor which is situated on the small flat roof at the western end of the building. There would be three separate internal staircases as well as three lifts surrounding a large lobby area on each floor to access the upper storeys. In addition, each floor would provide for male and female toilet facilities. The mosque building would provide for funeral services, including a 'janaza wash' at basement level which will be used for the washing of the deceased. In addition, there is a separate body lift proposed at the front of the hall. The main entrance into the mosque building would be from the Highgate Road frontage, whilst there would be separate ladies entrance from the rear of the building which can also be accessed from the third access to the north of the site (via the minaret), fronting Stratford Road. The proposed maximum capacity for the mosque is stated as 2500 worshippers during peak Friday prayers with a maximum of 500 attendees during other prayer times. The proposed opening hours for the mosque would be 4am to 11pm daily.
- 1.5. In addition, the mosque comprises the provision of 2no. minarets, located to the north (adjoining the Aldi car park) and south (adjoining Highgate Road) of the mosque building. The contemporary design proposes a grey clad block at its base which links with the ground floor of the mosque. As they rise above the mosque it is proposed to add three gold clad tiers, decreasing in size as they increase in height up to an overall height of approximately 43m. In order to add a degree of articulation, Islamic symbols are proposed on their street facing façade.
- 1.6. **Proposed Mixed-Use Building** - The proposed mixed-use building would be situated to the west of the proposed mosque with its main frontage towards Highgate Road and extending to the rear, following the boundary line of the application site. From a design perspective, the building would be four-storeys in height with two central elements on the Highgate Road frontage being five-storey to provide for the internal lift shaft. The Highgate Road façade is characterised by large areas of glazing on the ground/first floor and corner element of the school entrance building at the western end of the site. The proposed materials would comprise a mix of dark brown brick and buff colour facing brick, timber cladding (along the school entrance) combined with dark framed windows. The fourth floor of the community building would adopt the design aspirations from the main mosque building by providing similar triangular shaped cladding with a mix of bronze, dark grey and white panels. Internally, the building would comprise of commercial units

on the ground floor; a school built around an open courtyard area to the rear and with its main access from the western end of the building; a community centre to the rear of the commercial units; and residential apartments on the second and third floor, above the commercial units on the Highgate Road frontage.

- 1.7. Retail/Commercial Units - In terms of the retail units, there would be 7no. commercial units provided on the ground floor towards the Highgate Road frontage, with a size ranging from approximately 58sqm to 88sqm ground floor commercial space. Each unit would have its own internal staircase to access the first floor which is of similar size as the ground floor space and would be suitable for additional retail space and/or storage/staff purposes. The units would have direct front access onto the new pedestrian walkway which adjoins the new servicing lane off Highgate Road. The shopfront windows would be of double-height glazing with the first floor being visible from the road. The modern appearance is reflected in the use of minimalistic dark grey framing and doors. The proposed opening hours for the commercial units would be 8am to 11pm Sundays to Thursdays and 7am to 12pm Fridays and Saturdays. The use would be restricted to retail shops with a maximum of 2no. units being used as a restaurant/ café.
- 1.8. Residential Apartments - In between the commercial units there would be two main pedestrian entrances from the Highgate Road frontage to the proposed residential apartments which would be located on the second and third floor, providing 12no. flats with a mix of 2no. one-bed apartments (73sqm each) and 10no. two-bed apartments (ranging in size from 70sqm to 95sqm) with outlook over Highgate Road. Each apartment would provide for a kitchen/lounge area, double bedroom, bathroom and storage areas. On the fourth floor roof of the building, the scheme seeks to provide a roof garden (approximately 350sqm) for residents of the flats below. There would be no allocated parking for the residential units.
- 1.9. School - The proposed school would have its main entrance and reception area from the western end of the building on Highgate Road and would extend along the western and northern boundary of the application site. The ground floor would comprise of offices, nursery (with a capacity for 39 children, aged 0-4), workshops, a library and external play space (approximately 570 sqm) within a dedicated courtyard area surrounded by the rectangular school building. On the first, second and third floor there would be an overall 27no. classrooms, a staff room, a meeting room and laboratory, all overlooking the internal courtyard area. Each floor would also be provided with male and female toilet facilities. The capacity for the school facilities are stated as a maximum of 500 pupils, aged 11 – 16 and with up to 43 members of staff. Operational hours for the school are detailed as 9am to 4pm Mondays to Saturdays. In addition, it is proposed to hold evening classes and training courses which would occur between 5pm and 10pm Mondays to Saturdays.
- 1.10. Community Centre - The proposed community centre would be located to the rear of the commercial units, centralised within the application site. Its main access would be from the external courtyard area located between the mosque building and mixed-use building. On the ground floor it would provide for a large internal play area/ assembly hall. On the first floor the scheme provides offices, an advice and day centre and board room, whilst the second floor would be used as a ladies community hall and the third floor as a men's community hall. Each floor would also have an allocated kitchen/dining area and two separate staircases and lifts would also be provided with direct access to the school element to the west. The flat roof on the fourth floor would be provided as a roof garden (approximately 510sqm) for the community centre and is separated from the adjoining resident's roof garden.

Operational hours for the community centre would be Mondays to Saturdays 9am to 10pm.

- 1.11. **Access and Parking** - In terms of access, the scheme seeks to provide separate 'in and out' lanes at the western end of the site which would allow access to a drop off area, refuse storage, 13no. level parking bays and to the ramp, accessing the basement car parking with an additional 153no. parking spaces. Once completed, this car park would also be provided for the public on a 'pay and display' basis. The 'in' and 'out' lanes would be arranged around soft landscaping areas along the Highgate Road frontage taking into account the area proposed to form part of the Highway Improvement Line (HIL). Following the Highgate Road frontage to the east, there would be a separate surface level servicing lane in front of the commercial units, approximately 60m in length and separated from the main road by soft landscaping, again with a separate access and egress. The areas surrounding the building would be hard surfaced and for sole use of pedestrian, with large courtyard areas including soft landscaping and street furniture between the mosque building and mixed-use building.
- 1.12. In addition, there will be an additional surface level car park being provided for users of the development, approximately 70m to the south of the site. This additional car parking area would allow for an additional 68no. vehicle parking spaces for the development with the overall number of parking spaces provided for the development comprising 234no. vehicle parking spaces. The proposed basement car park, once completed, would be available for use by the public (pay and display). Following closure of the existing public car park, the Stoney Lane car park would initially be provided for public parking until the basement car park is established.
- 1.13. The proposed development would be carried out in a number of phases, however, no further details have been provided at this stage. The provision of detailed phasing information would need to be provided prior to commencement of any works on site.
- 1.14. The application submission is supported by a Design and Access Statement, Transport Statement and Framework Travel Plan, Noise Impact Assessment, Air Quality Assessment, Heritage Impact Assessment, Sustainable Drainage Assessment and Drainage Strategy, Contamination Assessment and Phase 2 Ground Investigation Report,



Proposed Site Plan (including Stoney Lane car park)



Proposed Ground Floor Plan (Mixed-use building and mosque)



Proposed Highgate Road Elevation



Proposed Stratford Road Elevation

[Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site lies within the Sparkbrook area of the city and has a size of 0.85ha. The site is located on the northern side of Highgate Road (A4167), on the prominent corner with Stratford Road (A34). The main application site comprises a number of existing buildings and structures which would be demolished as part of the proposal. The existing buildings on site currently comprise a flat roofed, two-storey warehouse building at 291-293 Highgate Road, currently in use for retail purposes; 309 Highgate Road, the former Brewers Arms Public House which is a locally listed building (Grade B); the buildings at 7-15 Stoney Lane which are two-storey in height and used for commercial purposes, including single-storey flat roofed garages and outbuildings at the rear partly in use as a car wash; as well as the locally listed (Grade C) former public conveniences at 17 Stoney Lane.
- 2.2. The main application site also includes the most northern part of Stoney Lane (to the north of Highgate Road) which is currently highway land maintained at public expense (HMPE). In addition, there is a public car park on the immediate corner of Highgate Road and Stratford Road accessed off Stoney Lane which provides 25 spaces.
- 2.3. The site also comprises a triangular shaped parcel of land approximately 80m to the south, on the corner of Stoney Lane which has a size of 0.17ha and is currently used for storage and sales of vehicles, a use which does not appear to have been regularised.

- 2.4. The site is partly located within and on the northern fringe of the Sparkhill Local Centre which extends along the north and south along Stratford Road to the east. The wider surrounding area is therefore mixed in character, including retail, commercial and educational uses as well as restaurant and hot food takeaways. Immediately to the north of the application site with access off Stratford Road is a large Aldi supermarket, whilst to the west the site is adjoined by single-storey commercial warehouse/depot buildings accessed off Mole Street. Highgate Road with commercial premises and residential dwellings beyond is located to the south and the large junction with Stratford Road borders the site to the south and east. Most recently planning permission was granted for a new 5-storey mixed commercial/residential building on the southern corner of Stratford Road/ Highgate Road (reference 2018/07490/PA) and is adjoined to the west by a job centre.
- 2.5. The application site is located on an important road route linking Sparkbrook and adjoining local centres and communities to the city centre via the City's Middleway ring road with Stratford Road and Highgate Road forming a junction of this primary route. There are a number of bus stops located along Highgate Road, Stratford Road and Stoney Lane to the south, all within walking distance. An area of land to the western end of the application site is also affected by the proposed Highgate Road improvement line which extends along Highgate Road to the west up to the Belgrave Middleway roundabout.
- 2.6. The surrounding vernacular is dominated by Victorian properties, predominantly 3-storeys in height within the local centre and 2-storeys within the adjoining residential communities. Within the clusters of non-residential uses there is a greater mix of architectural periods, but the scale largely aligns with the primary vernacular. The most prominent building within the vicinity are the Grade I Listed Church of St. Agatha and the Grade II* Listed Ladypool Primary School which are located approximately 150m to the north of the application site.

[Location](#)

3. Planning History

3.1. **Land at Mole Street**

- 13.05.2010: 2010/01971/PA – Erection of temporary porta cabin. Approved temporary.

3.2. **291-293 Highgate Road**

- 13.11.2003: 2003/05299/PA – Continued use as retail and wholesale sale of furniture. Approved, subject to conditions.

3.3. **295-297 Highgate Road**

- 11.02.2000: 1999/04312/PA – Continued use of site as motor salvage yard. Approved temporary.
- 27.04.1990: 1990/01832/PA – Continued use for storage and repair of motor vehicles. Certificate of Lawfulness – Approved.

3.4. **309 Highgate Road, The Brewers Arms PH**

- 08.10.2013: 2012/07378/PA – Continued use of first floor as restaurant, erection of two storey side and first floor rear extension, loft conversion to provide incidental storage areas, installation of four extraction flues and

structure to store plant/ machinery to the rear (Amended Plans). Approved, subject to conditions. Not implemented.

- 28.03.2000: 2000/00520/PA – Conversion of vacant public house to restaurant/hot food takeaway with retention of living accommodation at first floor, with external alterations including installation of shop front, roller shutters and disabled access, demolition of outbuildings and installation of external extract flue. Approved, subject to conditions.

3.5. **Rear of Stoney Lane/ fronting Highgate Road**

- 10.11.2005: 2005/05925/PA – Continued use for the sale of cars and retention of fencing to the front forecourt area. Approved temporary.
- 11.03.2005: 2004/08303/PA – Change of use to car sales yard. Refused.

3.6. **7-9 Stoney Lane**

- 12.09.1991: 1991/02255/PA – Continued use of first floor as private car hire booking office. Approved, subject to conditions.

3.7. **11, 13 and 15 Stoney Lane/ Highgate Road**

- 11.03.2005: 1995/04326/PA – Retention of shop front. Approved, subject to conditions.
- 29.01.1991: 1990/05434/PA – Continuation of car repair use, motor accessories shop and ancillary car parking. Approved temporary.

3.8. **17 Stoney Lane (Former Public Conveniences)**

- 24.01.2000: 1999/05091/PA – Change of use to financial and professional services (Use Class A2). Approved temporary.
- 20/06.2005: 2005/02584/PA – Change of use from vacant public toilets to A1 retail unit, with internal and external alterations and installation of shopfront.

3.9. **Land on the corner of Highgate Road/ Stratford Road**

- 08.01.2004: 2003/06454/PA – Display of internally illuminated triple-sided monopole advertisement and boundary fencing. Approved temporary.

3.10. **303-305 Stratford Road/ Land adjacent Highgate Road**

- 19.01.2005: 2004/07999/PA – Creation of car parking area to provide 11 parking spaces in connection with 'red route' highway works. Approved, subject to conditions.

3.11. **Stoney Lane car park**

- 12.01.1995: 1994/03611/PA – Erection of office building for class A2 and/or class B1 use including parking area and access. Approved, subject to conditions.

4. **Consultation/PP Responses**

4.1. Local Ward Councillors, MP, Residents Associations and local residents consulted. Site Notices posted in January 2019 and November 2019.

4.2. Letters in support received from (former) Roger Godsiff MP, Khalid Mahmood MP, Councillor Robert Alden, Councillor Shafique Sha, Councillor Shabrana Hussain, Councillor Zaker Choudhry and Sparkbrook Residents Association.

- 4.3. Petition in support, signed by 373 people, additional 20 supporting letters received from local businesses and occupiers. In summary it is stated that:
- the development is much needed for the area;
 - it would hugely benefit the people of Sparkbrook and surrounding areas;
 - it would offer enhanced economic activities and jobs for community members;
 - It would assist in bringing about an inter-faith harmony among various communities;
 - It would deliver a variety of different services in a safe environment; and
 - Proposal reflects an open and forward-looking community.
- 4.4. 8no. objections received on original scheme with consultation in January 2019 and 4no. additional objections received following re-consultation in November 2019, stating concerns with regard to:
- Proposal would have unacceptable impact on traffic and parking situation within area.
 - Loss of existing car park would be unacceptable. Scheme needs to provide additional public car parking.
 - Proposal would result in general disruption to neighbourhood.
 - Proposal would have negative impact on other local communities/ faith groups.
 - There are already enough mosques within the local area.
 - Birmingham, and in particular this area, needs more green space.
 - Do not need additional poorly considered and constructed buildings.
 - Find location for existing businesses to move to before demolishing them.
 - Scheme would be waste of public money.
- 4.5. **BCC Employment** – No objections. Request for inclusion of Employment Obligations or conditions in relation to the provision of a construction employment plan.
- 4.6. **West Midlands Police:** No objections. Recommends electric gates for access control, CCTV to all entrances and car parks. Reference is also made to Secured by Design for Commercial Premises.
- 4.7. **West Midlands Fire Services** – No objections. Detailed comments provided in relation to Building Control Approval. It is also requested that early liaison should be held in relation to fixed firefighting facilities, early fire suppression and access.
- 4.8. **Severn Trent** – No objections subject to conditions in relation to drainage plans for the disposal of foul and surface water flows and that the scheme shall be implemented in accordance with the approved details. Severn Trent also advises that there may be a public sewer located within the site which has statutory protection and may not be built close, directly over or be diverted without prior consent.
- 4.9. **Lead Local Flood Authority** – No objection subject to conditions in relation to prior submission of a sustainable drainage scheme and sustainable drainage operation and maintenance plan.
- 4.10. **Ecology** – No objections subject to informative in relation to nesting birds.

- 4.11. **Regulatory Services:** No objections subject to conditions in relation to a Contaminated Land Verification Report; unexpected contamination; noise insulation scheme between commercial and residential; noise insulation for various other areas; extraction and odour control details; hours of use for amplification equipment; traffic management plan; noise levels for plant and machinery; hours of operations for various uses including retail, non-residential institution; restaurant/cafes and hot food takeaways; hours of delivery; and electric vehicle charging points.
- 4.12. **Transportation:** No objections subject to conditions in relation to a construction method statement/management plan; measures to prevent mud on the highway; means of access for construction; no occupation until service road constructed; no occupation until turning and parking areas constructed; siting/design of means of access; vehicle parking and turning details; details of pavement boundary; entry and exit sign details; parking management strategy; commercial travel plan; cycle parking provision; delivery and service area completion; details of parking facilities; residential travel plan, parking area laid out prior to use; details of turning, loading and parking; access and egress details; cycle storage details; delivery vehicle management scheme; car park management plan; signing up to Travelwise; S278/TRO Highway Works; electric vehicle charging points; on-site and off-site car park management; and resolution to grant S247 Works.

5. Policy Context

- 5.1. National Planning Policy Framework (NPPF, 2019); Birmingham Development Plan (BDP, 2017); Saved Policies of the Unitary Development Plan (UDP, 2005); Shopping and Local Centres SPD (2012); Places for All SPG (2001); Places for Living SPG (2001); Car Parking Guidelines SPD (2012); Places of Worship SPD (2012); Technical Housing Standards – Nationally described space standards (2015); Council's 45 Degree Code; and Shop Front Design Guide.

6. Planning Considerations

- 6.1. The application has been assessed against the objectives of the policies as set out above. The main issues for consideration are as follows:

Principle of Development:

- 6.2. The application seeks the demolition of existing buildings, removal of car park, stopping up of the public highway and erection of a mixed-use development to comprise mosque, community centre, school, residential flats, retail units, basement and surface car park including associated works. The development site is located on Highgate Road with its junction of Stratford Road partly within the Sparkhill Local Centre as identified under policy TP21 of the BDP 2017. The policy states that such centres are the preferred location for retail, religious, education and community facilities. The western end of the site falls outside the existing local centre boundary.
- 6.3. There are some existing industrial/commercially used units within the application site. Policy TP20 of the BDP 2017 determines that outside core employment areas and regional investment sites, that change of use proposals from employment land to alternative uses will be supported where it can be confirmed that the site is a non-conforming use or the site is no longer attractive for employment use/development having been marketed for a minimum of at least 2 years.

- 6.4. Policy TP27 determines that residential developments should contribute towards creating sustainable places; Policy TP28 outlines the desired location of new residential development; Policy TP30 asserts density standards for varying locations (50 dwellings per ha for locations well served by public transport). Noting the scheme seeks to provide 12no. residential units, there would be no requirement to provide affordable dwellings as part of this development.
- 6.5. In addition, policy TP36 refers to education facilities and notes that as the City's population grows, there will also be a need for additional Primary, Secondary and Special Needs school and college provision. Proposals for new education facilities should have safe access by cycle and walking as well as by car and incorporate a school travel plan; have save drop-off and pick-up provision; provide outdoor facilities for sport and recreation and avoid conflict with adjoining uses. The school element would provide an internal courtyard area which would be suitable for external recreation purposes.
- 6.6. In addition, and noting the mixed-use nature of the development, the Council's SPD on Places of Worship supports this scale of proposal in locations within local centres and, given the position of the site on the junction of main arterial routes, it also has good access to public transport which is also in accordance with the SPD.
- 6.7. Considering the above, the principle of the development on this site is supported noting its potential to provide an important community and faith facility for the city which could enhance the environment along Highgate Road by introducing a high quality built environment. This is subject to discussion of various technical details as set out below.

Impact on Heritage Assets

- 6.8. The site is located on the prominent corner of Highgate Road and Stratford Road within the Sparkhill area of Birmingham. Within the curtilage of the development site there are currently 2no. locally listed buildings, namely the former Brewers Arms Public House (Grade B), an Arts & Crafts Tudor Revival public house built in 1927, and the former Stoney Lane Public Conveniences (Grade C) built c.1925, which would both be demolished as part of the proposed development.
- 6.9. In addition the site is situated close to the setting of the Grade I Listed Church of St. Agatha, built 1899-1901, listed as being exceptionally fine and an original church by W E Bidlake and the Grade II* Listed Ladypool Primary School, built 1884-1885, designed by Martin and Chamberlain, both approximately 200-250m to the north-west of the development site. The church is dominated by its great tower, in a perpendicular style freely reinterpreted in an Arts and Crafts idiom and of very fine workmanship. The scale of the proposed mosque building and its minarets would sit alongside the church tower on the local townscape.
- 6.10. Other listed and locally listed buildings are located in the vicinity of the development site including John Whybrow Limited Building (200 Stratford Road) and the Angel Public House (207-209 Stratford Road). In addition, the Stratford Road Baptist Church (266 Stratford Road) is identified as a non-designated heritage asset.
- 6.11. The application is accompanied by a Heritage Impact assessment (HIA) (Locus Consulting, November 2019) which assesses the significance of the heritage assets on and around the application site using the methodology in Historic England's *Conservation Principles Policies and Guidance* (2008). The Assessment considers the impact of the development (both direct and indirect) on the identified heritage

assets and any harm caused to these assets. It concludes that whilst the scheme results in the loss of significance through the demolition of two non-designated heritage assets, they would be of limited level of architectural and historic interest due to high levels of modern adaptation. In addition, it considers that the proposal would bring a low degree of harm to the ability to appreciate the architectural and historic interest of St Agatha's Church (a Grade I Listed building) from within its setting; however the level of harm is considered to be less than substantial which would need to be weighed against the public benefits arising from the scheme.

- 6.12. In terms of planning policies, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In addition, Policy TP12 of the BDP 2017 highlights that great weight will be given to the conservation of the City's heritage assets. Proposals affecting designated and non-designated heritage assets or its setting will be assessed in line with national policy.
- 6.13. Loss of non-designated heritage assets: As noted, two buildings within the application site, namely the Brewers Arms Public House and the Stoney Lane Public Conveniences, are locally listed (Grade B and C) and therefore considered to be non-designated heritage assets. Paragraph 197 of the NPPF 2019 acknowledges that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm of loss and the significance of the heritage asset.
- 6.14. The supporting Heritage Impact Assessment has analysed the architectural and historic interest of the buildings. In terms of the Brewers Arms Public House, the extensive alterations relate to both the interior and exterior with high levels of loss of traditional features from the principal elevation. Modern wooden cladding has replaced the original timber-framed aesthetic whilst the bay windows have been demolished including a total loss of the traditional fenestration with poor quality replacement. It is also noted that the historic interest has derived from its communal value being constructed in the early decades of the 20th Century to service Birmingham's expanding neighbourhoods. However, it is also noted that there are a number of other examples of its type within the city. In terms of the Stoney Lane Public Conveniences, it is stated that it has also been extensively altered externally and internally through its conversion to a commercial premises, subsequently losing its original function as conveniences. Whilst it holds a degree of interest, the architectural and historic interest is considered to be significantly lost.
- 6.15. The City's Conservation Officer has reviewed the submitted assessment and notes in terms of the Brewers Arms Public House (Locally Listed Grade B) that whilst there is a degree of loss of architectural features and details due to recent alterations, there continues to remain some identifiable elements of its architecture including roof form, chimney and tiled roof, making it worthy of retention. With regard to the Stoney Lane Public Conveniences (Locally Listed Grade C), it is acknowledged that some of the functional elements of the building have been lost and that other elements have been poorly altered over the years. However, it is considered that there would remain some value with a level of significance. Overall, the Conservation officer therefore raises concerns to the proposed loss.

- 6.16. It is acknowledged that both buildings have some remaining elements of architectural interest and would make a positive contribution to the history and local distinctiveness of the area. However, the only alternative option in order to avoid the loss of the buildings would be their conversion by integrating them into the wider development scheme. However, noting the scale of the proposed uses within the site, it is not considered they could be accommodated within the two buildings, jeopardising the redevelopment and subsequent benefits of the proposal to the local area. I am of the opinion that the aspirations and impact of the scheme which is considered to be national significance would be unable to incorporate the locally listed buildings.
- 6.17. The scale of harm in this instance is the loss of the two non-designated heritage assets (Grade B & C). It is recognised that both buildings may have had a social history and their loss is regrettable. Options to protect the building in any future proposals for the sites are however limited and costs of refurbishment to get both buildings back to their original status would unlikely be viable.
- 6.18. In conclusion, in this instance it is not considered that the retention of the two non-designated heritage assets within the site would not be viable or practical noting the scale and important significance of the application scheme. Whilst the loss is regrettable, both buildings over the years have been significantly altered and lost a majority of their original features and details. Consequently, on balance, the loss of the former Brewers Arms public house and the former Stone Lane Public Conveniences would be acceptable in planning terms.
- 6.19. Impact on setting of Grade I Listed Church - In addition, the proposal sits within the setting of the Grade I Listed St Agatha's Church. The Heritage Impact Assessment has identified the Church as having exceptional levels of historic and architectural interest and is widely considered as being amongst the most significant buildings in Birmingham. The Assessment goes on to identify the church tower as a 'landmark' building. The document further identifies St. Agatha's as comfortably the tallest and most ornate element of the street scene. 17 viewpoints have been provided in order to undertake an assessment of impact of the development of the significance of the church.
- 6.20. Taking account of the representative views provided it is considered the most significant to be those along the Stratford Road. The church was designed to be highly visible along this part of the Stratford Road and established views of the church have allowed for the continued appreciation of this highly significant asset. The Heritage Impact Assessment identifies that the minarets will appear as a pair of new landmarks within the street scene and wider townscape setting of the church. It correctly goes on to say that their construction may distract from, but will not conceal, the church tower's ornate detailing and grand scale which are key elements of its architectural and historic interest..
- 6.21. My Conservation Officer has reviewed the information and accepts the viewpoints and assessment provided. Whilst it is noted that the church will remain a distinctive and landmark element of the townscape, the introduction of a development of this scale in this location would have an impact on the historic significance of the church and its established townscape setting. It is considered the development would cause less than substantial harm to the ability to appreciate the architectural and historic interest of the church from within its setting.
- 6.22. Therefore, as stated in paragraph 196 of the NPPF, where a development proposal will lead to less than substantial harm to the significance of a designated heritage

asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate securing its optimum viable use.

- 6.23. National guidance regarding public benefits states that this could be anything that delivers economic, social or environmental objectives as described in the NPPF and should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits, for example, works to a listed private dwelling which secure its future as a designated heritage asset could be a public benefit.
- 6.24. It is considered there would be a number of public benefits from the proposal as a result of the development which include: The scheme would deliver a new mosque facility which is of national, city-wide and local significance; it comprises a redevelopment of an area which is in need of significant regeneration; the scheme would improve the visual appearance along this prominent part of Highgate Road and Stratford Road; it would provide a high-quality and sustainable development within a highly sustainable location; it would provide additional commercial units within a highly regarded local centre setting; it would provide new school facilities; it would provide 12no. units of high quality residential accommodation; a community facility for local people to meet and provide communal activities; attractive hard and soft landscaping provision and roof gardens within an area where there is a recognition of very low provision of green space.
- 6.25. It is therefore considered that there are a number of public benefits resulting from the proposal that would outweigh the less than substantial harm caused to the nearby Grade I Listed St Agatha's Church.
- 6.26. Impact on setting of Grade II* Listed Ladypool Primary School – The Heritage Impact Assessment identifies the school building as located away from the roadside and visually enclosed by surrounding streets. The document also identifies no current functional relationships between the site and the asset however does identify some inter-visibility between the school and the 'minarets' of the proposed mosque.
- 6.27. My Conservation Officer considers that there would be some impact on the school through a development of this scale within its townscape setting, however, the overall impact on the significance of the school would be less harmful than the impact on St. Agatha's. The development would not compete with school or on the ability to appreciate its architectural and historic significance as it more obviously would with the church. I therefore consider that the development would have a neutral impact on the ability to appreciate the architectural and historic interest of the school.
- 6.28. Impact on other nearby heritage assets - The Heritage Impact Assessment has considered the impact of the development on several other heritage assets both designated and non-designated. These include John Whybrow Limited Building, No.200 Stratford Road (grade II listed), The Angel Public House, No 207-209 Stratford Road (locally listed) and the Stratford Road Baptist Church (non-designated heritage asset).
- 6.29. There are varying degrees of inter-visibility between these assets and the application site and therefore there will be some impact on the townscape setting of these buildings. However, based on siting, location and levels of significance of these heritage assets in line with advice from my Conservation Officer and the submitted Heritage Impact Assessment I consider that the overall impact of the

scheme will have a neutral impact upon the ability to appreciate the architectural and historic interest of these assets.

- 6.30. Conclusion – The scheme seeks the demolition of 2no. non-designated heritage assets and in assessing the scheme, the effect of an application on the significance of a non-designated heritage asset should be taken into account. As required, a balanced judgement has been undertaken, and whilst the loss is regrettable, it is considered, on balance, it would be acceptable in planning terms, noting the overall benefits and aspirations of this significant redevelopment scheme. In addition, with its location within the setting of the Grade I Listed Church of St. Agathas, it is considered to result in less than substantial harm to the significance of a designated heritage asset which has been weighed against the public benefits of the scheme which are considered to outweigh the harm caused. In addition, there would be a negligible impact on other designated and non-designate heritage assets from the development. Overall, on balance, it is therefore considered that the scheme would be appropriate in terms of impact on heritage assets.

Design and Impact on Visual Amenity

- 6.31. Policy PG3 of the BP2017 requires all new development to demonstrate high design quality especially pertinent considering the development's prominent location within the Sparkbrook area. The proposal has evolved from extensive pre-application discussions and meetings with the City Council including the consideration of the proposals at the Birmingham Design and Conservation Review Panel in February 2020.
- 6.32. In terms of the layout of the proposal it is considered that the proposed development makes best use of the space available and has acknowledged the site's road frontage and prominence on the junction of Highgate Road and Stratford Road.
- 6.33. Mosque - The proposal is seeking to create a large and prominent mosque which would likely to be of local, city-wide and national significance which is reflective in the proposed form and scale of the building with its arced form stepping back as it rises to its 7th floor (when viewed externally) and dome above. The stepped tier of the floors (ground and first floor of double-height), together with the proposed façade design would assist in reducing the overall massing. The element on the Stratford Road frontage may appear dominant, however, whilst floor plans suggest the provision of additional glazing within the upper floors, further details of this element would need to be provided in order to ensure the visual scale is appropriate to its surroundings. Appropriate conditions have been recommended by the Council's Principal Designer and I concur with this view. Given the prominent location of the mosque, allied with its architectural and community aspiration, it is considered that the scale and height of the building is appropriate and would not over-dominate the existing streetscene.
- 6.34. The proposed mosque would be a standalone element that seeks to effectively punctuate and frame the prominent corner plot. The use of soft landscape along the boundaries subtly sets the building back from the street edge, providing an element of defensible space to the primary prayer hall whilst introducing new green infrastructure into this hard environment. As this transitions towards Stratford Road, a greater setback is provided, creating a landscaped space at ground floor level which leads into the secondary ladies entrance. At Highgate Road, the footprint of the mosque building would arc into the site enabling a landscaped entrance plaza to be created which would serve the main entrance and adjacent mixed use block to the west. Generally, the siting of the mosque building including the provision of

landscape areas to soften the streetscene and enhance the experience for worshippers entering the building is supported.

- 6.35. In terms of the internal mosque layout, the scheme has utilised and acknowledged the siting of the main entrance into the site from Highgate Road and would provide a secondary entrance from Stratford Road. However, noting this to be a ladies entrance, there may be the potential it would restrict movements within the site. Therefore, it would be important that the detailed design of the entrance elements which would be secured by condition, ensure a degree of articulation and activation. Whilst it is acknowledged worshippers would want a degree of privacy whilst praying, there must be an element of permeability from the surrounding street and community, potentially of a narrow design at higher level.
- 6.36. The upper floors of the mosque would be reduced in size in line with the step back of the building. The response of the building to the rather awkward plot shape and its surrounding is largely supported, whilst it would be important that halls and entrance lobbies are provided with appropriate glazing and transparency with detailed design drawings to be conditioned, if minded to grant permission.
- 6.37. In terms of the design, the 'halls' elements of the building would be grounded by a solid plinth, on top of which lies a light, decorative form, tiering down from the central dome. The materiality of this element will play an important role in fulfilling this concept with the proposed use of glazing and a secondary decorative metal frame, proposed to create this primary feature. The base will utilise concrete panels with grey cladding which would also tie in with other elements such as the minaret and stairwell. Towards the Stratford Road frontage, the arc form of the building is interrupted by a large gable wall with the primary material being decorative cladding in line with the proposed panels to the main façades. Overall, the contemporary aspirations proposed are supported, however, further design development is required to clearly understand how the concept can be achieved.
- 6.38. Minaret - The scheme seeks to provide 2no. minarets as part of the overall mosque design which would be located on the northern end of the main mosque building, adjoining the current Aldi supermarket car park, and to the south on the Highgate Road frontage. Overall, the height and location of the minarets proposed is supported, however, in order to enable a clear relationship with the mosque, conditions would need to be imposed to provide additional drawings setting out the detailed form and understanding of use of materials. Subject to the provision of further details, there would be no objection to the minarets.
- 6.39. Mixed-use building - The mixed-use building would be four-storeys in height with a flat roof. The fronting element would introduce a strong building line along Highgate Road which is supported. The scale is akin to the surrounding area with the subtle increase in height helping to reinforce the presence of the built form against the dominant road environment. The provision of double-height retail units and a rhythm of bays would also ensure that the massing of the block aligns with its context, acknowledging nearby 3-storey local Victorian shopping parades.
- 6.40. In addition, the introduction of a setback higher element with its materiality linked to the main mosque building would not appear visually dominant, but creating a degree of interest. From mid-distance views, this feature would further break the overall mass of the building via a step in height.
- 6.41. In terms of its layout, the proposed mixed-use building responds to the prominent road frontage of Highgate Road and the introduction of commercial/retail units and

the entrance to the school at ground floor level would assist in the creation of an active street frontage. The introduction of residential units above the retail element would provide for further surveillance and enhancement of the immediate environment. The less public functions of the school and community centre have been placed at the rear together with private outdoor amenity space which would ensure the main frontage would retain activity levels and an attractive commercial environment.

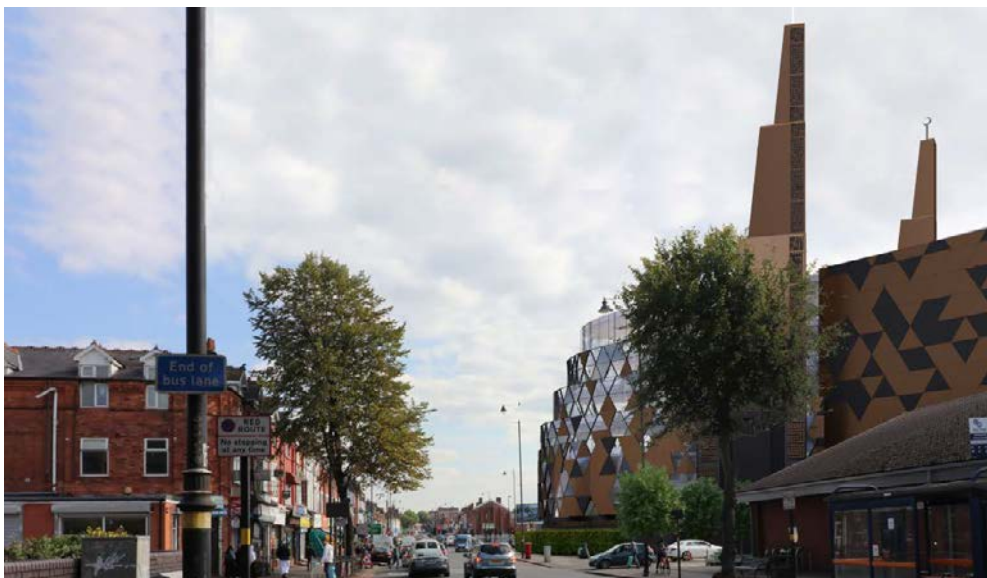
- 6.42. Overall, it is considered that the mixed-use building effectively responds to the character of the surrounding area with its simple architectural form. The repetitive use of single glazing units is subtly interrupted by the feature stair cores, which help ground the residential element, which appears to float above the light, double height retail units. The continuation of the full height glazing into the school entrance node assists in concluding this block at Highgate Road. Above and set back from the 'street' block, the enclosed roof garden projects above the 4-storey block, utilising the decorative cladding system applied to the mosque. This provides a visual and material link to the main mosque, tying the buildings together whilst adding an element of interest to the simple block with a mix of brick and timber cladding. In summary, the design and appearance of the mixed-use building is supported subject to provision of further drawings to clearly understand the intent and design proposed.
- 6.43. Conclusion – Is it considered that the proposed development, including the proposed new mosque building and mixed-use building including its surrounding landscaped environment and parking arrangement would be acceptable in terms of their design, scale and massing. In addition, whilst of significant prominence in the streetscene, the scheme would not unacceptably impact on the visual amenity of the local area. It would have the potential to deliver a high quality, landmark building desired for the site, however in order to achieve this further details would need to be submitted to ensure the aspirations are achievable. Therefore, suitable conditions would be imposed.



Aerial View



View from Highgate Road/ Stratford Road junction



View along Stratford Road



View along Highgate Road

Impact on residential amenity

- 6.44. The large application site is surrounded by a range of uses and with its location partly within the Sparkhill Local Centre, predominantly characterised by commercial development, including retail, offices and other small-scale (industrial) businesses. The nearest residential dwellings are located on the opposite side of the Highgate Road (nos. 292 – 308 Highgate Road) which are situated opposite the proposed mixed-use building at the western end of the site. The nearest residential dwellings from the main mosque building are located on the upper floors of some of the commercial units along and on the opposite side of Highgate Road and Stratford Road. Other nearby residential development is screened by surrounding commercial/ industrial buildings.
- 6.45. The distance between the proposed mixed-use building and habitable windows on the frontage of nearest residential dwellings would be approximately 36m. The distance from the proposed arced mosque building (which would be approximately 28m in height overall) to nearest commercial units which potentially accommodate flats at first floor level would be approximately 28m. There are no other residential units within close proximity and it is acknowledged all existing residential units are located on the opposite side of Highgate Road and Stratford Road which are partly providing four road lanes. The proposed new buildings would comply with separation distances as set out in Places for Living and the Council's 45 Degree Code in terms of adjoining residential development. It is therefore considered that there would be no adverse impact on existing residents currently living around the site from this development by way of overlooking, loss of privacy or general disturbance.
- 6.46. The scheme seeks permission for 12no. residential apartments on the second and third floor of the mixed-use building along the Highgate Road frontage. The scheme seeks a mix of 2no. one-bed apartments and 10no. two-bed apartments, ranging in size from 70 to 95sqm which is in accordance with the guidance on spacing standards set out in Technical Housing Standards – nationally described space standards (2015). In addition, all main habitable windows would have their outlook towards Highgate Road and the scheme would comply with the separation distance guidelines set out in Places for Living SPG (2001) and the Council's 45 Degree Code in terms of future residents.
- 6.47. In terms of external amenity areas, the scheme seeks to provide an allocated residents roof garden on top of the building, which covers an area of approximately 350sqm. Places for Living SPG requires 30sqm communal amenity space per dwelling which would require a communal amenity area of 360sqm for the 12no. dwellings. Noting the provision and constrained location on this prominent corner within the Local Centre, I consider that the provision of 350sqm external communal amenity space is sufficient and would provide future residents with a good level of residential amenity and living conditions.
- 6.48. Regulatory Services raise no objections, but request a condition for the provision of a contaminated land verification report and cover for the event of any unexpected contamination.
- 6.49. In addition, following submission and review of amended noise and air quality assessments they are satisfied there would be no impact on existing or future residents, subject to conditions including various noise insulation schemes between the commercial uses, school, community use, residential units and roof gardens; noise levels for plant and machinery; extraction and odour control details; lighting

scheme; traffic management plan; hours of use for the proposed amplification equipment; hours of operation for the various uses including commercial, school, mosque and community use; and hours of delivery for the commercial units. I concur with this view and impose the conditions accordingly.

- 6.50. Overall, it is therefore considered that the scheme is acceptable in terms of its impact on the residential amenity of existing residents living around the site and future occupiers of the building.

Impact on highway and pedestrian safety

- 6.51. The application site is located within a very sustainable location on the corner of Highgate Road and Stratford Road, partly located within the Sparkhill Local Centre and within walking distance of a variety of amenities and residential neighbourhoods. There are bus stops connecting the site to the city centre and surrounding neighbourhoods just outside the application site along Highgate Road, Stoney Lane and Stratford Road.
- 6.52. The proposal seeks to provide an overcall car parking provision of 234no. spaces to be located within a basement car park (153no. spaces) accessed off Highgate Road, 13no. spaces on ground level, adjoining the basement car park access to the north and located to the west of the school building as well as a further 86no. spaces to be provided on the separate Stoney Lane car park, approximately 70m to the south of the application site. In terms of vehicle access, the site would have a designated 'in' and 'out' access when travelling from Highgate Road towards the junction with Stratford Road to access the refuse storage area, a drop off space, the level parking and basement car park provision. In addition, there would be a separate one-way service lane fronting the commercial units, following the same direction from Highgate Road towards Stratford Road. The areas between the mosque and mixed-use building would be provided as designated pedestrian areas to encourage walking. There would be various pedestrian entrances into the buildings, including a secondary ladies entrance from Stratford Road in the north-eastern corner of the site.
- 6.53. The scheme has taken into account the adjoining Highway Improvement Line (HIL) which is located along Highgate Road at the western end of the site. The proposal would not impact on any future proposals within this line. In addition, a separate small strip of this Line is located on the immediate corner of Highgate Road and Stratford Road. This land is within the application site and currently shown to be provided with planters to provide landscaping and greenery in front of the main mosque building which would be removed from the site, once the implementation of the HIL is imminent.
- 6.54. The scheme seeks to include land on the corner of Highgate Road and Stratford Road, land which is currently used as a public car park and was most recently owned by Birmingham City Council. During the progress of the application a detailed assessment has been undertaken by Birmingham City Council and which was accepted by the Council's Legal Department, which has declared the currently free car park to be surplus to Highway requirements, allowing the sale of the land to the applicants to be included within the application scheme. In addition, and to continue to provide some public car parking for the local community the new basement car park, once completed, would be provided for the general public as a 'pay and display' car park, allowing public use. Noting the phasing of the development, it is proposed to initially provide the Stoney Lane car park for public use, following closure of the existing car park until completion of the basement car park.

- 6.55. In addition, it is proposed to close part of the Stoney Lane public highway, to the north of Highgate Road, in order to implement the proposed development. The Council's Highways team has confirmed that the draft order for the stopping up of the public highway (S247) was approved by Birmingham City Council on 23rd March 2020. Currently, the made order is awaited from the Department for Transport (DFT) as a confirmation that the stopping up order process has been completed and that works on this land could commence.
- 6.56. Transportation Development has no objections subject to a number of conditions. These includes the provision of a construction method statement/management plan; measures to prevent mud on the highway; means of access for the construction phases; no occupation until service road and turning/parking area has been constructed; the siting/design of the means of access for the development; vehicle parking and turning details; details of pavement boundary; proposed entry and exit sign details; parking management strategy; commercial travel plan; cycle parking provision; delivery and service area completion; details of parking facilities; residential travel plan; parking areas laid out prior to use; details of turning/loading/parking areas; access and egress details; cycle storage details; delivery vehicle management scheme; car park management plan; sign up to travelwise; electric vehicle charging points; on-site and off-site car park management.
- 6.57. Transportation Development also acknowledges the separate requirement for works to the highway to be approved as part of S278 Highway Works and this would also be conditioned. The package of highway measures shall include Traffic regulation Orders to introduce 'no stopping/no waiting/no loading' on Highgate Road; enhanced pedestrian crossing facilities, 'school keep clear' and associated signage, kerb modification works to construct new access/pedestrian crossing points and achieve suitable visibility splays; introduce warning signs, relocate existing signage, guard railing and/or bollards to prevent vehicle override of footways, speed limit review and modification, and include any other relevant works deemed necessary by the Technical Review/ Approval process; all maintenance asset accrual charges; design approvals, legal and supervision fees for the project are to be carried out/fulfilled at the applicants expense to Birmingham City Council approval.
- 6.58. Overall, it is considered that subject to the recommended conditions and resolution to grant of the S247 stopping up order, the scheme would be acceptable in terms of highway and pedestrian safety.

Flood Risk and Drainage

- 6.59. The application site is located within Flood Risk Zone 1 and the applicant has submitted Sustainable Drainage Assessment and Drainage Strategy with the application. The Lead Local Flood Authority has commented on the application and has accepted the principle of the development, requesting conditions to provide details of surface water drainage and SUDS prior to commencement of works; and the submission of a Sustainable Drainage Operation and Maintenance Plan. I concur with this view and impose the conditions accordingly.
- 6.60. In addition, Severn Trent also raises no objection to the proposal in terms of sewerage, but requests the inclusion of conditions to provide drainage plans for the disposal of foul and surface water flows and their implementation in accordance with the approved details. I concur with this view.

Landscaping and Ecology

- 6.61. Policy TP8 (Biodiversity and Geodiversity) of the BDP 2017 requires all development where relevant to support the enhancement of Birmingham's natural environment. Measures should be appropriate to the nature and scale of the development proposed and proposals should clearly identify how ongoing management of biodiversity and geodiversity enhancement measures will be secured. The site is currently considered to have negligible potential for roosting bats within the buildings on site; however, there may be potential for nesting birds either within the buildings or scattered vegetation around the site. The Council's Ecologist has reviewed the scheme and raises no objections to the proposal, but suggests that an advisory is attached to any grant of permission to raise awareness of any nesting birds and pre-commencement checks should be undertaken outside of the bird nesting period.
- 6.62. The application site would benefit from improved hard and soft landscaping. The submitted drawings show indicative planting areas along the Highgate Road and Stratford Road frontage as well as within the site and along the rear boundaries to improve overall visual amenity and increase the provision of green space within the site by providing a courtyard area with designated seating areas. In addition, there would be roof gardens provided on part of the mixed-use and mosque building to serve the proposed residential units, visitors of the community centre and mosque. In order to ensure the provision of good quality landscaping, surfacing, street furniture and boundary treatment provision, conditions would be imposed to any grant of planning permission, requiring the prior submission of hard and/or soft landscaping details, hard surfacing materials, boundary treatment details, landscape management plan, levels and public art.
- 6.63. The Highgate Road frontage would be improved with amenity tree planting. Considering the Highway Improvement line, which currently has no scheduled date for implementation, the trees would require under pavement rooting volume to be incorporated. The volumes of rooting areas should be designed to accommodate the species acceptable to discharge landscape conditions. Overall, the provision of trees within the site and separate car park area is acceptable and if implemented accordingly, will provide an improvement to the provision and amenity canopy and its quality in this urban setting. Subsequently, the Council's Tree Officer has raised no objections to the proposed development.

Other matters

- 6.64. Local Employment - The Council's Employment team has been consulted on the application and recommend a condition to provide a construction employment plan which would include that a minimum of 60 person weeks of employment per £1million spend on the construction of the site will be provided for new entrants whose main residence is in the local area identified from Birmingham City Council's Employment Team or an alternative source agreed by the Council provided always that each new entrance is suitably qualified for the relevant role. Considering the size of the proposed development and significant implications for the local area, I consider the condition to be appropriate and impose it accordingly.
- 6.65. Security - West Midlands Police has been consulted on the application and raises no objections to the principle of the development, but recommends that secure gates are being provided at the basement car park. In addition, the provision of one single entrance would be preferred for security purposes; however, noting the scheme seeks to encourage walking and provides a level of openness to the surrounding community, the closure of all but one pedestrian access to the buildings would not

appear achievable. However, in order to ensure appropriate security for the wider site and each use forming part of the scheme, a condition to provide a detailed security strategy for each phase of development to include measures such as CCTV and a separate condition for an external lighting scheme would be attached to any grant of planning permission.

- 6.66. Sustainability - The Design and Access Statement confirms that the development proposes to use various methods to create a sustainable design, including the use of rainwater harvesting and provision of photovoltaic panels on part of the roof of the building. No further detail with regard to the provision of photovoltaic panels has been provided and it is considered appropriate to impose a condition to clarify the position and use as part of the development.
- 6.67. In addition, it is considered that the scheme proposes to naturally ventilate the mosque the use of the proposed 2no. minarets which would be developed to bring in cool, fresh air and take away warm, stale air. This would allow for the proposed building to provide a comfortable atmosphere and assisting in the regulation of temperature by reducing the need for mechanical ventilation.
- 6.68. The development has further considered the provision of an environmentally progressive design. This includes the reduction of energy in construction by utilising local labour and local materials, recycling or re-using materials where practicable and making use of prefabrication methods if possible. On this basis, it is considered that the proposed development would comply with the adopted policies and has considered the incorporation of low and zero carbon forms of development and sustainable construction measures.
- 6.69. Community Infrastructure Levy (CIL) – The proposal would not attract a Community Infrastructure (CIL) contribution.

7. Conclusion

- 7.1. The application seeks planning permission for a comprehensive redevelopment of the site to include the demolition of existing buildings (including 2no. locally listed buildings), removal of public car park, stopping up of public highway and erection of mosque and mixed-use building to comprise community centre, school, residential units and retail units on land on the prominent corner of Highgate Road and Stratford Road in Sparkhill including land at Stoney Lane to the south. The application proposals would be of significant importance for the regeneration of the local area and wider city and with its location partly within a Local Centre, it is considered the principle of the provision of the mix of uses is acceptable in this location. In order to allow for the redevelopment, the scheme seeks to demolish 2no. locally listed buildings (former brewers Arms Public House and former Stoney Lane Public Conveniences) and a detailed assessment has been undertaken which considers their loss, on balance, to be acceptable in light of the overall significant regeneration plans for the area. In addition, it is considered that whilst the scheme would result in less than substantial harm to the setting of the Grade I Listed Church of St. Agatha, the public benefits arising from the scheme would outweigh any harm caused. It is also considered that the proposal would be acceptable in terms of its design and visual amenity subject to the provision of further detailed design drawings and information. The scheme would also not unacceptably impact on the residential amenity of existing or future occupiers and would be appropriate in highway terms. Matters in relation to the stopping up of the public highway and the purchase of the public car park within the site are currently being progressed as

separate matters. The scheme has also appropriately considered matters in terms of ecology, drainage, sustainability and security. The application is therefore recommended for approval subject to conditions and the resolution to grant the S247 stopping up order by the Department for Transport.

8. Recommendation

8.1. I. That no objection be raised to the stopping up of the areas of public highway within the application site and that the Department for Transport be requested to make an Order in accordance with Section 247 of the Town and Country Planning Act 1990.

8.2. II. That Planning Permission be granted, subject to the following conditions.

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|----|---|
| 1 | Requires the prior submission of a phasing plan |
| 2 | Requires prior submission of architectural details - School, Community, Commercial and Residential Building |
| 3 | Requires prior submission of architectural details - Mosque |
| 4 | Requires prior submission of mechanical and electrical systems and water utilities strategy |
| 5 | Requires the submission of sample materials in a phased manner |
| 6 | Requires the prior submission of a security strategy on a phased manner |
| 7 | Requires the submission of an external lighting strategy |
| 8 | Requires the prior submission of a landscaping strategy on a phased manner |
| 9 | Requires the submission of hard and/or soft landscape details on a phased manner |
| 10 | Requires the submission of hard surfacing materials on a phased manner |
| 11 | Requires the prior submission level details on a phased manner |
| 12 | Requires the submission of boundary treatment details in a phased manner |
| 13 | Requires the submission of a landscape management plan |
| 14 | Requires the submission of details of public art |
| 15 | Requires the prior submission of a construction method statement/management plan |
| 16 | Requires the prior installation of means of access |
| 17 | Requires the submission of details to prevent mud on the highway |
| 18 | Prevents occupation until the service road has been constructed |
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- 19 Prevents occupation until the turning and parking area has been constructed
 - 20 Requires the submission of the siting/design of the access
 - 21 Requires the submission of vehicle parking and turning details
 - 22 Requires the submission of details of pavement boundary
 - 23 Requires the submission of entry and exit sign details
 - 24 Requires the submission of a parking management strategy
 - 25 Requires the submission of a commercial travel plan
 - 26 Requires the provision of cycle parking prior to occupation
 - 27 Requires the delivery and service area prior to occupation
 - 28 Requires the submission of details of parking
 - 29 Requires the submission of a residential travel plan
 - 30 Requires the parking area to be laid out prior to use
 - 31 Requires the submission of details of turning, loading and parking
 - 32 Requires the dedicated use of access and egress points
 - 33 Requires the submission of cycle storage details
 - 34 Requires the submission of details of a delivery vehicle management scheme
 - 35 Requires the submission of a car park management plan for disabled spaces
 - 36 Requires the applicants to affiliate to Company Travelwise in Birmingham
 - 37 Requires the submission and completion of works for the S278/TRO Agreement
 - 38 Requires the provision of a vehicle charging point
 - 39 Requires the prior submission of off-site and on-site car park management
 - 40 Requires the basement car park to be available for public use - pay and display
 - 41 Requires the provision of the Stoney Lane car park for public use prior to closure of existing public car park and until occupation of basement car park
 - 42 Requires the submission of a contaminated land verification report
 - 43 Requires the submission of unexpected contamination details if found
 - 44 Requires the prior submission of a Noise Insulation Scheme to establish residential acoustic protection
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45	Requires the prior submission of noise insulation (habitable rooms)
46	Requires the prior submission of noise insulation scheme - roof garden
47	Requires the prior submission of noise mitigation scheme - outdoor amenity
48	Restricts the use of amplification equipment within the building between 23:00 and 06:00
49	Prevents the use of external amplification equipment
50	Requires the prior submission of a traffic management plan
51	Limits the noise levels for Plant and Machinery
52	Limits the hours of operation - Mosque 04:00 - 23:00 daily
53	Limits the hours of operation - Commercial Units - 08:00 - 23:00 Sundays to Thursdays and 07:00 - 24:00 Fridays and Saturdays
54	Limits the hours of operation - School and Community Centre 9am - 10pm Mondays to Saturdays
55	Limits delivery time of goods to or from the site -08:00-19:00 Mondays to Saturdays and 09:00 - 19:00 Sundays
56	Requires the submission of extraction and odour control details in a phased manner
57	Requires the prior submission of a construction employment plan
58	Requires the prior submission of a surface water drainage scheme
59	Requires the submission of a Sustainable Drainage Operation and Maintenance Plan
60	Requires the prior submission of drainage plans for the disposal of foul and surface water flows
61	Requires the prior submission of photovoltaic panel details
62	Limits the use of commercial units to retail/professional services (A1/A2) with a maximum of 2no. units to be used as restaurant/cafe (A3)
63	Requires the prior submission of details of proposed roof gardens
64	Requires the prior submission of details of bird/bat boxes
65	Requires the submission of a scheme for ecological/biodiversity/enhancement measures on a phased basis
66	Implement within 3 years (Full)
67	Requires the scheme to be in accordance with the listed approved plans

Case Officer: Laura Pohl

Photo(s)



Image 1: View towards 11-15 Stoney Lane and former Public Conveniences (left) (locally listed Grade C)

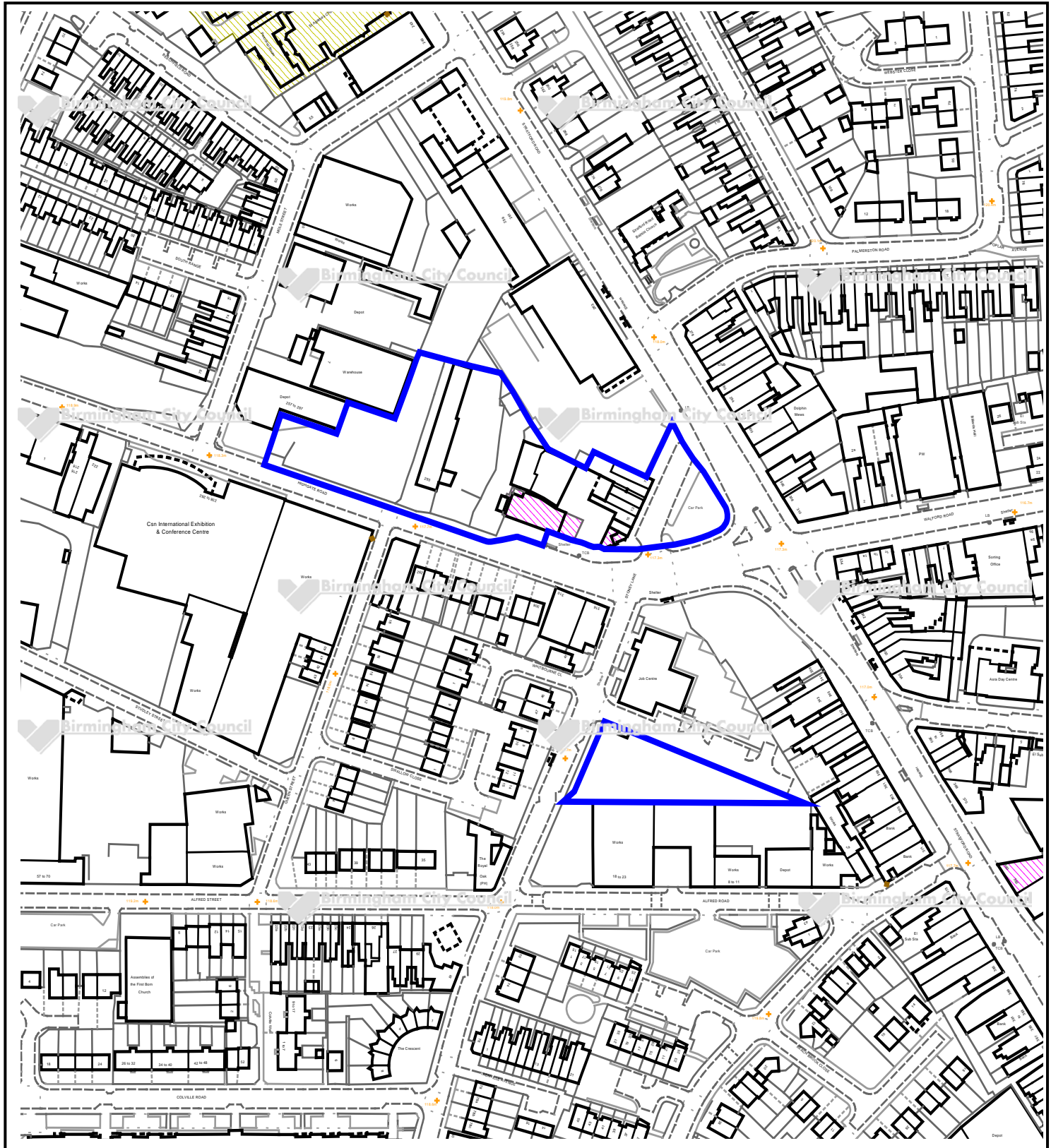


Image 2: View towards car park on corner of Highgate/Stratford Road with Stoney Lane (subject to stopping up order) at front



Image 3: View towards former Brewers Arms Public House (locally listed Grade B)

Location Plan



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Committee Date:	08/10/2020	Application Number:	2019/09234/PA
Accepted:	10/12/2019	Application Type:	Full Planning
Target Date:	23/10/2020		
Ward:	Balsall Heath West		

Land to the rear of Longmore House, 100 Tindal Street, Balsall Heath, Birmingham, B12 9QL

Partial demolition of buildings to the rear of Longmore House and erection of new buildings to provide 25no. new apartments including landscaping, parking and associated works

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

- 1.1. The application seeks planning permission for the partial demolition of buildings located to the rear of Longmore House, erection of new buildings to provide 25no. one and two-bedroom apartments, landscaping, associated parking and access at 100 Tindal Street.
- 1.2. The proposal would comprise of 2no. new apartment blocks both located to the rear (south) of Longmore House. Block 1 would be three storeys in height (ground plus two upper floors) and would adjoin part of the main Longmore House building, located within the north-eastern corner of the application site. Block 2 would be four storeys in height (ground floor plus three upper floors), with the fourth floor being set back from the main building. Block 2 is located along the Tindal Street frontage adjoining the south-western end of the L-shaped Longmore House building and largely following the existing building line towards the south.
- 1.3. Overall, the scheme would provide 25no. flats comprising of 10no. one-bedroom apartments (between 47.5 and 51 square metres); 5no. studio apartments (between 40 and 46 square metres) and 10no. two-bedroom apartments (between 60 and 65 square metres). A communal bin store and cycle storage area (45no. cycle parking spaces) would be provided on the ground floor of Block 2 with access into the communal courtyard area. An additional external bin storage area is located to the south of Block 2.
- 1.4. Vehicular access into the site would be from Tindal Street with flats being provided over the private access driveway. The access would be secured via a sliding gate which is set back from the road by 5metres; the headroom would be 3.1 metre to allow for ambulance services to access the rear courtyard and parking area. Adjoining the sliding gate is a separate pedestrian access. There is also a pedestrian access provided into Block 2 from Tindal Street.
- 1.5. In terms of the parking provision, the layout seeks to provide 25no. parking spaces within the site (one space per apartment) which includes the provision of 2no. electric vehicle charging points and 3no. disabled parking bays.

- 1.6. The scheme would provide a communal landscaped external amenity area between the two apartment blocks and the main Longmore House building to the north, covering an area of approximately 180 square metres. In addition, first and second floor apartments of both blocks would be provided with balconies, whilst the two apartments located on the set back third floor of block 2 would have their own private L-shaped external terraces. The roof of apartment block 1 would be provided with a green/brown roof to aid biodiversity whilst photovoltaic panels are proposed to part of the flat roof of block 2.
- 1.7. The scheme would also comprise changes to the recently granted prior approval to convert the former Longmore House offices immediately to the north of the application site into residential apartments (reference 2017/01832/PA). This scheme was granted prior approval for 27no. apartments in December 2017 and construction works have commenced on site. In order to implement the current planning application, the proposed 7no. apartments as part of the prior approval originally to be provided within the 'warehouse style' element of the building at the rear (and within the current red line) has been omitted, resulting in the number of apartments forming part of the prior approval being reduced from 27 to 20. There would be no changes to the layout or arrangement of the remaining prior approval apartments within the Longmore House building. In addition, the car parking provision for the prior approval, originally proposed within the rear courtyard area, has been moved to the north of Longmore House. Cycle storage provision has been combined within block 2 of the current proposal. There would be 2no. separate pedestrian access points from the main Longmore House building into the newly arrange courtyard area.



Proposed Site Plan



Proposed Elevations

[Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site comprises the rear courtyard area of the approximately 1930's former office building, known as Longmore House which is located on the corner of Cromer Road and Tindal Street. Along the Cromer Road frontage, the building is partly two and three storeys in height and has a distinct architectural style with a horizontal emphasis on ground and first floor facades. To the rear, the building most recently had a large single storey wing which has since been partly demolished as part of works to convert the former offices into residential apartments, granted under prior approval 2017/01832/PA. The site is also in ownership of the applicant.
- 2.2. On the immediate corner of Cromer Road and Tindal Street there are some separate commercial workshops (outside of the applicant's ownership) contained within the attached three-storey flat roof building.
- 2.3. The triangular shaped application site has its own access from Tindal Street in the south-west and is adjoined by the main Longmore House building in the north and Malcolm House (offices) and 585 Moseley Road (apartments) in the east. There is an electric substation located to the south of the site, opposite of the junction with Edgbaston Road East.
- 2.4. The character of the wider area is mixed commercial and residential. The Primary Shopping Area of the Balsall Heath Local Centre is approximately 150 metres to the north-east of the site.

[Location](#)

3. Planning History

- 3.1. 11.08.2020: 2020/04508/PA - Application to determine the details for Conditions nos. 3 (noise insulation scheme) and 4 (window frame details) attached to approval 2019/01135/PA. Part approved (condition 3) and part refused (condition 4).
- 3.2. 27.09.2019: 2019/05789/PA – Proposed balcony walkway on supported columns at first floor level to rear and alterations to front. Approved, subject to conditions.
- 3.3. 05.11.2019: 2019/06614/PA – Application to determine the details for condition no. 1 (acoustic protection) attached to approval 2017/08132/PA. Approved.
- 3.4. 06.09.2019: 2019/05776/PA – Erection of second floor extensions and alterations to the front. Refused.
- 3.5. 10.06.2019: 2019/01135/PA – Installation of replacement windows to front elevation. Approved, subject to conditions.
- 3.6. 03.06.2019: 2019/02001/PA – Application to determine the details for conditions numbers 2 (pavement boundary), 3 (parking area), 4 (gate position), 5 (access and egress points), 6 (cycle storage) and 7 (pedestrian visibility splays) attached to approval 2017/08132/PA. Approved.
- 3.7. 12.12.2017: 2017/08132/PA – Prior approval for change of use from office (Use Class B1a) to 27 residential units (Use class C3). Prior approval required and to approve.

4. Consultation/PP Responses

4.1. Ward Councillors, neighbouring residents and Residents Association consulted. Site Notice posted. Three objections received, concerned with the following:

- Existing parking problems within area would increase, in particular at weekends when there are parties and celebrations at nearby venues parking along Tindal Street.
- Upper floors would be overbearing.
- Density of scheme would be too high for the area.
- Amenity space provided is very small and the wider area does not have much green space to offer.
- Claims to be sustainable but uses gas central heating.
- Concerns regarding impact from development on existing sewer system as there have been many examples of localised flooding. Assurance should be provided the proposal will not impact on existing residents.
- Hoping that some affordable housing or Section106 Contributions would be provided to offset the impact of the development. This should include upgrading/resurfacing the local roads and planting of some street trees.
- The works on the adjoining Longmore House building has commenced and the experience with the developer is not good. Rubbish is blowing along the street and the site is of unkempt appearance.
- Building would result in loss of light to adjoining houses.
- Works should be undertaken during normal working hours and not start too early, especially on weekends.
- Wifi and phone signal in area is already bad and would get worse with another apartment scheme.

4.2. Moseley Society:

- Concerned with the size of apartments proposed and hope that provision complies with minimum standards;
- Hope that some of the units will be affordable accommodation;
- Fourth floor on Tindal Street would dominate streetscene and massing would be too great;
- Development should provide electric vehicle charging points;
- Insufficient external amenity space provided and flats should be provided with balconies;
- Section 106 Contributions should include work to road surface and footpaths in Tindal Street; and
- Would like to see the inclusion of street trees.

4.3. Transportation – No objections, subject to conditions to provide new vehicular access and reinstatement of redundant footway crossing with full height kerbed footway including associated highway modifications; construction method statement/management plan; measures to prevent mud on the highway; no occupation until turning/parking area constructed; parking management strategy; cycle parking prior to occupation; residential travel plan; parking areas laid out prior to use; levels; and boundary treatment details.

4.4. Regulatory Services – No objections subject to conditions in relation to a noise insulation scheme; contamination remediation scheme; contaminated land verification report; and provision of electric vehicle charging points.

- 4.5. Leisure Services – No objections subject to an off-site public open space contribution of £45,500.00 to be spent on the provision, improvement and/or biodiversity enhancement of public open space and the maintenance thereof at Calthorpe Park within the Balsall Heath Ward.
- 4.6. Severn Trent – No objections subject to a condition to provide drainage plans for the disposal of foul and surface water flows.
- 4.7. Lead Local Flood Authority (LLFA) - Overall satisfied with the provision and details submitted; however have requested from the applicant the submission of the 'Severn Trent Developer enquiry form' confirming that Severn Trent will accept the proposed 5 l/s discharge rate from the proposed development site, in order to recommend suitable conditions for the development.
- 4.8. Ecology – No objections subject to a condition to provide details of green/brown roofs.
- 4.9. West Midlands Police – No objections.
- 4.10. West Midlands Fire Service – No objections. Comments in relation to building control matters.
- 4.11. Western Power – No comments received.
- 4.12. Housing Development – No objections to proposed housing mix and affordable housing provision.

5. Policy Context

- 5.1. National Planning Policy Framework (2019); Birmingham Development Plan (BDP, 2017); Saved Policies of the Unitary Development Plan (UDP, 2005); Car Parking Guidelines SPD (2012); Place for Living SPG (2001); The 45 Degree Code; and Technical Housing Standards – nationally described space standards (2015).

6. Planning Considerations

- 6.1. The application has been assessed against the objectives of the policies as set out above. The main issues for consideration are as follows:

Background and Principle of Development

- 6.2. In 2017 prior approval was granted (ref. 2017/08132/PA) under Schedule 2 - Part 3 - Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of the main Longmore House building including single-storey 'warehouse style' building at the rear from offices to 27no. residential flats. The rear of the site (which now forms part of the current application) was shown on the approved plans to be used for 7no. residential apartments, vehicle parking and cycle storage. Construction works on site have since commenced including discharge of conditions. It was evident that a number of apartments, in particular the 7no. apartments at the rear would have minimal natural light, would be below national space standards and would have very poor outlook. However, considering the scheme was determined as a prior approval, which only allows the assessment of the scheme in relation to transport matters, contamination

and flooding risks, and noise from commercial premises on the intended occupiers of the development; the LPA was unable to assess the impact on residential amenity in terms of outlook, light and privacy.

- 6.3. The applicant has now further considered the redevelopment of the site and acknowledges the poor layout and amenity provision of the 7no. apartments at the rear. They have therefore submitted this current planning application which would result in the removal of the 7no. apartments from the prior notification, originally located within the single-storey 'warehouse style' element of the building at the rear. This would result in the provision of 20no. apartments within the main Longmore House building and 25no. new apartments contained within two new apartment blocks as part of this current planning application. In addition, the 16no. vehicle parking spaces previously located within the rear courtyard area have been moved to the frontage of Longmore House, providing 20no. spaces. Vehicle parking for the new apartments at the rear would be located within the newly created internal courtyard area (25no. spaces). Cycle storage provision of the prior approval scheme has been combined with the current provision of this planning application, to be located at the rear of Longmore House on the ground floor of apartment block 2.
- 6.4. The LPA has sought legal advice with regard to the proposal and whether it would be able to determine this planning application in light of the recent and overlapping 2017 prior approval permission. Legal Services have confirmed that provided a material operation has occurred, the 2017 prior approval scheme will have been implemented. Considering permissions are by definition 'permissive' and not compulsory, it would be up to the applicant whether he wishes to fully implement the permission and complete the scheme, or only partially implement it. A change of use will have been made with the benefit of the 2017 prior approval permission and the continuance of that use remains in accordance with the terms of that permission. If planning permission would be granted for the current application, the applicant can choose to carry out the development proposed, having regard to what has been done under the implemented permission. There should be no planning conflict or unacceptable planning implications between the two schemes and in this particular case, alternative parking for vehicles and bicycles would need to be provided which is adequate for the overall proposal.
- 6.5. Considering therefore there would be no conflict between the two permissions, it would be appropriate to only partially implement the prior approval together with the current planning application scheme. It should be noted, that as part of O.2 (2) of the Order that development under Class O is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date. Legal Services in this respect have confirmed that failure to comply with this condition would not render a scheme unlawful, but would be a breach of condition. Whilst it would be possible to take enforcement action, this is considered to serve little purpose considering the nature of the breach and it should be weighed against the benefits the overall scheme would be able to deliver.
- 6.6. The technical details have been considered below and whether the provision on site would result in a conflict between the two schemes. In terms of the principle of the development, considering the wider area is mixed residential and commercial in character, the scheme would comply with the principles of the relevant planning policies TP27 (Sustainable Neighbourhoods) and TP28 (The location of new housing). In principle, the site would therefore be appropriate for residential development.

Design and Visual Amenity

- 6.7. Policy PG3 of the BDP 2017 and the NPPF 2019 promote high design quality and a good standard of amenity for all existing and future occupants of land and buildings and that development should function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.
- 6.8. Noting the above, the wider area is of mixed character, including commercial and residential properties of a variety of heights, materials and layout. The existing Longmore House building, which is currently being converted to apartments is a former office building located immediately to the north of the application site and dated from approximately the 1930s. Whilst not statutorily Listed, the building has a strong architectural style towards the Cromer Road elevation with a horizontal emphasis on ground and first floor facades. The flat roof building is two-storeys with a central element being three-storeys in height. The rear element of this site is of less relevance in terms of its architectural style. In addition, the site is adjoined by the five-storey apartment building located at 585 Moseley Road to the south and the three-storey Malcolm House (offices) to the west. The rear elevations and gardens of residential dwellings adjoin the site on the opposite side of Tindal Street.
- 6.9. The scheme seeks to provide 25no. dwellings on a site of 0.15ha which would result in a density of 167 dwellings per hectare. Policy TP30 (The type, size and density of new housing) requires schemes in areas well served by public transport to achieve a density of at least 50 dwellings per hectare. The scheme complies with this target and it is considered the high density is appropriate for its location and context, close to the Balsall Heath Local Centre with good access to public transport and amenities.
- 6.10. During the planning application process, the scheme was amended and reduced in overall height, scale and density (reduction of apartments from 28 to 25nos.) to better take into account the main Longmore House Building. The finalised scheme would provide 2no. separate blocks: Block 1 would be located to the rear and adjoining the Longmore House building, three storeys in height (ground plus two upper floors) and located within the north-eastern corner of the application site. Block 2 would be four storeys in height (ground floor plus three upper floors). Following further discussions, the fourth floor has been set back from the main building by approximately 2.3m at the Tindal Street frontage and 4.8m at the rear to reduce the overall impact on the streetscene. Concerns with the overall massing and density of the development was also raised by local residents and it is considered that the amended scheme would be of an appropriate density and scale and would sit appropriately within the existing streetscene without over-dominating adjoining dwellings.
- 6.11. Block 2 would be located along the Tindal Street frontage adjoining the south-western end of the L-shaped Longmore House building and largely following the existing building line and street frontage. It would be of a simple form with the introduction of balconies which positively respond to and enhance the streetscene along Tindal Street and its junction with Edgbaston Road East.
- 6.12. The proposed materials for the buildings would be subtle coloured facing brick with contrasting dark framed windows and balconies, matching roof panels and rainwater goods. The scheme proposes a flat roof with zinc or similar metal finish cladding as well as the provision of two roof top terraces to serve the 2no. apartments on the third floor of block 2 as well as the provision of photovoltaic panels; and the provision of a green/brown roof on top of block 1 to aid biodiversity.

- 6.13. In terms of the detailed design, the scheme has been discussed with the City Design Team officers who have expressed no objections to the amended design, subject to conditions to provide sample materials as well as detailed bay studies (at scale 1:20) of the proposed elevation in order to understand detailing, justifications and articulation of the proposal. Overall it is considered that a good standard of design has been achieved and would assist in reinforcing a strong sense of place in this location. Considering block 2 would be highly prominent in this location on the junction of Tindal Street and Edgbaston Road East, I am of the opinion that the simple design using high quality materials and with a set back third floor would sit comfortably within the existing streetscene and would positively address the visual amenity of the local area.
- 6.14. The proposed layout seeks access into the courtyard area from Tindal Street which would be provided below the proposed flats at the southern end of the site. The access would have a width of 4.3 metres and height of 3.1 metres to allow entrance for emergency vehicles. It would be secured by a sliding gate which is set back from the highway by 5 metres. Refuse storage would be provided within a bin store room within block 2, accessed from the main courtyard area and a second bin area at the southern end of the site, to the rear of the building and with a separate access. Cycle parking provision is also located on the ground floor of block 2 with direct access into the courtyard area. Pedestrian access into the buildings would be from Tindal Street (Block 2) and the internal courtyard area (Block 1) whilst there would be a separate pedestrian access adjoining the sliding gate to access the courtyard area from Tindal Street.
- 6.15. There would be a small external amenity area within the site which can be accessed from the main Longmore House building at the northern end and the 2no. new apartment blocks. In addition, the proposed apartments would be provided with balconies with views into the main courtyard area and towards Tindal Street. The 2no. apartments located on the third floor of block 2 would also have their own privately accessed terraces, located on the flat roof of the building. In addition to the communal garden area, along the boundaries and parking bays suitable landscaping strips have been included. The Council's Landscaping Officer has reviewed the scheme and is supportive of the proposals. In order to ensure the proposed landscaping will be functional and maintained, conditions would be required to provide details of hard and/or soft landscaping, hard surfacing materials, boundary treatment details, landscape management plan and details of the proposed green/brown roof. The conditions have been imposed accordingly.
- 6.16. Therefore, in summary, subject to the recommended conditions, it is considered that the scheme would be of a good quality design which is appropriate in terms of its layout, scale and massing in this location.

Residential Amenity

- 6.17. The application site is located just outside the Balsall Heath Local Centre and within a mixed area, characterised by residential and commercial development. The nearest residential dwellings are located to the south, within the five-storey apartment building at 585 Moseley Road as well as the residential dwellings on the opposite side of Tindal Street. In addition, there is a semi-detached residential dwelling located adjacent to Longmore House at 45/46 Cromer Road with the rear garden adjoining part of the application site.
- 6.18. The scheme complies with the separation distance guidelines set out in Places for Living SPG towards adjoining dwellings. Whilst the scheme seeks to provide

windows within the southern elevation on first, second and third floor, the windows are partly secondary windows and all at an angled position, without direct views towards the windows within the opposite apartment building at 585 Moseley Road which is approximately 20 metres from the application site. The separation distance towards the nearest windows within the rear elevation of dwellings along Edgbaston Road East to the east is approximately 16 metres. Again, it is noted that the windows would be at an angled position and not directly opposite each other which would restrict views into habitable living areas. In addition, the existing road between the dwellings would reduce any direct impact. The same would apply for the relationship between the two new apartment blocks, being located at an angled position in order to prevent any direct overlooking or loss of privacy.

- 6.19. In terms of the 45 Degree Code, along the western boundary, the building has been set back from the boundary by 1.5 metres and whilst there would be a breach with the rear habitable windows located within the two-storey rear wing of 45 Cromer Road and the blank wall of the new apartment block 1, the distance would be approximately 10 metres, which is considered acceptable and would not result in the unacceptable loss of light, privacy or outlook over and above the existing situation which previously featured the 'warehouse style' office building element of the original Longmore House building, located immediately along the boundary of the site.
- 6.20. It is also noted that there would be no windows within the rear elevation of the main Longmore House building. Whilst it is noted that the distance of habitable windows between prior approval scheme apartment 7 (on the ground floor) and apartment 16 (on the first floor) and the blank wall of the side elevation of the proposed apartment block 1 would be approximately 8.1m and therefore would fall short of the recommended 12.5m separation distance as set out in Places for Living, it is noted that the original prior approval permission did not provide any separation distance to the circulation space of adjoining apartments (which have now been omitted from the scheme) and therefore the proposal would result in improved living conditions for the two apartments to what has been previously granted permission under the prior approval.
- 6.21. Overall, it is therefore considered that there would be no adverse impact on existing residents living around the site from this development by way of overlooking, loss of privacy, noise or general disturbance.
- 6.22. In terms of future residents living in the proposed apartments, it is noted that all habitable windows would comply with the guidance on separation distances and would have appropriate outlook either into the internal courtyard area or towards Tindal Street. The scheme itself would also comply with the Council's 45 Degree Code and would not negatively impact on the residential amenity of future occupants.
- 6.23. The scheme proposes 25no. apartments of which 10no. would be one-bedroom apartments with a size ranging between 47.5 and 51 square metres; 5no. apartments would be studio apartments with a size ranging between 40 and 45 square metres; and 10no. apartments would be two-bedroom apartments with a size between 60 and 65 square metres. Therefore, the scheme would comply with the floor space recommendations as set out in 'Technical Housing Standards – nationally described space standards (2015)'.
- 6.24. In terms of external amenity space, Places for Living would usually require 30 square metres of communal amenity space per apartment which would require the provision of 750 square metres for the proposed 25no. apartments to be provided on

site. However, due to the constrained layout and size of the application site and its location close to the Local Centre, the provision on site would be approximately 180 square metres which would also be made available to residents of the prior approval scheme which previously did not provide any external amenity space. Whilst it is acknowledged that the external amenity space provision is limited, it is noted that all apartments exceed national space standards and would also have balconies or roof terraces. Whilst a larger provision would have been supported, this has been weighed against the benefits of the scheme in provision of a high quality new residential development in a sustainable location within close walking distance to amenities as well as the provision of 3no. units on-site affordable housing contribution which would outweigh the potential harm caused by the lower provision of external amenity space.

- 6.25. Regulatory Services has been consulted on the application and raise no objections to the proposed development. Considering nearby commercial uses, they have recommended a condition for a noise insulation scheme to be submitted and agreed in writing with the LPA prior to occupation. In addition, noting the previous uses of the site and the recommendations set out in the submitted ground contamination report, have requested the submission of a contamination remediation scheme and contaminated land verification report. I concur with this view and impose the conditions accordingly. In addition, they have recommended a condition to provide electric vehicle charging points. The applicant has already confirmed that 2no. charging points would be provided within the site and this is shown on the submitted proposed site plan.
- 6.26. Overall it is therefore considered that the scheme is acceptable in terms of its impact on existing residents living around the site and future occupiers of the building subject to conditions as detailed above.

Affordable Housing

- 6.27. Policy TP31 of the BDP 2017 states that the Council will seek 35% affordable housing on developments of 15 dwellings or more and these dwellings should be provided and fully integrated with the proposed development. In the event, that the applicant considers that the above proportion of affordable housing cannot be delivered for viability reasons, a viability appraisal of the proposed scheme will be required.
- 6.28. The application is accompanied by a Financial Viability Appraisal which was independently reviewed by the Council's Viability Assessors, confirming that the maximum the scheme could deliver in terms of affordable housing would be 3no. units (1no. one-bedroom apartment; 1no. studio apartment and 1no. two-bedroom apartment), resulting in 12% of the development provided as affordable accommodation. The Council's Housing Team has confirmed they accept the provision and it is concluded that the scheme does not generate sufficient developer's return to justify a higher affordable housing/ Section 106 contribution payment without impacting on viability and deliverability. Therefore, subject to on-site affordable housing contribution secured via a Section 106 Agreement, the proposed development would comply with Policy TP31 of the BDP 2017.

Public Open Space

- 6.29. Leisure Services has commented on the application and considers that as the application is for over 20 dwellings it would be subject to an off-site Public Open

Space contribution. Based on the current mix this would require a total Public Open Space contribution payment of £45,500.00.

- 6.30. The applicant has submitted a viability assessment and following independent assessment, it was confirmed that except the 12% on-site affordable housing contribution as stated above, no further contribution could be sought from the development without impacting on viability and deliverability. Therefore, whilst comments from local residents in respect of provision of street trees and public and other contribution are noted, this is not possible and I consider it would not be appropriate to seek the public open space or other additional contribution in this instance.

Pedestrian and Highways Impact

- 6.31. The application site is located within a sustainable location, just outside the Balsall Heath Local Centre and within walking distance to bus stops and a range of amenities and shops located within the Local Centre. In addition, it is also located within walking distance to surrounding residential neighbourhoods.
- 6.32. As detailed above, the main potential conflict between the prior approval scheme in 2017 and the current planning application is in relation to providing an appropriate car parking provision. The 2017 prior approval permission sought to provide 16no. car parking spaces to the rear and 17no. spaces to the front of Longmore House for the 27no. apartments (33no. spaces overall).
- 6.33. The current planning application has removed the prior approval parking provision from the rear of Longmore House and has amended the car parking layout to now provide 20no. spaces at the front, continuing to use the existing two access points from Cromer Road. The new apartments of this current application would have their parking provision (25no. spaces) to the rear within the newly created internal courtyard area. For both schemes together this would result in 45no. spaces, which is would be a 100% vehicle parking provision, with each apartment having one vehicle parking space. Of the 25no. spaces provided, 3no. spaces would be allocated for disabled parking, whilst the scheme would also provide 2no. electric vehicle charging points (including one as part of a disabled parking bay).
- 6.34. The access into the site would be from the same location as the previous access into the site. However, this has now been provided with flats above and as a courtyard access with 8no. vehicle parking spaces provided within the undercroft area, below the proposed apartments. It would have a height of 3.1 metres to allow emergency vehicle access with a sliding gate at the entrance for security reasons. There would also be a separate pedestrian access into the courtyard area, located next to the sliding gate access.
- 6.35. Transportation Development has reviewed the proposal and considers the parking provision for the apartments as part of the prior approval and current planning submission, which consist of a mix of one- and two-bedroom apartments, at a level of 100% provision to be acceptable in this sustainable location within close walking distance to the Balsall Heath Local Centre and public transport facilities. In addition, they consider that the access arrangement including the proposed sliding gate, which has been set back from Tindal Street by 5 metres to be appropriate and would not result in potential conflict with pedestrians or other highway users. Whilst concerns from local residents in relation to parking within the local area are noted, Transportation Development have confirmed the scheme to be acceptable.

- 6.36. In addition, they have recommended conditions to provide a new vehicular access and reinstatement of the redundant footway crossings with full height kerbed footway, including all associated highway modifications to BCC specification and at the applicant's expense; provision of a construction method statement/management plan; measures to prevent mud on the highway; no occupation until turning/parking area constructed; parking management strategy; cycle parking prior to occupation; residential travel plan; parking areas laid out prior to use; levels; and boundary treatment details. I concur with this view and impose the conditions accordingly.
- 6.37. Overall, it is therefore considered that there would be no conflict between the 2017 prior approval and the current planning application in terms of parking and cycle storage provision, and the scheme would have no unacceptable impact on highway or pedestrian safety and is therefore considered acceptable.

Drainage and Flooding

- 6.38. The application site is located within Flood Zone 1 and the applicant has submitted a Drainage Strategy including details of storm water drainage with the application. The Lead Local Flood Authority (LLFA) has commented on the application and overall they are satisfied with the provision and details submitted; however have requested from the applicant the submission of the 'Severn Trent Developer enquiry form' confirming that Severn Trent will accept the proposed 5 l/s discharge rate from the proposed development site, in order to recommend suitable conditions for the development. The document has since been provided, and subsequently, conditions have been recommended to provide a surface water drainage scheme and sustainable drainage and operation maintenance plan. I concur with this view.
- 6.39. In addition, Severn Trent raises no objection to the proposal in terms of sewerage, but request the inclusion of conditions to provide drainage plans for the disposal of foul and surface water flows and their implementation in accordance with the approved details. The condition has been imposed accordingly.

Other matters:

- 6.40. Ecology: Policy TP8 (Biodiversity and Geodiversity) and the BDP 2017 requires all development, where relevant, to support the enhancement of Birmingham's natural environment. Measures should be appropriate to the nature and scale of the development proposed. The site is considered to currently have negligible ecological value, given its highly urbanised location and lack of vegetated habitats and the proposed development provides an opportunity to incorporate ecological enhancement measures to improve biodiversity within the local area. Following discussions with the applicant and the City's Ecologist, the scheme seeks to provide a green biodiversity roof on the flat roof of block 1 which has a size of approximately 175 square metres. The City's Ecologist has confirmed they support the proposed inclusion of a biodiversity roof which would deliver SuDS and ecological benefits and provides an opportunity to achieve a biodiversity net gain from the development. The details of the biodiversity roof would be agreed at a later stage and therefore a condition is recommended in this regard. I concur with this view and impose the conditions accordingly.
- 6.41. Community Infrastructure Levy - The proposal would not attract a Community Infrastructure Levy (CIL) contribution.
- 6.42. Energy and Sustainability – Policy TP3 (Sustainable Construction) of the BDP 2017 sets out a number of criteria which should be considered to demonstrate sustainable

construction and design. In addition, Policy TP4 (Low and zero carbon energy generation) requires new development to incorporate low and zero carbon forms of energy generation, unless it is unviable to do so. The application is supported by an Energy Statement and Sustainable Construction Statement which state that provision of photovoltaic panels has been considered in order to reduce the energy provision by 10%. This would be provided on the flat roof of Block 2, namely apartments 15, 16, 17, 24 and 25. No further details have been provided and it is therefore considered appropriate to impose a condition to clarify and provide details of the photovoltaic provision. In addition, the scheme follows the 'fabric first' approach including increased loft insulation, high performance glazing and highly efficient heating systems. Materials will be locally sourced wherever possible including locally sourced labour, maximising job creation and reducing ways to and from the site. The specific design of the scheme seeks to maximise the use of natural and day light as well as the provision of separate recycling bins aiding the reduction of carbon emissions and being more energy efficient. On this basis, whilst I note concerns have been raised by a local resident that the development would not be sustainable, it is considered the proposal would comply with the adopted policies.

7. Conclusion

- 7.1. The application seeks planning permission for the provision of 25no. apartments on the site to the rear of Longmore House which is currently being converted to 20no. apartments as part of the recent 2017 prior approval permission. The current scheme has been designed taking into account the adjoining residential scheme and has fully acknowledged and addressed conflicts in relation to parking provision and cycle storage. It is therefore considered, the application is appropriate in terms of its principle, would be of an attractive design and not negatively impact on the visual amenity of the local area. In addition, it would be acceptable in terms of its impact on residential amenity and highways safety and has addressed matters in relation to drainage, landscaping, ecology and sustainability. Therefore, the scheme is recommended for approval subject to conditions and the completion of a S106 Legal Agreement to provide 3no. units of affordable housing.

8. Recommendation

- 8.1. Approve, subject to conditions and pending the completion of a Section 106 Legal Agreement.
- 8.2. The Legal Agreement to secure the following:
- On-site affordable housing provision of 3no. units, namely 1no. one-bedroom apartment; 1no. two-bedroom apartment; and 1no. studio apartment (12%) as Low Cost Home Ownership tenure at 20% discount on market value.
- 8.3. That the City Solicitor be authorised to prepare, seal and complete the appropriate agreement.
- 8.4. In the event of the above legal agreement not being completed to the satisfaction of the Local Planning Authority on or before 23rd October 2020, planning permission be REFUSED for the following reason:
- The proposal represents an unacceptable form of development as it would not achieve a Section 106 Planning Obligations in the form of appropriate

affordable housing. This is contrary to policies TP31 and TP47 of the BDP 2017, Affordable Housing SPG and NPPF 2019.

- 8.5. That in the event of the planning obligation being completed by 23rd October 2020, the application is recommended for approval, subject to conditions.

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|----|--|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Implement within 3 years (Full) |
| 3 | Requires the submission of sample materials |
| 4 | Requires the submission of Bay Studies at Scale 1:20 |
| 5 | Requires the prior submission of level details |
| 6 | Requires the submission of boundary treatment details |
| 7 | Requires the submission of hard and/or soft landscape details |
| 8 | Requires the submission of hard surfacing materials |
| 9 | Requires the submission of a landscape management plan |
| 10 | Requires the provision of agreed highway works |
| 11 | Requires the prior submission of a construction method statement/management plan |
| 12 | Requires the submission of details to prevent mud on the highway |
| 13 | Requires the submission of a parking management strategy |
| 14 | Requires the provision of cycle parking prior to occupation |
| 15 | Requires the submission of a residential travel plan |
| 16 | Requires the parking area to be laid out prior to use - Tindal Street |
| 17 | Requires the parking area to be laid out prior to use - Longmore House |
| 18 | Requires the submission a Noise Insulation Scheme to establish residential acoustic protection |
| 19 | Requires the prior submission of a contamination remediation scheme |
| 20 | Requires the submission of a contaminated land verification report |
| 21 | Requires the provision of a vehicle charging point |
| 22 | Requires the prior submission of drainage plans for the disposal of foul and surface water flows |
| 23 | Requires the submission of details of green/brown roofs |
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- 24 Requires the prior submission of details of proposed photovoltaic installations
 - 25 Requires the prior submission of a surface water drainage scheme
 - 26 Requires the submission of a Sustainable Drainage Operation and Maintenance Plan prior to occupation
-

Case Officer: Laura Pohl

Photo(s)

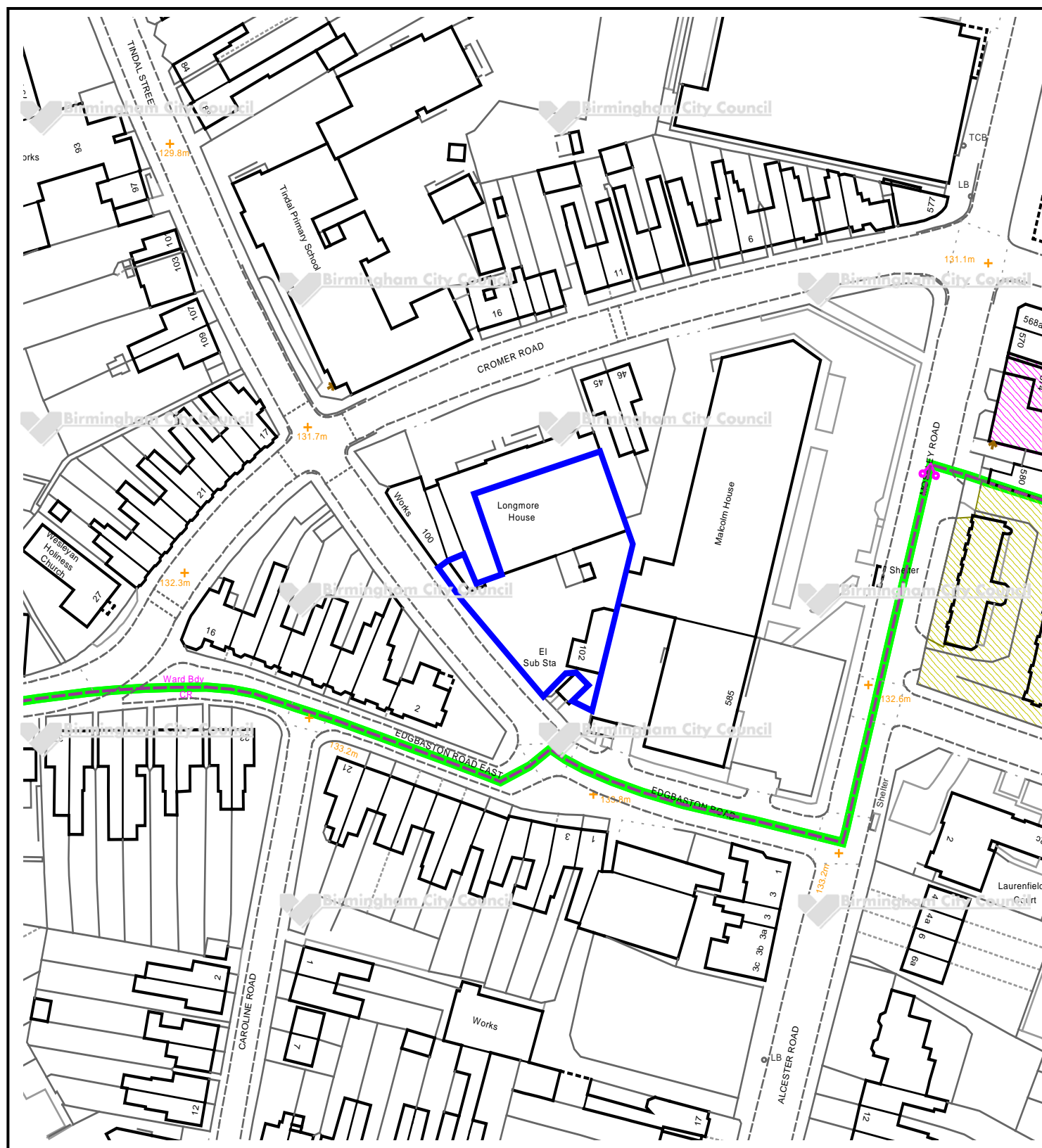


Image 1: View into site from Tindal Street towards rear of Longmore House



Image 2: View towards Malcolm House to the east (left) and 585 Moseley Road to the south-east (right)

Location Plan



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Birmingham City Council

Planning Committee

08 October 2020

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>
Determine	12	2020/04588/PA 27 Camplin Crescent Handsworth Wood Birmingham B20 1LS Application for a Lawful Development Certificate for the proposed change of use from residential dwelling (Use Class C3) to children's home (Use Class C2)
Determine	13	2020/04822/PA 127 Green Lane Handsworth Birmingham B21 0DH Retrospective application for the change of use from residential dwelling (Use Class C3) to children's care home (Use Class C2)
Approve - Conditions	14	2020/03876/PA Steel Plate and Sections Ltd Forge Lane Sutton Coldfield B76 1AH Erection of commercial units for B1c, B2, and B8 Uses together with associated first floor mezzanines, access, parking and landscaping.
Prior Approval Required - Approve - Conditions	15	2020/06904/PA 64-146 Wellhead Lane Perry Barr Birmingham B42 2SY Application for Prior Notification for the proposed demolition of existing residential properties

Committee Date:	08/10/2020	Application Number:	2020/04588/PA
Accepted:	22/06/2020	Application Type:	Proposed Lawful Use/Development
Target Date:	25/09/2020		
Ward:	Handsworth Wood		

27 Camplin Crescent, Handsworth Wood, Birmingham, B20 1LS

Application for a Lawful Development Certificate for the proposed change of use from residential dwelling (Use Class C3) to children's home (Use Class C2)

Recommendation
Determine

Report Back

Members will recall that this application was presented to Planning Committee on the 24th of September 2020, with a recommendation to grant the lawful development certificate. At that meeting, Members were minded to refuse the application on the grounds that the characteristics of the proposed use of the development were materially different from the characteristics of the site, as a C3 Dwelling-house. Officers have drafted the following reason for refusal, based upon Members comments and observations:

1. The characteristics of the proposed development are considered to be materially different to the characteristics of the existing use of the application site, by reasons of activities associated with the care home differing materially from those of a single family dwellinghouse. As such, a Lawful Development Certificate for the proposed change of use from residential dwelling (Use Class C3) to children's home (Use Class C2) cannot be issued and the application is hereby refused.

Original Report

1. Proposal
 - 1.1. This application has been submitted for a Certificate of Lawfulness for the proposed change of use from a residential dwelling (Use Class C3) to a children's care home (Use Class C2) for up to three children/young people with up to two full-time resident carers. However, whilst the applicant acknowledges that the proposed use would fall under Use Class C2, they consider that there is no 'material' difference between the existing and proposed use, hence planning permission is not required.
 - 1.2. The application includes no internal or external alterations to the building or wider application site. The existing layout of the ground floor comprises a lounge, sitting room, kitchen and WC. The existing layout of the first floor comprises four bedrooms (two en-suites) and a bathroom.
 - 1.3. The supporting information states that the proposed care home would accommodate up to three children/young people, with two full-time resident carers working on a rota basis and sleeping overnight. Staff will operate on a rota of 48 hours on and 48

hours off. A manager will be on site during weekdays from 09:00 to 17:00. It is anticipated that during the day the children/young people will attend a DfES registered school, attend mainstream school or receive home schooling.

1.4. [Link to Documents.](#)

2. [Site & Surroundings](#)

- 2.1. The application site comprises a modern detached dwelling house designed with a pitched roof and forward garage. The property has been previously extended with a single storey rear extension (built under permitted development) and a first floor rear extension (2016/03229/PA). The site features a paved driveway to the front and a large garden to the rear. The surrounding area comprises residential properties of a similar age and design.

2.2. [Site Location.](#)

3. [Planning History](#)

- 3.1. 2016/03229/PA - Erection of a first floor rear extension – Approved subject to conditions.
- 3.2. 2013/06084/PA - Erection of single and two storey rear extension – Refused.

4. [Consultation/PP Responses](#)

- 4.1. Whilst no public consultation is required for this application, 22no. letters of objection were received, raising the following concerns:
- Potential for anti-social behaviour, crime and substance abuse;
 - Impact on local community, families, children and elderly people;
 - Impact on residential character of the area;
 - Concerns regarding the company making the application;
 - Noise and disturbance issues;
 - Traffic, parking and highways safety issues;
 - Concerns regarding the nature of the occupants and behavioural issues;
 - Lack of public consultation;
 - Devaluation of house prices, and;
 - Litter and rubbish dumping.

5. [Policy Context](#)

- 5.1. Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) (as amended).

6. [Planning Considerations](#)

- 6.1. The main issues for consideration in determining this application are firstly; whether the proposed use is actually C3 (b) or C2 and secondly; whether this change constitutes a 'material change of use'.
- 6.2. There is no permitted change of use from C3 Use Class (Dwellinghouse) to C2 Use Class (Residential Institution) under the Town and Country Planning (England) Order 2015 (as amended). However, the applicant states that the proposed children's care home (Use Class C2) for up to three children/young persons cared

for by two full-time resident care staff would not involve a 'material change of use' from a C3 dwellinghouse use, and therefore planning permission is not required for the proposed use.

6.3. The Town and Country Planning (Use Class) Order (as amended) defines a dwellinghouse in three parts, consisting of:

- C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child.
- C3(b): up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems.
- C3(c) allows for groups of people (up to six) living together as a single household."

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

Single household:

6.5. In determining this application, the starting point is to first establish whether the residents would live as a 'single household' which would make up no more than six people. Analysis as to whether residents make up a single household will depend on the specific facts of each case. The City Council's legal department have advised that case law and appeal decisions demonstrate that the idea of living together as a single household is determined by several indicators, including:

- living conditions and general layout;
- communal use of shared areas amongst the residents;
- carrying out of household duties together;
- are the residents capable of running the house as a conventional residential dwelling;
- the nature of the relationship between the residents, and;
- are the residents assisted with the running of the household by the carers rather than the carers running the household for the residents.

6.6. The overall layout of the building is that of a conventional residential dwelling house, comprising a lounge, sitting room and kitchen on the ground floor, with individual bedrooms and shared bathroom on the first floor. The planning statement states that facilities such as the bathroom, kitchen and living rooms would be shared among the residents and the living mode would be communal. However, it is not clear if the residents will be carrying out household duties, or if the residents are capable of running the house as a conventional residential dwelling. The planning statement specifies that the children will be 'able to take shared meals prepared for them or make their own food or drink'. However, the fact that there will be carers on a 48 hour rota demonstrates that the children are dependent on them and are not self-sufficient.

- 6.7. If a children's home is being run on the basis of factors outlined above and the children are being looked after by a permanent resident of the dwellinghouse, this would constitute a single household. However, the matter is less clear when the care is based on staff members who are not residents and work shift patterns, as is the case within this application.
- 6.8. Case law since the North Devon Case (2004) has generally followed this principle, with recent appeals indicating a trend of applications for a change of use from C3 to C2 where children's homes are operated on the basis of staff working shifts. Based on the level care provided to the residents detailed in the information provided, it is considered that the proposed use in this case does not amount to a single household or a conventional residential dwelling and so would fall within Use Class C2 (Residential Institution).

Material change of use:

- 6.9. In assessing where the proposed change constitutes a 'material change of use', the following indicators taken from case law and appeal decisions deal with impacts on amenity;
- combination/cumulative effect of movements to and from the premises;
 - highways safety and parking;
 - sufficient private amenity space;
 - fear of crime/anti-social behaviour;
 - intensification of similar uses;
 - effect on supply of family sized housing as a result of alterations
 - external alterations, and;
 - internal alterations.
- 6.10. The planning statement suggests that the care home staff will work shifts of 48 hours and the applicant has supplied a table demonstrating the proposed comings and goings of staff. Considering the location and the similarly sized family houses in the vicinity, visits from staff and family members would not potentially generate significantly more movement to and from the premises than that of a family dwelling of a similar size. It is therefore considered that the proposed use would cause no significant amenity issues due to the cumulative effect of movements to and from the premises on neighbouring occupiers, nor would it cause any greater impact on highways safety and parking than could be expected from a family dwelling of a similar size.
- 6.11. The proposed layout of the building is that of a typical family dwelling house, and the proposal involves no internal alterations to the building that would prevent it from being used as family housing in the future. Likewise, the proposal involves no external alterations to the building and its appearance would therefore remain that of a typical residential dwelling. The site provides approximately 127sqm of external private amenity space to the rear of the building, which is considered a sufficient space for the proposed care home use. An assessment of the surrounding area demonstrates that there are currently no other care homes in close proximity to the site, meaning that the proposed use would not result in an overconcentration of intensive residential uses in this location.
- 6.12. In terms of a well-founded fear of crime and antisocial behaviour; there is no evidence of any known local issues that could be affected by the proposed use. Furthermore, the nature and type of people to occupy the premises is not a material

planning consideration and it noted that this type of accommodation has a role to play in housing certain groups in society. In light of this, a robust reason for refusal on crime and the fear of crime could not be sustained.

Other matters:

- 6.13. It is noted that a number of letters of objection were received during the assessment process and the material planning considerations raised by objectors have been addressed within the above assessment. Concerns regarding the company making the application, the nature of the occupants, as well as the impact on house prices are not material planning considerations and have not therefore been taken into consideration during the assessment process.

7. Conclusion

- 7.1. It has been demonstrated that the proposed use of 27 Camplin Crescent as a residential children's care home for accommodation for up to three children/young people and two carers (Use Class C2) would not result in a material change from use of the property as a Class C3 dwelling house and a Certificate of Lawfulness of Proposed Use should be approved.

8. Recommendation

- 8.1. Section 191/192 Permission is not required and a lawful development certificate should be issued.

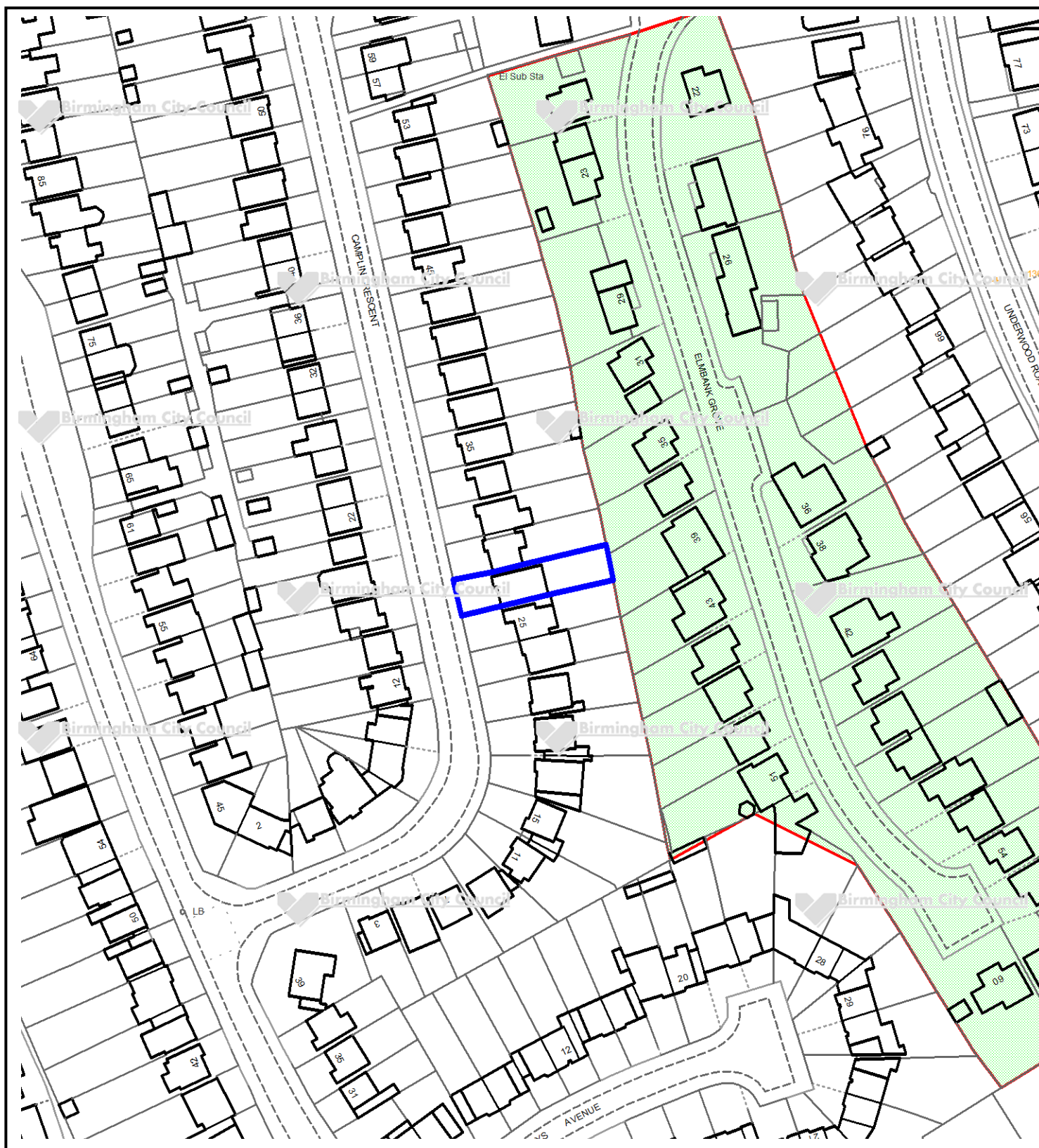
Case Officer: Thomas Morris

Photo(s)



Photo 1: Front Elevation

Location Plan



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Committee Date:	08/10/2020	Application Number:	2020/04822/PA
Accepted:	10/07/2020	Application Type:	Full Planning
Target Date:	25/09/2020		
Ward:	Holyhead		

127 Green Lane, Handsworth, Birmingham, B21 0DH

Retrospective application for the change of use from residential dwelling (Use Class C3) to children's care home (Use Class C2)

Recommendation

Determine

Report Back

Members will recall that this application was presented to Planning Committee on the 24th of September 2020, with a recommendation to approve the application subject to conditions. At that meeting, Members were minded to refuse the application on the grounds that the scheme was not compliant with policy, in terms of the site being a terraced dwelling, as well as the impact the development would have on the amenity of the future children who would occupy the site, alongside the detrimental impact upon the amenity of adjoining residents.

Officers have drafted the following reason for refusal, based upon Members comments and observations.

1. The proposed development would cause demonstrable harm to the amenity of adjoining residents due to the use of a small terraced house as a children's care home and associated activities of the use. As such, the proposed development would be in conflict with Policy PG3 of the Birmingham Development Plan 2017, saved paragraphs 8.28 and 8.29 of the Birmingham UDP 2005, the Specific Needs Residential Uses SPG and the National Planning Policy Framework.

2. The proposed children's care home would provide an unacceptable standard of residential amenity for future occupiers, by reason of its size and limited space to accommodate the residents and carers, and that it has not been demonstrated that this is a suitable location for the residents by virtue of being located within an area of high crime and anti-social behaviour. As such, the proposed development would be in conflict with Policy PG3 of the Birmingham Development Plan 2017, saved paragraphs 8.28 and 8.29 of the Birmingham UDP 2005, the Specific Needs Residential Uses SPG and the National Planning Policy Framework.

Original Report

1. Proposal
 - 1.1. This is a retrospective application for the change of use of the building from a residential dwelling (Use Class C3) to a children's care home (Use Class C2).
 - 1.2. The proposed children's care home would accommodate a maximum number of two children and six members of staff. Staff will be located at the accommodation 24 hours a day and depending on the needs of the children, staff will stay overnight.

- 1.3. The internal layout comprises a reception room (13.6sqm), living room (16.7sqm), kitchen (9.7sqm) and bathroom (5.4sqm) at ground floor level. The first floor would comprise bedroom 1 (12.7sqm) and bedroom 2 (9.9sqm). There are no external or internal alterations proposed to the building.
- 1.4. No off-street car parking spaces are proposed and there would be no alterations to the site's access.
- 1.5. The supporting information states that the children to accommodation the care home are subject to Section 20 or Section 31 of the Children's Act 1990, and will have had difficult experiences during their childhood. Some of the children may have behavioural difficulties.

1.6. [Link to Documents](#)

2. [Site & Surroundings](#)

- 2.1. The application site comprises a traditional two storey terraced dwellinghouse designed with a pitched roof and single storey extension. The property features a yard area comprising 29.3sqm is provided to the rear of the building. The surrounding is primarily residential in nature and comprises properties of similar age and architectural style.

2.2. [Site Location.](#)

3. [Planning History](#)

- 3.1. No planning history.

4. [Consultation/PP Responses](#)

- 4.1. Local ward councillors, residents associations and the occupiers of neighbouring properties were consulted and a site notice was posted. 2no. letters of objection were received which raised the following concerns:

- The property is a terraced house in a densely populated area, meaning it is difficult to control noise and intrusion;
- Impact on neighbour's rights to privacy;
- Concerns regarding the nature of children to occupy the property and issues regarding mental health, violence and aggression;
- The property has no front garden and the back garden is very small;
- The back alleyway is never clear or maintained and is a fire hazard;
- Increase in comings and goings from staff members; leading to an increase in parking pressure.

- 4.2. 1no. letter of objection was received from Cllr Hamilton, which raised the following concerns:

- The high number of HMO's and rented properties in the area;
- Impact on parking;
- Anti-social behaviour;
- Rubbish dumping;
- Impact on elderly and young families.

- 4.3. Children's Commissioning – commented that they have been aware of the property operating unlawfully as an unregistered children's home and have received notification from Ofsted. They advise that the provider needs to fully engage with neighbours, police and the Birmingham Children's Trust and will need to undertake a location risk assessment to assess the risks and issues within the neighbourhood that may impact on the care they are offer. Staff would need to be appropriately trained and DBS checked before the Trust considers placing children with the applicant. It has also been pointed that there are eight other children's homes registered with Ofsted within the B20 and B21 areas.
- 4.4. Regulatory Services – no objections and no conditions recommended.
- 4.5. Transportation Development – no objections and recommends a condition to restrict the number of children to be accommodated at the premises.
- 4.6. West Midlands Police – object to the proposal, stating that the site's location would not comply with the safeguarding requirements under the Children's Homes (England) Regulations 2015 s12(2)c.

5. Policy Context

5.1. Relevant Local planning policy:

- Birmingham Development Plan (BDP) 2017;
- Birmingham Unitary Development Plan (UDP) (Saved Policies) (2005);
- Specific Needs Residential Uses SPG (1992);
- Car Parking Guidelines SPD (2012).

5.2. Relevant National planning policy:

- National Planning Policy Framework (NPPF) (2019).

6. Planning Considerations

Policy context:

- 6.1. The relevant local planning policies that apply to residential care homes, as defined by Use Class C2 (Residential Institutions), are contained within paragraphs 8.28 and 8.29 of the Birmingham Unitary Development Plan (UDP) (Saved Policies) and the Specific Needs Residential Uses SPG.
- 6.2. Paragraph 8.29 of the UDP states that proposals for care homes should not cause demonstrable harm to the residential amenity of occupiers of nearby properties by reason of noise and disturbance nuisance. Residential care homes are normally most appropriately located in large detached properties set in their own grounds. The development of such uses in terraced houses will not be acceptable, unless adjoining occupiers can be safeguarded against loss of amenity due to, for example, undue noise disturbance.
- 6.3. Where a proposal relates to a site in an area which already contains premises in similar use, and/or houses in multiple paying occupation and/or properties converted into self-contained flats, account will be taken of the cumulative effect of such uses upon the residential character and appearance of the area.

- 6.4. Proposals for care homes should not prejudice the safety and free flow of traffic in the adjoining highways and adequate outdoor amenity space (minimum 16sqm of space per resident) should be provided to ensure a satisfactory living environment for residents.

Principle of development:

- 6.5. The application site comprises a terraced dwellinghouse, which wouldn't normally be considered acceptable for a care home use in wider policy terms. However, the proposed use of a terraced house for a children's care home is considered acceptable in this instance, given that the proposal is for a small care home and would accommodate a maximum of two children only. It is not therefore considered that the proposed care home would cause any undue noise and disturbance on adjoining occupiers, over and above what would be expected from the existing residential dwelling house use.
- 6.6. The surrounding area is residential in nature and primarily comprises single family dwelling houses. In term of the cumulative effect the proposal would have on the existing residential character and appearance of the area, according to the latest records available to the City Council, an assessment of the area indicates that there are 190 properties within a 100m radius of the site, and only 1 of these is currently within an intensive residential use. It is not therefore considered that the introduction of the proposed children's care home, particularly of such a small scale, would result in an overconcentration of intensive residential uses that would cause a noticeable impact on the residential character and appearance of the area.
- 6.7. In light of the above, officers consider that there are insufficient grounds to refuse the principle of the proposed development, and the change of use from residential dwelling house (Use Class C3) to a children's care home (Use Class C2) for up to two children is therefore considered acceptable, subject to the proposal complying with other material planning considerations.

Impact on residential amenities:

- 6.8. The Specific Needs Residential Uses SPG advises that the minimum bedroom size for care home uses is 6.5sqm for individual bedrooms that provide shared facilities. The two bedrooms provided at the care home at 12.7sqm and 9.9sqm are well in excess of this recommendation. An outdoor amenity space of 29.3sqm would be provided to the rear of the building, which falls slightly short of 16sqm policy requirement per resident (32sqm total), however, this shortfall is considered acceptable given that it is of minimal scale.
- 6.9. In terms of the impact the proposal would have on neighbour's amenity, the application proposes the conversion of a two bedroom mid terraced house to a children's care home, for a maximum of two children. Regulatory Services were consulted and have advised that given the total occupation of the proposed children's care home is unlikely to be greater than that of a typical family; the proposed use is unlikely to have a greater noise and disturbance impact on the adjoining properties than that of typical family dwelling house.
- 6.10. In light of the above, it is considered that the proposed development would provide an acceptable standard of accommodation for future occupiers of the children's care home, and would cause no detrimental impact on the amenities of neighbouring occupiers.

Highway and pedestrian safety:

- 6.11. Transportation Development have assessed the application and have raised no objection on highways and pedestrian safety grounds, subject to a condition restricting the number of children to be accommodated at the care home to a maximum of two children as is proposed.
- 6.12. The Car Parking Guidelines SPD (2012) specifies a maximum car parking provision of 1.5 spaces per residential dwelling and 1 space per 3 bed spaces for a care home in this location. Whilst no on-site parking provision is included within the proposal, transport officers advise that the proposed care home use would unlikely increase parking demand when compared to the existing family dwelling use. Furthermore, it is noted that the site has good access to public transport connections and is located within 500m from the Booth Street Metro station.
- 6.13. Given the assessment above, the proposed development is therefore considered to be acceptable in relation to highways and pedestrian safety and parking matters, subject to the relevant condition attached.

Anti-social behaviour and crime:

- 6.14. West Midlands Police were consulted and have objected to the proposal, due to the site's location within an area of high crime and anti-social behaviour and therefore being in conflict with the Children's Homes (England) Regulations 2015 s12(2)c. The regulation states that the 'premises used for the purpose of the home are located so that children are effectively safeguarded'. Figures provided by West Midlands Police demonstrate that the proportion of crime in this area is double the average for England and Wales and as such, West Midlands Police cannot support the application.
- 6.15. Crime and the fear of crime is a material planning consideration. However, the 'Specific Needs Residential Uses' SPG is clear that the nature and type of people to occupy premises is not a material planning consideration. It is also important to stress that the behaviour of tenants/occupiers are not a matter for Planning Authorities but it is recognised that over concentrations can impact upon residential amenity, community cohesion and housing mix as well as residential character. The objection from West Midlands Police refers to crime levels across the whole of Ladywood Constituency and Handsworth. These are large areas, however, there is no specific evidence regarding this particular proposal in this particular location. The objection makes reference to the postcode being within an area of multiple deprivation, but overall, there is insufficient evidence to give the matter sufficient weight.

Other matters:

- 6.16. The objections received during public consultation have been considered during the assessment process. Whilst concerns were raised regarding HMO's, it should be noted that this proposal is for a care home and not for a HMO and as such, concerns regarding HMO's have not been taken into consideration.

7. Conclusion

- 7.1. On balance, the proposed change of use from a residential dwelling to a children's care home complies with the policies set out above and is therefore recommended for approval subject to conditions.

8. Recommendation

8.1. Approve subject to conditions.

1 Limit the Number of Children Residing

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

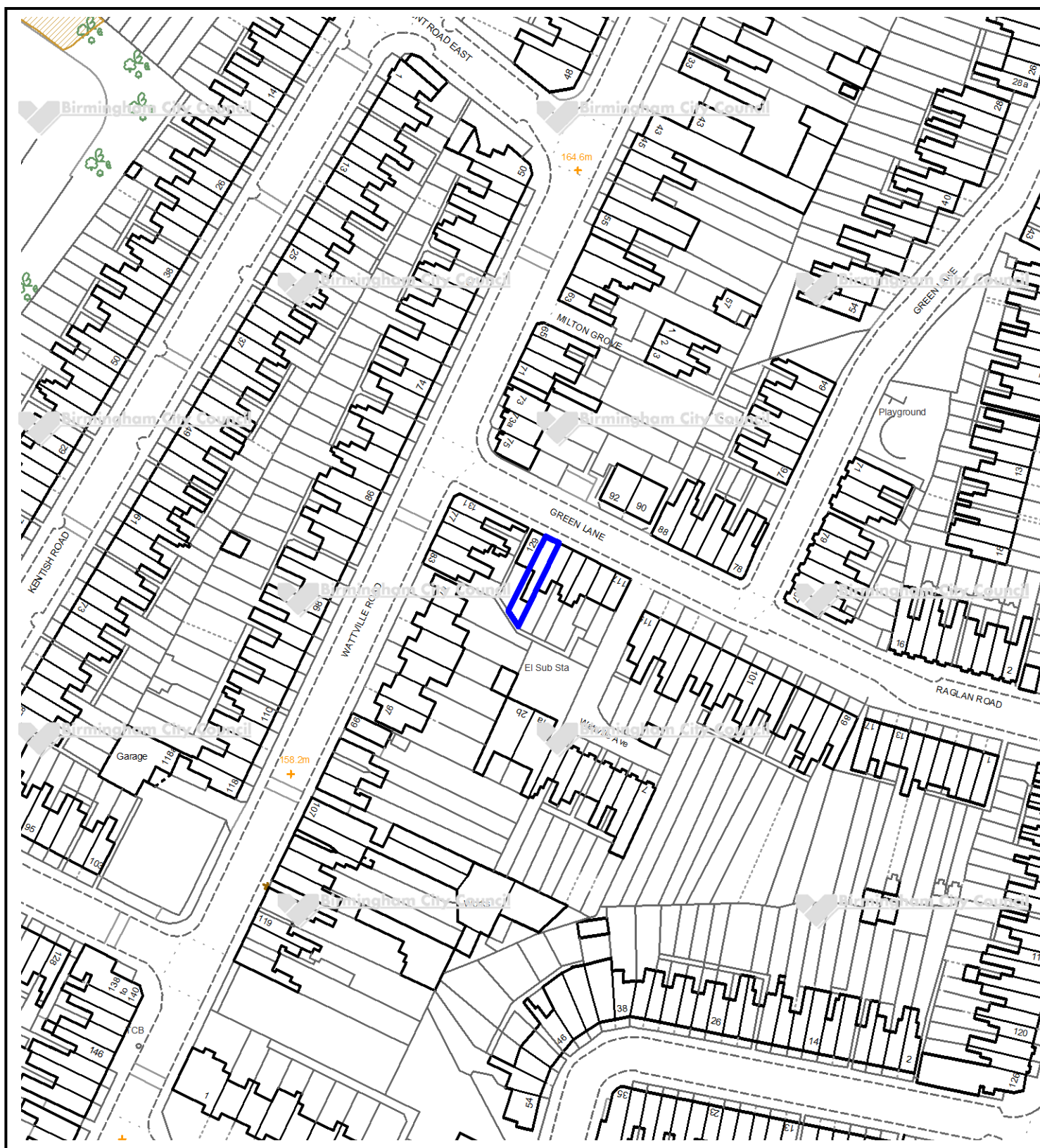
Case Officer: Thomas Morris

Photo(s)



Photo 1: Front Elevation

Location Plan



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Committee Date:	08/10/2020	Application Number:	2020/03876/PA
Accepted:	27/05/2020	Application Type:	Full Planning
Target Date:	16/10/2020		
Ward:	Sutton Walmley & Minworth		

Steel Plate and Sections Ltd, Forge Lane, Sutton Coldfield, B76 1AH

Erection of commercial units for B1c, B2, and B8 Uses together with associated first floor mezzanines, access, parking and landscaping.

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. This planning application seeks consent for the erection of 11no. commercial units for B1c (E), B2, and B8 uses together with associated first floor mezzanines, access, parking and landscaping on land at the former Steel Plate and Sections Ltd factory, Forge Lane, Sutton Coldfield.
- 1.2. The proposals comprise eleven units with first floor mezzanines for use within Class B1c (E), B2, and B8 Uses totalling 6,690sqm of floorspace. The units would be built to shell and core, with the final fit out the responsibility of the end occupier.
- 1.3. The proposed appearance of the front of the units would be clad in Microrib cladding in Merlin Grey (BS 10B25) and profiled horizontally laid cladding with all flashings in Metallic Silver (RAL 9006).
- 1.4. To the rear and sides, the units would be clad in a profiled trapezoidal horizontally built-up cladding, and all flashings in Metallic Silver (RAL 9006). The exception to this being the rear elevations of units 2-5 which would have an alternate cladding colour in Merlin Grey (BS 18D25) and Prisma Metallic Silver (RAL 9006).
- 1.5. Each unit would have a trapezoidal insulated roof in Goosewing Grey (BS10A05). All flashing around doors and windows would be Chancerygate Green (RAL6018). The window frames would be made from powder coated aluminium and fitted with grey tinted glass. Refuse stores would be located within each unit.



- 1.6. The proposed site layout would consist of a single unit to the north and three terraces split into ten units, totalling eleven units. The layout has been influenced by the need to retain the right of access for Veolia, whose only access is via the application site, as well as the culvert which runs along the south-eastern boundary.
- 1.7. The development would be provided with 105no. car parking spaces and 28no. cycle parking spaces. It is proposed that 10% of parking spaces would be provided with electric charging points.
- 1.8. Access would be retained from Forge Lane on the northern boundary of the Site which would also continue to serve the adjacent land to the south. The southernmost access on Forge Lane would be closed.



- 1.9. The landscape proposals comprise existing trees to the northernmost corner of the Site to be retained, continuing to act as a buffer between the site and the residential dwellings on Forge Lane. New planting is proposed to the north-eastern boundary. The existing vegetation lining the culvert would be enhanced through the addition of further defensive shrub planting along the culvert banks.
- 1.10. The exterior hardstanding would comprise of concrete block paving, service yard slabs, and tarmac for the estate road. The perimeter of the Site would be fenced with a new 2.4m high Paladine style fence that would incorporate vehicular gates.
- 1.11. The proposed development is considered speculative in nature and on this basis, no details of hours of operation or jobs created are available at this stage. On construction, the units would be marketed for freehold sale.
- 1.12. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site is located within the established industrial and distribution area at Minworth Industrial Park and measures 1.3ha. The site currently comprises a single industrial unit to the north-west of the site, and two open storage yards to the south east and north east, the latter bordered by mature trees. The Site is located within the established industrial area of Minworth Industrial Park, which is designated as a Core Employment Area within the Birmingham Development Plan.
- 2.2. The Site is predominantly surrounded by existing industrial units. There are residential properties located approximately 100 metres from the Site to the north-east separated from the Site by Forge Lane and an area of open space and trees. Access is currently taken from Forge Lane via two access points. A right of way exists through the Site to allow access to the adjacent site operated by Veolia. Forge Lane runs in a north-south direction parallel to the Site and connects to the A38 to the north-east and the A452 to the west.
- 2.3. Within the red line as shown on the submitted Site Plan, is an open culvert which follows the southern boundary of the Site. This culvert links to the Birmingham and Fazeley Canal to the south and becomes a covered culvert to the north boundary of the Site running under Forge Lane further north. The Site falls within Flood Zone 1.
- 2.4. [Site location](#)

3. Planning History

- 3.1. 09.06.2020 - 2020/03594/PA - Application for Prior Notification for the proposed demolition of existing industrial building – Prior approval required and to approve with conditions.
- 3.2. Multiple historic planning applications associated with previous building on the site.

4. Consultation/PP Responses

- 4.1. Transportation Development – recommend conditions to ensure redundant footway crossing to be reinstated with full height kerbs; vehicular visibility splays to be maintained; secure and covered cycle parking to be provided; vehicular access gates to be retained open during operational hours; and fund the review and implementation of Traffic Regulation Order to prohibit / regulate waiting in the vicinity of the site.
- 4.2. Regulatory Services – recommend condition to secure maximum noise levels for plant and machinery.
- 4.3. Local Lead Flood Authority – recommend conditions to secure the submission of a method statement for works adjacent the watercourse channel prior to above ground works and the submission of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan prior to above ground works.
- 4.4. BCC Ecologist – recommend condition to ensure that lighting plan, landscape plan and bird and bat box details are implemented.

- 4.5. BCC Employment Team – no objection subject to condition to secure the implementation of the submitted employment strategy.
- 4.6. West Midlands Fire Service – no objection.
- 4.7. Highways Agency – no objection.
- 4.8. Environment Agency – no objection.
- 4.9. Site Notice posted. Ward Members, MP and neighbours notified. No representations received.

5. Policy Context

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

6. Planning Considerations

Principle of Development

- 6.1. The application site forms part of an established commercial location, with the surrounding uses commercial in nature with a mix of industrial and DIY / trade retail uses present. The site forms part of a Core Employment Area, designated under Policy TP19 of the Birmingham Development Plan.
- 6.2. In accordance with the recent changes to the Use Classes Order under The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, B1c use is now covered by use class E (g) (iii) general industrial. Class E covers Commercial, Business and Service and permits changes of use within this use class without the need for planning permission. In order to safeguard the function of the Core Employment Area in which the application site is designated, it is recommended that a condition to ensure that the development is subject to a restricted use which is consistent with that which is appropriate within industrial areas.
- 6.3. The proposals comprise the erection of 11no. industrial units in a range of sizes, between 415sqm and 1,180sqm. Whilst it is understood that the development is speculative, I am satisfied that the proposed development is acceptable in principle in this location, and would comply with relevant adopted national and local planning policy.

Design, Appearance and Layout

- 6.4. To complement existing character, and to create more activity to the street frontage, design amendments were incorporated into the proposals to add high level glazing to the rear elevations of units 2-5 to improve the presence that the units would have on Forge Lane.
- 6.5. Whilst City Design Officers raise concerns with regards to the development by virtue of the proposed site layout and the need for a stronger landscape treatment, on balance, I am of the view that the development would achieve considerable economic benefits which would outweigh any perceived harm caused from a visual

amenity perspective. Conditions are recommended to secure an appropriate boundary treatment and hard and soft landscaping details in order to mitigate any impact which arises as a result of the development.

- 6.6. The application proposals incorporate a design and site layout which is reflective of the character of the Core Employment Area that the site forms part of, with the appearance of commercial units within an industrial terrace. I am satisfied that the proposals would be acceptable in the context of the public realm and street scene, considering the established commercial character of the site surroundings.

Impact on Flood Risk and Drainage

- 6.7. The application site is located in Flood Zone 1 and is understood to be not at risk of fluvial flooding. Whilst the site is located to the west of the Birmingham and Fazeley Canal, no concerns are raised by the Canal and River Trust of the impact of the proposals on the canal. The development does incorporate an existing culvert which is located on the eastern boundary of the site.
- 6.8. A Flood Risk Assessment and Drainage Strategy has been revised to confirm raised finished floor levels, the future operation and maintenance of the surface water drainage system and the betterment offered to the existing operations at the site in terms of discharge rates. Planning conditions are recommended to secure the submission of a method statement for works adjacent the watercourse channel prior to above ground works and the submission of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan prior to above ground works.
- 6.9. The LLFA advise that they would normally oppose planning consent for the construction of buildings or other works within 5m of the outer walls on either side of an open or partially culverted watercourse. However, an easement to the watercourse has been provided, as a betterment from the existing situation to increase the easement distance from 1.5m to 2.9m. on this basis, this element of the proposal and the likely impact of the works to the culvert are considered acceptable.
- 6.10. I am satisfied that the proposals would not have an adverse impact on flooding and appropriate mitigation has been submitted in the form of the drainage strategy and the recommended conditions to adequately address any surface water drainage issues that could be a result of the proposed development across the site.

Impact on Highway Safety

- 6.11. The proposals seek to retain the use of the existing vehicular access from Forge Lane, particularly on account that it provides access to the Veolia site to the south east. Car parking and cycle parking is proposed to be arranged across the site to provide parking for each of the units.
- 6.12. Transportation Development has been consulted on the proposals and raises no objections with regards to the principle features of the development and are satisfied that the proposed access and car parking provision would be adequate to facilitate the development. The proposal would unlikely to increase the traffic to or from the site significantly. The submitted Transport Assessment refers to the proposed total 105 car-parking spaces (including disabled parking spaces and electric vehicle charging bays), which would be within specified maximum provision with the current BCC guidelines. The Council's Local Engineer has advised that they have regular complaints about vehicles (including HGVs) parking in the small section of public

highway just outside the site. It is considered that due to increase in floor area and number of units, on-street parking within this section of HMPE could increase with possible negative impact on vehicle manoeuvring to and from the site access. Therefore, it is recommended that a Traffic Regulation Order to prohibit waiting within the area is introduced as a result of the application proposals.

- 6.13. Transportation Development recommend that the proposed vehicular gates should be kept open all the time during operating hours in order to reduce vehicular congestion spilling on to Forge Lane. It is also recommended that any redundant part of footway crossings within the site should be reinstated with full height kerbs, and this should be carried out to departmental specifications/standards at applicant's expense through appropriate agreement/licence/permit. Vehicular visibility splays in accordance with the relevant standards for the vehicular speed on the proposed access-drive are recommended to be incorporated within the development. Secure and covered cycle parking is recommended to be provided and / or maintained at appropriate locations within the development. The development is required to be entered into the Birmingham Connected Business Travel Network. I am of the view that all of these requirements are appropriate and reasonable to be secured through conditions recommended to be attached to any grant of planning permission.
- 6.14. The proposals are considered to have an acceptable impact on highway safety in the vicinity of the application site, subject to relevant conditions to mitigate traffic specific issues which could arise as a result of the development.

Impact on Landscape, Trees and Ecology

- 6.15. The application site forms part of the Minworth Industrial Estate which is industrial and commercial in its character. The Estate has a substantial amount of landscaping along with mature trees throughout the Estate. The application proposals incorporate landscaping on the western boundary of the application site on the Forge Lane frontage and defensive shrub planting on the southern boundary of the application site to reinstate existing vegetation removed during culvert repair works.
- 6.16. Concerns were raised by City Design and Landscape Officers that a stronger landscape treatment was required at the development in order to make a positive contribution to the public realm and streetscene, particularly resistant to the retention of existent Leylandii hedges on the north-western boundaries of the application site. Amendments were incorporated to present a more robust planting scheme and to provide more detail to satisfy Officers. Conditions were recommended by Officers to secure boundary treatments, hard and soft landscaping details, hard surfacing and a landscape management scheme.
- 6.17. The Tree Survey submitted informs that the existent trees are not of great value as individuals. Accordingly, the Tree Officer raises no objection on tree grounds. However, concerns are again raised with regards to the Leylandii hedges and the reliance on them as long-term for the development. It is recommended that the Leylandii hedges are replaced with an alternative which is more visually appealing and robust. Whilst I acknowledge the concerns raised, I maintain that the existing Leylandii would secure substantial screening of the development and long term landscape management, as recommended to be secured through a planning condition, would ensure that appropriate planting is retained along the Forge Lane frontage. Furthermore, the development achieves considerable economic benefits and would achieve a greater amount of planting along the western boundary than that which is currently in place.

- 6.18. A number of measures are proposed to be installed at the development site to address the ecological characteristics of the site. A vegetated culvert lays immediately south, less than 100m from the site lays two wildlife corridors, the Birmingham and Fazeley Canal as well as a railway line. 460m south west is the Plants Brook Local Nature Reserve. A bat survey was submitted with negligible potential on all but one building. Therefore a further emergence survey was completed with a result of likely absence of bats. Details of bird and bat boxes have been incorporated into the design. The proposed lighting plan, landscape plan and bird and bat box details are concluded as being acceptable by the City Ecologist. Conditions are recommended to ensure that the proposed measures are implemented.
- 6.19. On balance, I am of the view that the development would achieve considerable economic benefits which would outweigh the concerns raised by Landscape and Tree Officers. I am of the view that the retention of the Leylandii hedges would be beneficial to provide a landscaped presence at the Forge Lane gyratory to the north of the application site whilst the proposed landscape scheme matures.

Other Matters

- 6.20. The application site forms part of an established industrial and commercial estate which forms part of a Core Employment Area. On this basis, there are no residential premises in the proximity to the site and no concerns are raised with regards to the impact of the proposals on residential amenity.
- 6.21. The application proposals comprise the creation of employment premises in B1c (E), B2 and B8 Use Classes, generating a number of jobs during the construction and operation phase. Due to the speculative nature of the development, no information has been provided with regards to job creation. The Council's Employment Team recommended a condition to secure a construction employment plan and local employment strategy.
- 6.22. Discussions during the determination period of the application between the Employment Team and the applicant reached a consensus with regards to the applicant's proposed strategy submitted in support of the application and accordingly a condition to secure the implementation of the approved construction employment plan, which secures 20 Person Weeks of employment per £1million spend on the construction of the site. It has been agreed that such a strategy is proportionate to the scale of the proposed development.
- 6.23. Policy TP3 of the Birmingham Development Plan relates to sustainable construction and sets out that all new non-residential built developments in excess of 1,000 sq. m. gross permitted floorspace should aim to meet BREEAM standard excellent. Additional information was provided by the applicant to confirm the BREEAM standard Very Good could be achieved without impacting the viability of the development. Planning Policy Officers agreed that the information submitted demonstrates the technical justification required under policy TP3 for not achieving an excellent BREEAM status. A condition is recommended to secure the submission of a BREEAM certificate and post construction report.

7. Conclusion

- 7.1. The application proposals seek to secure consent for the erection of 11no. industrial units on land within the Minworth Park Core Employment Area. The proposals are considered to be compliant with planning policy and conditions are recommended to mitigate any anticipated highway impact, particularly associated with vehicles waiting.
- 7.2. It is considered that the proposals have the potential to achieve considerable economic benefits through the creation of good quality premises which make a positive contribution towards the function and viability of the Core Employment Area.
- 7.3. For the reasons set out above, the application proposals are recommended to 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 | Implement within 3 years (Full) |
| 3 | Requires the bird/bat boxes to be installed in accordance with approved details |
| 4 | Requires the submission of a landscape management plan |
| 5 | Requires the implementation of a lighting scheme as approved |
| 6 | Requires the prior submission of a BREEAM certificate and post construction report |
| 7 | Requires the submission of cycle storage details |
| 8 | Requires vehicular visibility splays to be provided |
| 9 | Requires the applicants to sign-up to the Birmingham Connected Business Travel Network |
| 10 | Require the assessment of Traffic Regulation Order (TRO) |
| 11 | Requires gates to remain open during hours of operation |
| 12 | Requires the reinstatement of redundant footway crossings |
| 13 | Limits the noise levels for Plant and Machinery |
| 14 | Requires the submission of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan |
| 15 | Requires the submission of a method statement for works adjacent the watercourse channel prior to above ground works |
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- 16 Requires the implementation of the construction employment strategy
 - 17 Requires the submission of hard and/or soft landscape details
 - 18 Requires the submission of hard surfacing materials
 - 19 Requires the submission of boundary treatment details
 - 20 Requires the prior submission of level details
 - 21 Prevents the use from changing within the use class
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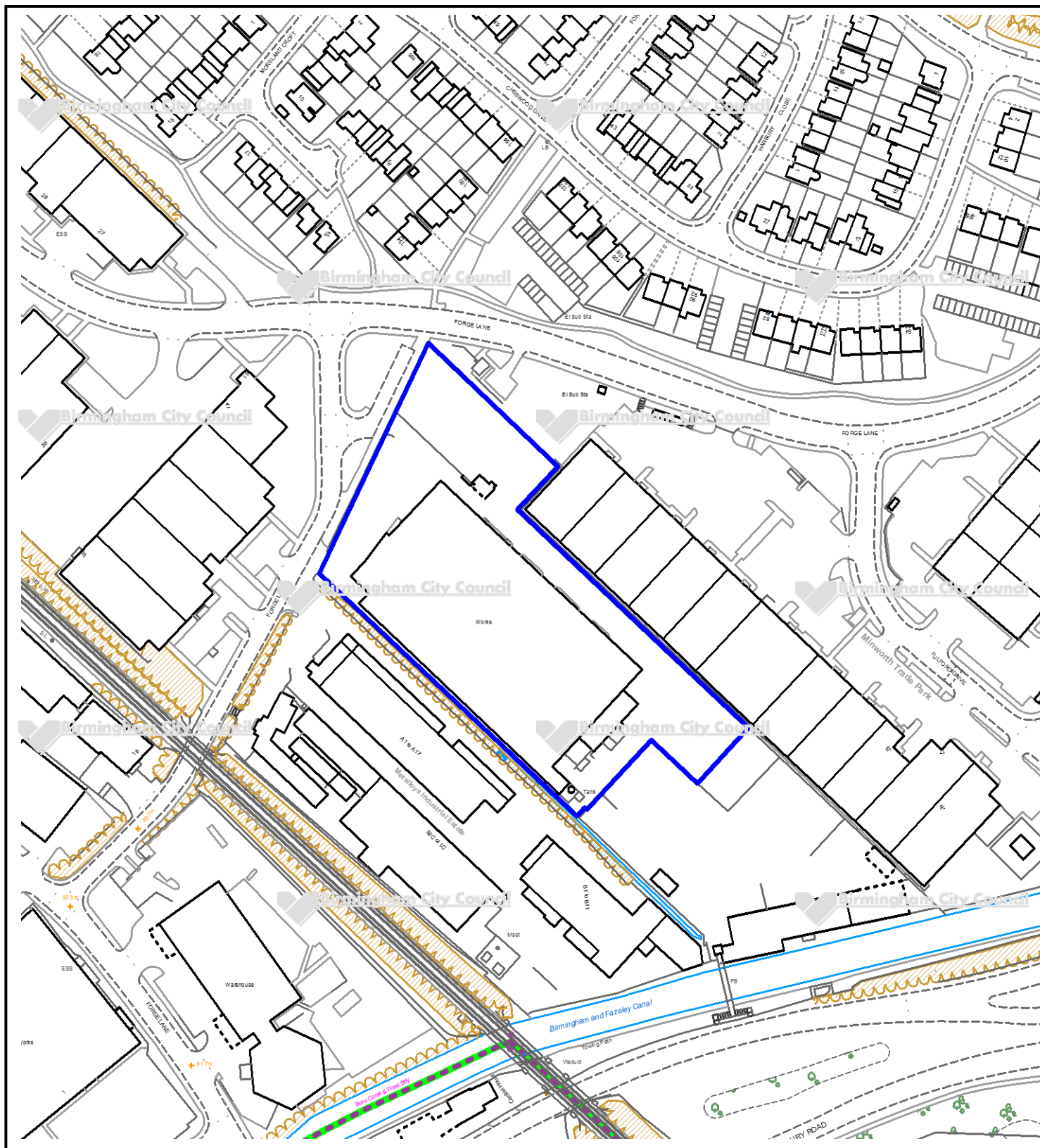
Case Officer: Claudia Clemente

Photo(s)



Figure 1: Forge Lane frontage with existing landscaping visible

Location Plan



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Committee Date:	08/10/2020	Application Number:	2020/06904/PA
Accepted:	03/09/2020	Application Type:	Demolition Determination
Target Date:	09/10/2020		
Ward:	Perry Barr		

64-146 Wellhead Lane, Perry Barr, Birmingham, B42 2SY

Application for Prior Notification for the proposed demolition of existing residential properties

Recommendation

Prior Approval Required and to Approve with Conditions

1. Proposal

- 1.1. This application has been submitted to identify if prior approval is required by the applicant for the demolition of numbers 64 to 146 Wellhead Lane. The proposed works entail a Compulsory Purchase Order (CPO) to enable the redevelopment of the land as part of the wider redevelopment of Perry Barr which includes accommodating the Commonwealth Games.
- 1.2. The application has been submitted as part of the requirements of Schedule 2, Part 11, Class B set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 1.3. The applicant has submitted a Bat emergence and re-entry survey; Arboricultural report; Demolition Construction Statement, Geo Environmental Desk Study report; Ground Investigation Report and a Reclamation Strategy with this application.
- 1.4. [Link to Documents](#)

2. Site & Surroundings

- 2.1. To the east of the site is a National Express bus garage. To the west, across Wellhead lane, is the site of former Birmingham City University. To the south is Oscott Road. To the north is the Doug Ellis Sports Centre. The line of the Ryknild Street Roman Road runs through the site.

2.2. [Site location map](#)

3. Planning History

- 3.1. 01.08.2019- 2019/03020/PA- Outline application for residential dwellings and a new secondary school with sixth form with all matters reserved- approve with conditions. The current application falls within the red line boundary of this approved scheme.

4. Consultation/PP Responses

- 4.1. Site notice has been posted and no responses received.

- 4.2. Transportation Development- No objection subject to amendments / conditions.
- 4.3. Regulatory Services- No objection subject to conditions.
- 5. Policy Context
- 5.1. Schedule 2, Part 11, Class B set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 6. Planning Considerations
- 6.1. This proposal has been submitted for consideration under Part 11, Class B of the Town and Country Planning (General Permitted Development) Order 2015. This requires the applicant to apply to the Local Planning Authority for a determination as to whether prior approval of the authority will be required as to the method of demolition and any proposed restoration of the site. It is noted that under this application the application only seeks prior approval for demolition.
- 6.2. The applicant has confirmed that the proposed method of demolition would involve the demolition of all the houses down to slab level prior to the removal of all slabs, footings and foundations down to a depth of 3 metres below ground level. This would be undertaken through piecemeal demolition i.e. top down demolition via excavator.
- 6.3. Transportation Development request the provision of a Traffic Management Plan; that the applicant/contractor will need to apply for the proposed footway crossings to the vehicular accesses and the works would need to be carried out to departmental specifications/standards (or if the proposed vehicular accesses are for a temporary period only then an appropriate licence/permit would be required from BCC Highways); provision of a pedestrian visibility splay (into the boundary treatment) and repositioning of proposed gates at the vehicular access to be set back into the site. Other than the requested footway crossing condition and the request to deal with any highway that may be closed as a result of the proposed works, the requested other matters can be addressed by conditions as they can be linked back to the enabling works required in relation to site demolition.
- 6.4. With respect to the issue of conditioning crossovers (permanent and or temporary) as well as other matters raised by Transportation Development such as dealing any public highway that may need closing as a result of the works, it is recommended that the applicant is advised of the approach as to how such matters need to be addressed as set out by Transportation Development rather than the use of conditions.
- 6.5. Regulatory Services recommend conditions that require that the demolition, site reclamation and site preparation shall be carried out in accordance with the submitted WYG Preliminary Remediation report; that there shall be an on-going watching brief during demolition and site preparation to address any unexpected site contamination; requires the prior submission of a contaminated land verification report and which requires the prior submission of details of additional site boundary hoarding to the rear/side of numbers 68 to 74 Wellhead Lane.
- 6.6. Whilst I am in agreement with the request for hoarding details to be provided under a condition the conditions requested in relation to contamination falls outside the remit of this application as the this application only relates to a demolition and the

end use is still to be proposed, and as such matters would be dealt with under the site's redevelopment at either outline or full planning application stage.

- 6.7. My tree advisor comments that the site mostly consists of a mixture of low-category self-set sycamores, some poplars and ornamental cypresses, some of which will be removed. He does not raise any objection to the scheme so long as their removal is conditioned to not adversely affect any wildlife. He also advises that if site remediation must involve clearance to 3 metres below ground levels, tree retention is not feasible.
- 6.8. In response to the comments by my tree advisor set out above, with regard to impact on wildlife I note that my ecology advisor raises no objection (see below) and that satisfactory tree protection measures are detailed in the submitted arboricultural report. I therefore raise no objection on tree grounds.
- 6.9. My ecological advisor has reviewed this proposal and she raises no object to the proposal subject to conditions which would require a further bat survey (if demolition has not taken place 1st July 2022) and that the demolition is carried out in accordance with part 4.5 and 4.6 of the submitted bat emergence and re-entry report. I concur with this view and I raise no objection to the proposal on ecological grounds subject to the conditions above.
- 6.10. My Conservation and Archaeological advisor request a condition to safeguard archaeological remains on site for further investigation. I concur with this view and I raise no objection to the proposals impact on archaeological grounds.

7. Conclusion

- 7.1. In order to ensure the satisfactory demolition and restoration of the site is carried out, matters raised by my Transport; Regulatory Services, ecological and archaeological advisors need addressing and that such matters can be conditioned. For this reason, it is recommended that prior approval is required and that approval is granted subject to conditions.

8. Recommendation

- 8.1. That prior approval is required and that approval is granted subject to conditions.

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|---|---|
| 1 | Requires the submission of a Traffic Management Plan |
| 2 | Requires pedestrian visibility splays to be provided |
| 3 | Requires the proposed vehicle access gates to be set back |
| 4 | Requires the prior submission of details of boundary hoarding |
| 5 | Requires the submission of a written scheme of investigation for a programme of archaeological works. |
| 6 | Requires the submission of a further bat survey if demolition has not taken place by the 1st July 2022. |
| 7 | Requires the demolition to be carried out in line with the specified sections of the |
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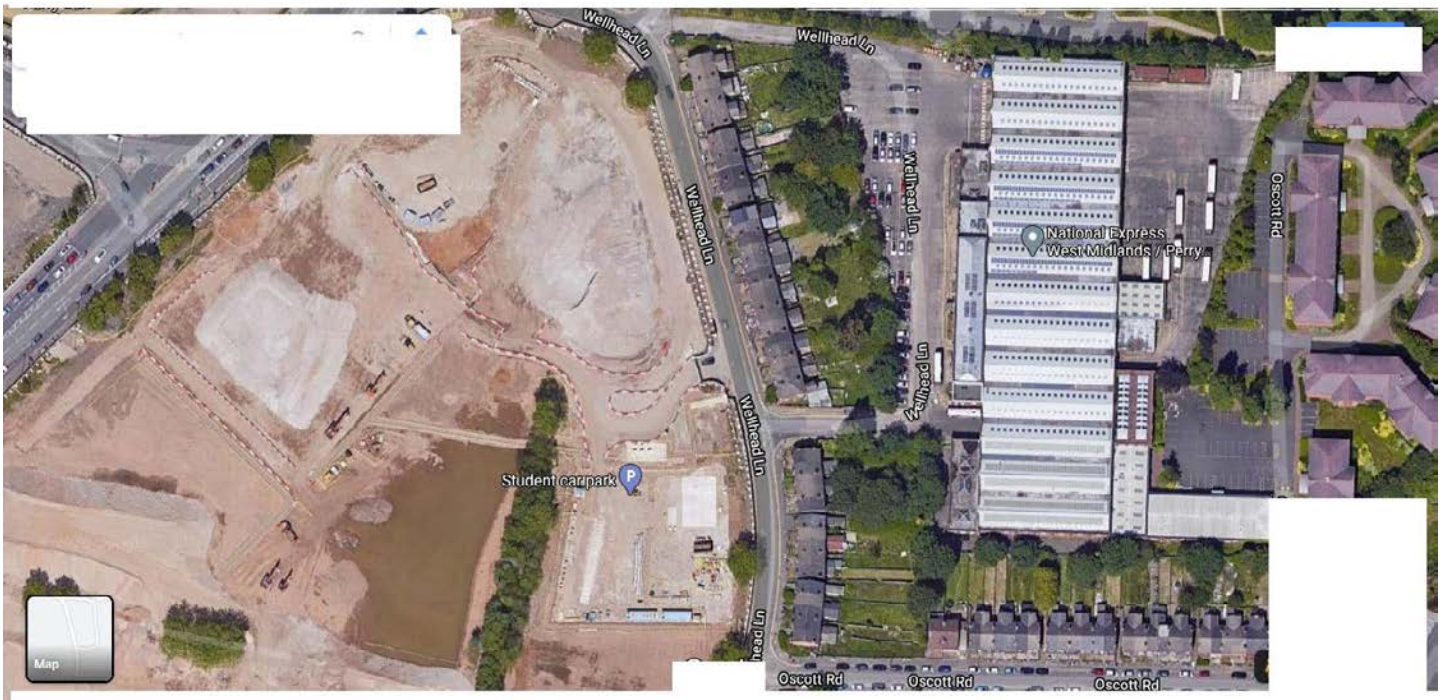
submitted report bat emergence and re-entry surveys.

Case Officer: Wahid Gul

Photo(s)

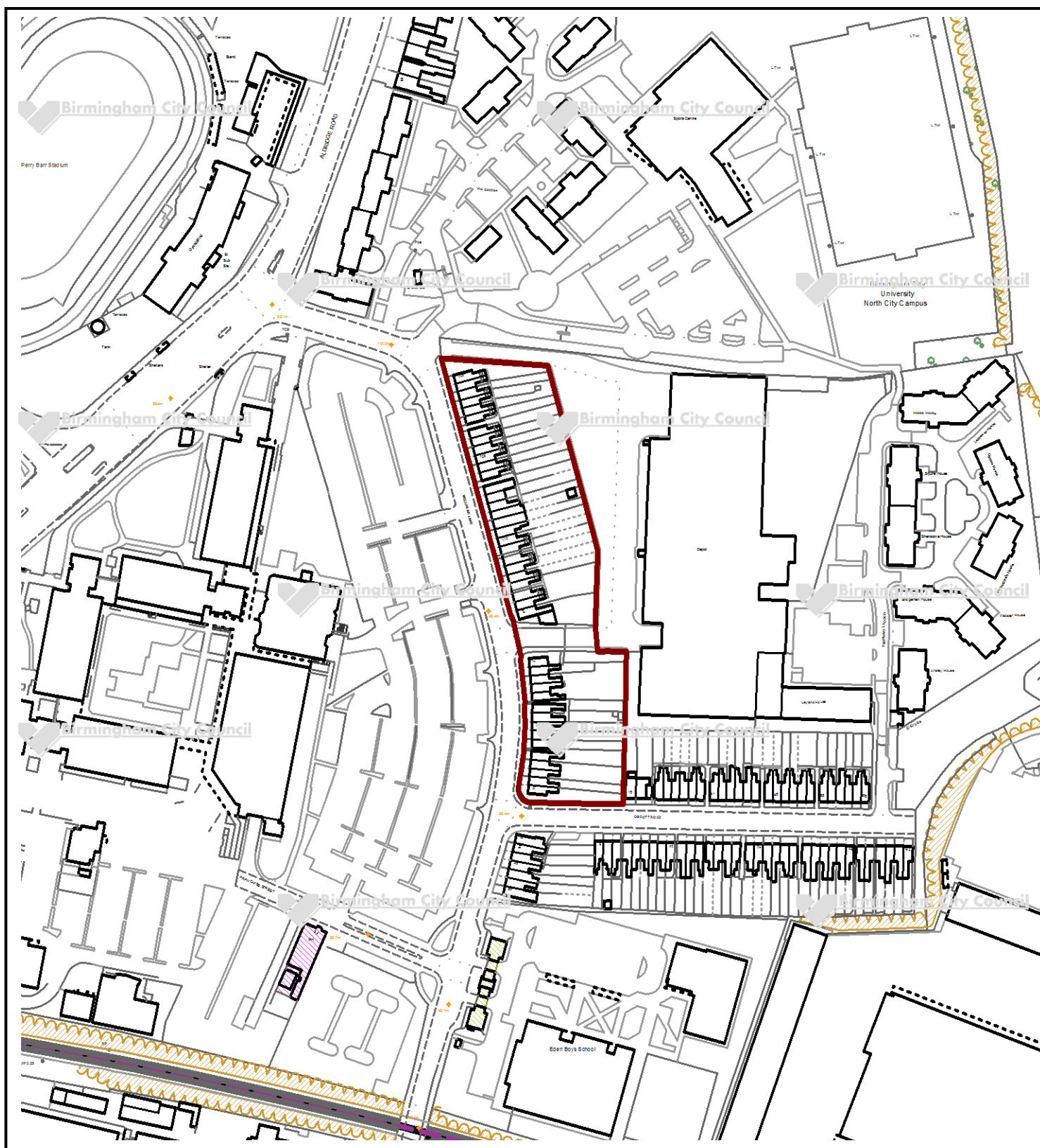


Image of dwellings proposed to be demolished



Aerial view of site

Location Plan



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