

# **Birmingham City Council**

## **Planning Committee**

**15 February 2018**

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

| <u>Recommendation</u> | <u>Report No.</u> | <u>Application No / Location / Proposal</u>  |
|-----------------------|-------------------|--|
| Approve - Conditions  | 8                 | 2017/10544/PA<br><br>12 Westlands Road<br>Moseley<br>Birmingham<br>B13 9RH<br><br>Erection of two storey side and rear and<br>single storey forward and rear extensions  |
| Approve - Conditions  | 9                 | 2017/10199/PA<br><br>Kings Norton Boys School<br>Northfield Road<br>Kings Norton<br>Birmingham<br>B30 1DY<br><br>Demolition of existing gymnasium sports hall<br>and erection of replacement sports hall<br>together with changing rooms and storage |

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|                 |                         |                     |               |
|-----------------|-------------------------|---------------------|---------------|
| Committee Date: | 15/02/2018              | Application Number: | 2017/10544/PA |
| Accepted:       | 12/12/2017              | Application Type:   | Householder   |
| Target Date:    | 06/02/2018              |                     |               |
| Ward:           | Moseley and Kings Heath |                     |               |

12 Westlands Road, Moseley, Birmingham, B13 9RH

Erection of two storey side and rear and single storey forward and rear extensions

|            |  |
|------------|--|
| Applicant: | Mra Nasim Jan<br>12 Westlands Road, Moseley, Birmingham, B13 9RH     |
| Agent:     | Mr Hanif Ghumra<br>733 Walsall Road, Great Barr, Birmingham, B42 1EN |

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Recommendation

**Approve Subject To Conditions**

1. Proposal
  - 1.1. Planning consent is sought for the proposed erection of a two storey side and rear extension and single storey forward and rear extensions.
  - 1.2. The proposed development would provide an extended living room, kitchen/dining room and hallway at ground floor level. The existing garage would be converted to a study with a small extension to this room. At first floor level two new bedrooms and a bathroom would be provided. The existing bathroom would be incorporated into the landing area and the existing third bedroom would become a second bathroom.
  - 1.3. The proposed first floor side extension would be set back from the front wall of the dwelling by 0.45m and would have a width of 2.8m. The ridge of the roof of the proposed side extension would be set down from the ridge of the main roof of the dwelling in order to be subservient in appearance. It would project along the entire side elevation of the property.
  - 1.4. To the rear of the dwelling the proposed two storey extension would be built off part of the existing rear wall of the dwelling and the proposed side extension by 4m. It would have a width of 5.28m. The two storey side and rear extensions would have a hipped roof design to match that of the main dwelling. A single storey rear extension would be built adjacent to the proposed two storey extension with a depth and a width of 4m. The proposed single storey extension would have a mono pitch roof design with a ridge height of 3.3m and an eaves height of 2.4m.
  - 1.5. The proposed single storey forward extension projecting in front of the proposed two storey side extension would have a depth of 0.6m and a width of 2.8m. It would have a mono pitch roof design with a ridge height of 3.3m and an eaves height of 2.4m. The forward porch extension in front of the existing front door would have a forward projection of 1.05m and a width of 2.6m. It would have a gable roof design with a ridge height of 3.3m and an eaves height of 2.7m.

1.6. [Link to Documents](#)

2. [Site & Surroundings](#)

- 2.1. The application site consists of a rendered detached property with a hipped design and a bay window and canopy to the front. The property is located within a predominantly residential area which generally comprises of similar sized dwellings. The property is set up from the highway with a paved driveway to the front and a low level wall defining the front boundary of the site. There is an existing single storey extension to the rear of the building. Both adjacent dwellings also have existing rear extensions.

2.2. [Site Location](#)

3. [Planning History](#)

- 3.1. None.

4. [Consultation/PP Responses](#)

- 4.1. Neighbours and local ward councillors were consulted for the statutory period of 21 days. A period of re-consultation has been carried out due to a full set of plans now being available for the public to view. This period of consultation expires on 12<sup>th</sup> February 2018. Letters of objection have been received from 10 neighbouring properties and the Moseley Society raising objections on the following grounds:

- Loss of light.
- Loss of privacy
- The proposed development is too large
- The proposed development would be out of keeping with character of the surrounding area.
- The proposed works would represent an over-development of the site.
- The proposal would set a precedent for similar developments within the surrounding area.
- Loss of garden space.
- The density of occupation of the property.
- The proposed works would result in a terracing effect in the street scene.
- Parking issues.
- The use of the property for commercial purposes.

5. [Policy Context](#)

- 5.1. The following local policies are applicable:
- Birmingham Development Plan (BDP) 2017.
  - Birmingham Unitary Development Plan 2005 (Saved Policies).
  - Places For Living 2001.
  - Extending Your Home 2007.
  - 45 Degree Code SPD.
- 5.2. The following national policies are applicable:
- National Planning Policy Framework.

6. Planning Considerations

- 6.1. The principal matters for consideration are the scale, design and siting of the proposed development, and the impact on the architectural appearance of the property, the general street scene and neighbouring properties amenities.
- 6.2. The proposal complies with your Committee's 45 Degree Code policy and therefore would not have an adverse impact upon the occupiers of adjacent dwellings in terms of loss of light.
- 6.3. There is a window in the side elevation of the existing single storey rear extension at No.14 Westlands Road which would be adjacent to the proposed location of the rear extensions. However, this window is not the sole source of light to this room with another window provided in the rear elevation of the neighbouring extension. Therefore, I do not consider that the proposed development would have a harmful impact upon the adjacent dwellings in terms of loss of light and outlook.
- 6.4. The proposed development would comply with the required separation distance of 5m per storey between main windows overlooking private amenity space. I therefore do not consider that the proposed works would have a harmful impact upon neighbouring dwellings in terms of loss of privacy.
- 6.5. Concerns have been raised by objectors in relation to the loss of garden space at the property. However, a remaining rear garden area of approximately 98 square metres would be retained which would comfortably exceed the required minimum garden space of 70 square metres for a family dwelling.
- 6.6. The scale, mass and design of the proposal are acceptable. The design of the proposed extensions reflects the character of the existing dwelling. A set of amended plans have been received with the ridge of the roof of the proposed extension being set down from ridge of the main roof of the building. The eaves of the roof of the proposed side extension would now also line through with the eaves of the main roof in order to integrate better with the detailing of the original dwelling.
- 6.7. There are examples of other properties within Westlands Road with two storey side extensions similar to this proposed. Neither neighbouring dwellings have two storey rear extensions. However, I do not consider that this provides justification to resist the principle of such a proposal. Whilst I note that neighbours have raised concerns regarding the proposal setting a precedent for similar developments within the area, any future applications at other properties would be assessed on their own merits.
- 6.8. Objections have been received on the grounds of the possible 'terracing effect' caused by the proposed two storey side extension. However, there would be a visible gap between the application property and No.10 Westlands Road. I therefore do not consider that the proposed development would result in such an impact.
- 6.9. The proposed development would not have a harmful impact upon the architectural appearance of the property or the visual amenity of the surrounding area. The proposed development would not dominate the appearance of the original dwelling and would therefore comply with the design principles contained within policy document 'Extending Your Home'. I do not consider that the proposal would compromise the character of the dwelling or the wider street scene.
- 6.10. Concerns have been raised by neighbours in relation to possible parking issues. However, the existing off street parking space provided by the front driveway would

be maintained. I therefore do not consider that there are sustainable grounds upon which to recommend refusal of the application in relation to this matter.

- 6.11. Concerns have been raised by objectors in relation to the property being used for commercial purposes. However, the application has been submitted on the basis of the property being a family dwellinghouse and therefore the application must be assessed on that basis.

7. Conclusion

- 7.1. Notwithstanding the objections raised by the neighbouring occupiers, I consider that the proposed extensions would have no detrimental impact on the visual or residential amenities of the surrounding area and occupiers. As such, I consider the application should be recommended for approval subject to the attached conditions.

8. Recommendation

- 8.1. Approval is recommended subject to the following conditions:

- 
- |   |  |
|---|--|
| 1 | Requires that the materials used match the main building               |
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | Removes PD rights for new windows                                      |
| 4 | Implement within 3 years (Full)  |
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Case Officer: George Baker

## Photo(s)

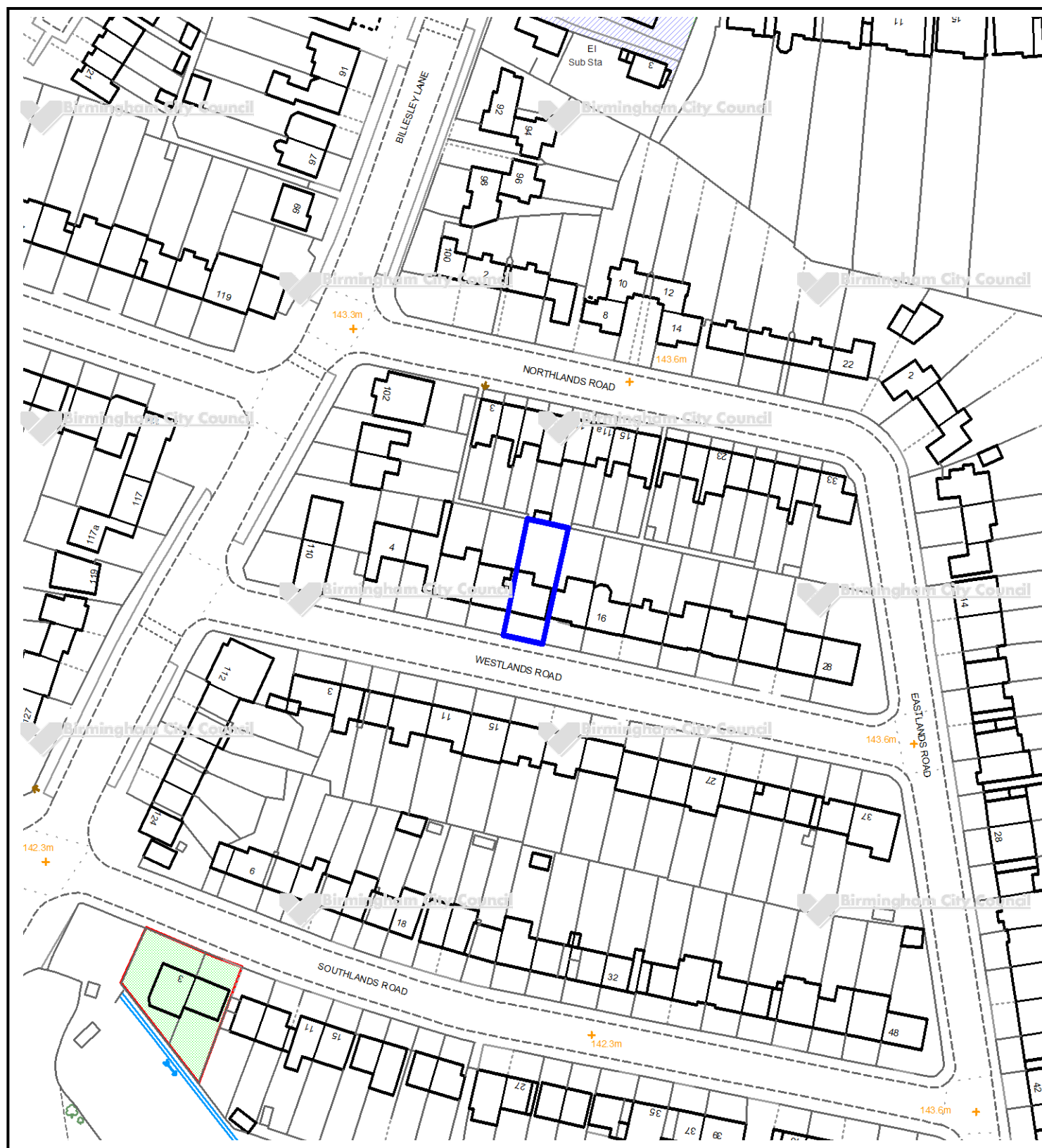


**Figure 1 – Front elevation**



**Figure 2 – Rear Elevation**

## Location Plan



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|                 |            |                     |               |
|-----------------|------------|---------------------|---------------|
| Committee Date: | 15/02/2018 | Application Number: | 2017/10199/PA |
| Accepted:       | 04/12/2017 | Application Type:   | Full Planning |
| Target Date:    | 16/02/2018 |                     |               |
| Ward:           | Bournville |                     |               |

Kings Norton Boys School, Northfield Road, Kings Norton, Birmingham, B30 1DY

Demolition of existing gymnasium sports hall and erection of replacement sports hall together with changing rooms and storage

|            |  |
|------------|--|
| Applicant: | Birmingham City Council<br>EDSI, 1 Lancaster Circus, Birmingham, B2 2RT            |
| Agent:     | Acivico Ltd<br>PO Box 17211, Louisa House, 92-93 Edward Street, Birmingham, B2 2ZH |

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Recommendation

**Approve Subject To Conditions**

1. Proposal

- 1.1. This application is for the demolition of the existing gymnasium and erection of a replacement sports hall including changing rooms and storage rooms at Kings Norton Boys' School.
- 1.2. The proposed building would be used primarily for indoor sporting purposes by school students and would be used on occasion as an examination hall. The sports hall would also offer community use outside of school hours and would be accessible to all including those with disabilities. The existing gymnasium building, to the western side of the main school building, would be demolished and replaced with hardstanding.
- 1.3. The proposed building would be located to the southeast corner of the main playing field, adjacent to residential gardens.
- 1.4. The proposed building would have a footprint of 823sqm. It would be a total length of 52m and be 18m wide. The building would consist of two heights; the higher section being 12.2m (eaves height 8.3m) and the lower section being 5.6m (2.5m to eaves). The higher section would be the sports hall space and would be 33m in length. The lower (single storey) section would include changing rooms and storage area and include two mono pitched metal roofs. The building would include 4 multi-use courts; two changing rooms; a staff changing room; store rooms; office and plant room.
- 1.5. The building would consist of a steel portal frame with metal and timber cladding with translucent multiwall polycarbonate windows.
- 1.6. The school have stated that there would be no increase in staff or pupil numbers as a result of the proposal.



[Link to Documents](#)

2. Site & Surroundings

- 2.1. Kings Norton Boys' School is located on the north side of Northfield Road. The main school buildings are Edwardian in character, however have been extended to the rear with typical 1950's school extensions, including the existing gymnasium building to the western side of the building.
- 2.2. To the rear, the school site includes a large sports field which has two full sized football pitches and one full sized rugby pitch.
- 2.3. The school is located within a predominantly residential area, and the application sites (towards the south-east corner of the playing field) is bounded by the rear gardens of two storey residential properties to the south and east along Selly Oak Road and Northfield Road. The site is flat with a 2m high metal fence running along the border of the school site at this point. There are also a number of large trees in the rear gardens of properties along Northfield Road.

[Location map](#)

3. Planning History

- 3.1. There is a comprehensive planning history associated with the site. Applications of note include;
- 3.2. 18/02/1999 – 1998/02381/PA Outline application for new sports hall sited 6 metres from southern boundary and 5 metres from eastern boundary, with associated car and cycle parking and landscaping. Approved subject to conditions.
- 3.3. 05/02/2003 – 2002/00809/PA Renewal of outline planning permission S/02381/98/OUT for the erection of new sports hall, parking and landscaping. Approved subject to conditions.
- 3.4. 31/03/2006 – 2006/00633/PA Renewal of outline permission S/00809/02/OUT for the erection of new sports hall, parking and landscaping. Approved subject to conditions. (expired and unimplemented)

4. Consultation/PP Responses

- 4.1. Transportation Development – No objection.
- 4.2. Regulatory Services – No objection, subject to noise limiting conditions and contamination land report.
- 4.3. Sport England – No objection, subject to condition for a community use agreement.
- 4.4. Letters of notification have been sent to surrounding occupiers; local residents associations and local ward Councillors.
- 4.5. Cllr Mary Locke suggests that public consultation is needed when this goes ahead as residents in Selly Oak Road back onto the site.

4.6. In addition, 8 individual letters of objection have been received from surrounding residents objecting to the application on the following grounds.

- Loss of view across the playing field.
- Reduction in privacy
- The building is out of character and would be detrimental to local amenity.
- Request a smaller building on the site of the existing gymnasium.
- The school are bad neighbours by not informing residents of their plans.
- The existing hard surfacing playground would be used for car parking.
- There would be increased noise and litter.
- Increase in light pollution.
- Increase in anti-social behaviour of students in this corner of the site.
- There is no evidence to support the need for such a large and imposing development in this area.
- Paragraph 73 and 74 of the NPPF and Policy TP9 in the Birmingham Development Plan state that playing fields should not be built on unless the need outweighs the loss.
- It is important to note the Department of Education's assessment criteria on the disposal of playing fields and school land.
- Detrimental impact during construction.
- No consideration given to wildlife and trees in the area and habitats that may be disturbed.
- Concerns raised about the community use.
- Reduced security around the site.
- The application is misleading by saying garden lengths are 60m as number 8 Kings Garden has a garden of just 8m.
- There are major parking problems on roads around the school.
- Questions are raised about the reliability of the feedback from the public consultation event.

4.7. Two letters in support of the application have been received, stating;

- The plans look appealing and fit in well with the existing surroundings and architecture.
- The school's students would benefit greatly from the suggested plans.
- We must take a larger view of the local community than just our own idyllic view.
- No impact on long gardens
- There are trees to screen the building.
- This is the best location for it to be built without impacting on the existing pitches.
- The current facilities at the school are completely substandard.
- Encourages more activity for children the whole year round.
- Will encourage local community users and groups

## 5. Policy Context

5.1. Birmingham Unitary Development Plan (BDP) 2017; Unitary Development Plan (UDP) 2005 (saved policies); SPD: Car Parking Guidelines; National Planning Policy Framework (2012).

## 6. Planning Considerations

### 6.1. **Background**

The school currently has an out of date gymnasium, built in the 1950's, consisting of one court and at a different level to its changing rooms and storage areas. The size and construction of the gymnasium limits its use for indoor sports. The School has been accepted to the 'Priority Schools Building Programme 2' as the Education and Skills Funding Agency recognise that current indoor sports provision for the school is inadequate. The current gymnasium is also used at different points during the academic year for examination. Therefore, to maintain this, the new sports hall needs to be built in another part of the site before the gymnasium is demolished. Policy TP36 of the BDP, supports the growth of schools to meet the growing demand from the City's growth Strategy and there is therefore support in principle for the proposal subject to assessment of the following considerations.

### 6.2. **Principle - loss of open space**

The site is considered as private open space adjacent to playing fields. The Birmingham Development Plan at paragraph 6.57 defines open space as *"all open land of recreational or public value, including playing field, which primarily consists of natural elements such as trees, grass and water. It may or may not have free public access. It may not be used or held by the city council for recreational purposes"*.

### 6.3. Paragraph 74, of the NPPF states that *"Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:*

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss."*

### 6.4. In terms of Open Space, Policy TP9 of the BDP, states *"Planning permission will not normally be granted for development on open space except where:*

- It can be shown by an up to date assessment of need that the open space is surplus taking account of a minimum standard of 2 ha per 1,000 population and the accessibility and quality criteria listed below.*
- The lost site will be replaced by a similar piece of open space, at least as accessible and of similar quality and size.*
- Where an area of open space is underused, as it has inherent problems such as poor site surveillance, physical quality or layout, which cannot be realistically dealt with, then in this case proposals that would result in the loss of a small part of a larger area of open space will be considered if compensation measures would result in significant improvements to the quality and recreational value of the remaining area.*

- *The development is for alternative sport or recreation provision, the benefits of which clearly outweigh the loss*

6.5. Policy TP11 of the BDP relates to sports facilities, noting that within the City's educational establishments, facilities that can be used by the community can provide a useful contribution towards the recreational and leisure requirements of the city and will be encouraged. It notes that proposals for new facilities and/or enhancement of existing facilities will be supported and appropriate and sympathetic sports lighting can enhance the use and sustainability of community sports provision to the benefit of the local community.

6.6. It is proposed to provide a modern sports hall to upgrade the sports provision to meet the Schools sporting programmes and student requirements. This involves 4 courts, storage and changing room areas. None of the existing laid out pitches would be lost as a result of the proposal. I consider that these benefits outweigh the loss of this small section of open space and create positive benefits for the local and wider community. With improvements to the overall provision and no loss of existing facilities, it is recognised that this satisfies Sport England Policy E5 as an exclusion to their 'normal' objection to any open space loss. Sport England are in full support of the application as it would provide improved sports facilities for the school. A condition to secure community use is recommended. In addition, it is noted that there are some minor issues with the internal arrangements, such as the flooring materials and position of doors and suitably worded condition to agree these changes is recommended. As such, subject to the mentioned conditions, the proposal would be in accordance with both local and national planning policy in respects to sports provision and as such the principle of this development is accepted.

#### 6.7. **Design**

6.8 The application is supported by a Design and Access Statement which has been reviewed as part of the consideration of the planning application. The height and mass of the proposed building are determined by their function as a sports hall with ancillary accommodation. A simple pitched roof design is proposed, with the height of the roof ridge approximately 12.2 metres. The roof would have a profiled metal finish with multiwall polycarbonate windows to avoid glare in the hall. The walls would have a combination of metal and timber cladding and panels of wooden Siberian Larch boarding facing towards the neighbouring residential properties and the sports field to the north. The end gables would have metal cladding with a translucent multiwall polycarbonate window at each end. The plant room would have aluminium frame and metal louvered doors.

6.8. It is considered that the design of the new build sports hall is of an appropriate scale, size and massing in the context of the existing buildings. The proposed design achieves a clear distinction between the main school buildings and the sports hall and provides a modern and functional building. It is noted that the proposed design is a concern to a number of local residents. Regard has been had to the proposed materials on this basis and although the principle of the design and use of materials is accepted, the detail of materials will be subject to a condition and samples will be required to be submitted for consideration.

#### 6.9. **Impact on neighbouring amenity**

6.10 The building is proposed to be located close to the rear gardens of houses facing onto Northfield Road, Kings Gardens and Selly Oak Road. The outlook from the rear of Northfield Road would look towards the long elevation of the proposed sports hall,

33m of which being the higher part of the building (8.3m to eaves and a total height of 12.2m). There is a distance of between 8m and 19m from residential boundaries on Northfield Road and the proposed building. Gardens of the most affected properties on Northfield Road (no.s 120-136) are some 60m in length, resulting in a distance of approximately 67m between the properties and the proposed building. There are also houses on Kings Gardens, with a rear outlook onto the playing fields, adjacent to 136 Northfield Road. As an infill estate, these houses have substantially smaller rear gardens (around 10m) but I consider that their outlook would be largely unaffected by the proposal as the proposal would not be directly behind these gardens; being northeast of the gardens and the higher section of the proposed building being further to the east.

6.12 Looking to the east of the proposed building, gardens to properties on Selly Oak Road are 15m long and a distance of 11.6m and 16.8m from the residential boundary to the proposed building; resulting in a minimum separation distance of 26.6m.

6.13 The elevations that would face the gardens do not have any high level windows on either the southern or eastern elevations. As such, there would be no overlooking from the sports hall to any adjoining residential properties or gardens. I also note that blank walls face towards both properties on Northfield Road and Selly Oak Road. Both boundaries are heavily planted and this would help to screen the building. Places for Living guidance, principally used for the assessment of residential development, is however a useful guide for the consideration of this relationship. This guidance requires a distance of 12.5m from an active elevation to a gable end or non-windowed elevation, which is well exceeded in this case. Given the separation distances and the level of screening, I do not consider that the proposed sports hall would have any detrimental impact on the amenities of surrounding residents.

6.15. Concern is also raised about potential increases in noise. The residential properties back onto the school site and while this would bring activity associated with the school site closer to residents, I consider the intervening gap to be sufficient to mitigate any additional noise impact. The site already generates noise and disturbance, given the existing playground is to the rear of properties on Kings Garden and the proposal would not, in my view, increase this significantly. I note that Regulatory Services has no objection to the proposal on the grounds of noise but does recommend that the noise levels of any plant or machinery is controlled by condition and that a noise assessment be carried out prior to the development to help with further mitigation such as the attenuation proposed to the louvre doors on the plant room as well as the overall ventilation provision for the sports hall. A condition is also attached requiring a lighting scheme to be agreed prior to first use of the development and for a contaminated land report to be submitted. A further condition is recommended that requires a contamination survey and mitigation of materials. I concur with the conclusions of Regulatory Services and attach the suggested conditions.

#### 6.16. **Transportation Matters**

The proposal is not intended to directly increase the number of pupils or staff. It is proposed to improve its sporting education offer, specifically for indoor sports. Taking this into account, Transportation Development has no objection to the proposal. Parking provision within the site would be unchanged and no new access is required. As such, it is not expected traffic and parking demand associated with the site would alter to that generated currently.

6.17. As the new sports hall would be subject to a Community Use Agreement I would expect some traffic movement outside of normal school hours, however this does already occur as football coaching takes place at the school and it is considered the existing parking provision the front of the school would be used for such.

6.18. **Trees and Ecology**

No trees would need to be removed from the site and the proposal would not have any impact on third party trees within surrounding residential gardens. A condition for an arboricultural method statement and tree protection plan during construction is requested.

6.19. The site is not within any known area of ecological importance and it appears that the site offers limited ecological value. As such there appears to be no significant ecological constraints associated with the proposed development.

7. Conclusion

7.1. Recommend approval: The proposal would enhance facilities at the school without harm to the local area, subject to the attached conditions. It complies with local and national policy and constitutes sustainable development as set out in the NPPF.

8. Recommendation

8.1. Approve subject to conditions.

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|----|--|
| 1  | Requires the scheme to be in accordance with the listed approved plans   |
| 2  | Requires the prior submission of a contamination remediation scheme      |
| 3  | Requires the prior submission of a contaminated land verification report |
| 4  | Limits the noise levels for Plant and Machinery                          |
| 5  | Requires the submission of a noise assessment.                           |
| 6  | Requires the prior submission of a lighting scheme                       |
| 7  | Arboricultural Method Statement - Submission Required                    |
| 8  | Requires the prior submission of sample materials                        |
| 9  | Requires the prior submission of a community access agreement            |
| 10 | Requires an amended sports hall plan.                                    |
| 11 | Implement within 3 years (Full)  |
- 

Case Officer: James Mead



## Photo(s)



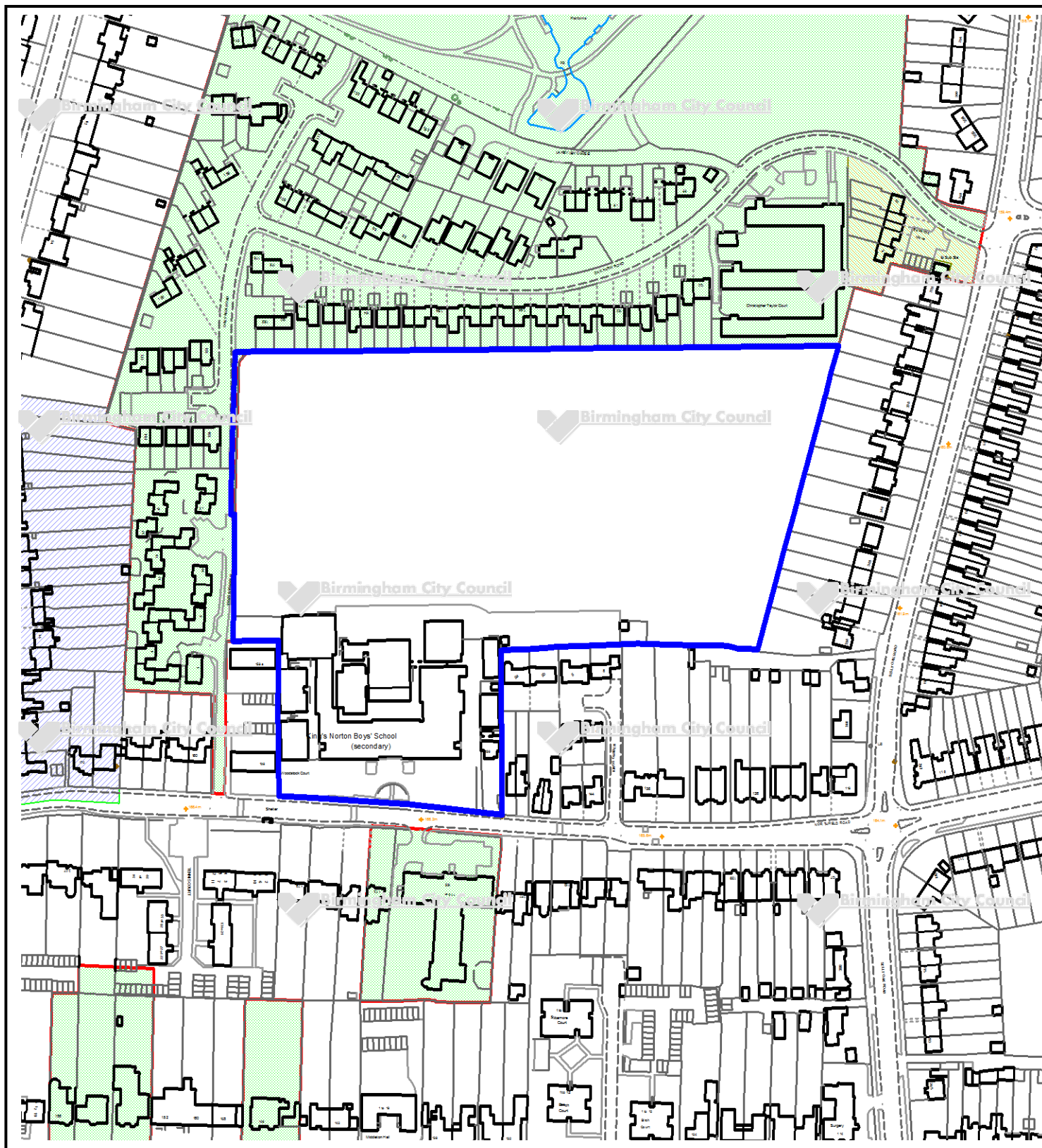
**Photograph 1: Southwest view of proposed sports hall**



**Photograph 2: Site of proposed sports hall looking east**



## Location Plan



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# **Birmingham City Council**

## **Planning Committee**

**15 February 2018**

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>  |
|---------------------------|-------------------|--|
| Defer – Informal Approval | 10                | <p>2017/09308/PA</p> <p>Former F.G.F Ltd Premises<br/>Shadwell House<br/>Shadwell Street<br/>Birmingham<br/>B4 6LJ</p> <p>Demolition of existing buildings and erection of a development of 404 apartments in 5 residential blocks with heights of 3 - 21 storeys, with associated communal facilities, amenity areas and parking provision.</p>   |
| Defer – Informal Approval | 11                | <p>2017/08095/PA</p> <p>Sherborne Wharf<br/>Sherborne Street<br/>Birmingham<br/>B16 8DE</p> <p>Demolition of existing buildings (except for Psonex House), erection of buildings between 3 and 10 storeys and change of use of Psonex House providing a total of 87 apartments (C3) with associated car parking, landscaping, access and ancillary works</p>   |
| Approve – Conditions      | 12                | <p>2017/09292/PA</p> <p>Beneficial Building<br/>28 Paradise Circus Queensway<br/>City Centre<br/>Birmingham<br/>B1 2BJ</p> <p>Conversion of existing office building to 130 bedroom boutique hotel with associated front and back of house facilities. Retention and refurbishment of existing retail/commercial units at ground floor level. Creation of a layby on Suffolk Street and associated external alterations.</p> |

Land Bounded by  
Sheepcote Street/Broad Street/Oozells Way  
City Centre  
Birmingham  
B15 1AQ

Variation of Condition 23 of Planning Permission  
2016/08890/PA to amend plans to allow 2 further  
storeys (comprising 12 additional residential units)  
to provide a 33 storey residential building (Class  
C3) containing 217 apartments including ground  
floor restaurant use (Class A3), internal and  
external residential amenity space, associated hard  
and soft landscaping, infrastructure and  
engineering works

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|                 |            |                     |               |
|-----------------|------------|---------------------|---------------|
| Committee Date: | 15/02/2018 | Application Number: | 2017/09308/PA |
| Accepted:       | 30/10/2017 | Application Type:   | Full Planning |
| Target Date:    | 29/03/2018 |                     |               |
| Ward:           | Aston      |                     |               |

Former F.G.F Ltd Premises, Shadwell House, Shadwell Street, Birmingham, B4 6LJ

Demolition of existing buildings and erection of a development of 404 apartments in 5 residential blocks with heights of 3 - 21 storeys, with associated communal facilities, amenity areas and parking provision.

Applicant: St Joseph  
c/o Agent  
Agent: Turley  
9 Colmore Row, City, Birmingham, B3 2BJ

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Recommendation

**Approve Subject To A Section 106 Legal Agreement**

1. Proposal

- 1.1 The application proposes the redevelopment of the application site for housing in the form of 404 apartments which would be provided in 5 blocks of varying heights. The site is currently occupied by 2 large industrial/warehouse type buildings with an associated 4-6 storey office building which would be demolished. The buildings are currently occupied by F.G.F Limited who has plans to relocate elsewhere within Birmingham.
- 1.2 It is proposed that the development would be accommodated in 5 new buildings (A-E) which would be arranged to create two continuous frontages along Shadwell Street, splitting the development into two halves. The buildings behind these frontages would extend the full depth of the site up to the edge of the Birmingham and Fazeley Canal with the space between the blocks laid out to form three landscaped courtyard gardens. These would be located on a podium above a basement which would accommodate parking, plant and refuse storage facilities.
- 1.3 The buildings would be of the following heights:-
- Building A – This would be situated adjacent to the site's western boundary and is predominantly 8 storeys but where it adjoins St Chad's Sanctuary its height is reduced to 3 storeys and it also steps down to 6 storeys on its northern elevation to the canal frontage and on the south west corner fronting Shadwell Street.
  - Building B – This would be located towards the centre of the site and has been designed as a tall point block. It form has been split into sections of 16, 19 and 21 storeys with the tallest element being adjacent to the canal frontage and having a height of 66 metres.
  - Building C – This is to be situated in a central position on the site frontage to Shadwell Street and have a height of 9 storeys.
  - Building D – This would fill virtually the full depth of the site between Shadwell Street and the canal and would be angled perpendicular to Little Shadwell Street. It would have a height of 9 storeys.

- Building E - This would be located at the junction of Shadwell Street and Lower Loveday Street and be 8 storeys high fronting Shadwell Street and 6 storeys high fronting Lower Loveday Street.

Between buildings A and C and D and E a 3 storey link section is proposed between buildings B and C a link block 6 storeys high is proposed.

- 1.4 The design of the development includes a variety of flat and pitched roof forms with Buildings C and D incorporating a series of gable ends facing Shadwell Street. Brickwork would be the primary material used for the development with the two buildings on either end (A and E) being of a red brick and the two centre buildings on Shadwell Street (C and D) having a buff brick. For the tallest building (B) which is split into three forms, it is proposed that the outer elements would be of a light grey brick with the centre expressed as a darker 'core'. Most of the apartments would have a balcony with ground floor units having a private terrace. A number of the units would also have the use of roof top terraces.

- 1.5 It is intended that the development would provide 157 (38.9%) one bed, 218 (54%) two bed and 29 (7.1%) three bed roomed apartments. Proposed apartment sizes are as follows:-

| <u>Bedrooms/ Persons</u> | <u>Number of units</u> | <u>Size (sq m)</u> |
|--------------------------|------------------------|--------------------|
| 1 Bed 1 Person           | 86 (21.3%)             | 43.6               |
| 1 Bed 2 Person           | 71 (17.7%)             | 50.3               |
| 2 Bed 3 Person           | 73 (18%)               | 64.3               |
| 2 Bed 4 Person           | 145 (36%)              | 72.3               |
| 3 Bed 6 Person           | 29 (7%)                | 109.5              |

- 1.6 Communal facilities for residents are also proposed in the form of a lounge and gym which would be located at ground floor level facing Shadwell Street. The proposed communal gardens would extend towards the northern boundary of the site with the canal, which is at a lower level so canal viewing areas have been incorporated into the design. The proposed basement car park would also be above the canal level but set back 2 metre from its edge and have a brick finish facing the canal. It is also proposed that the existing canal wall is replaced with corten steel piling to stabilise the bank.

- 1.7 Pedestrian access to the apartments would be from Shadwell Street and vehicular access to the basement car park would be from William Booth Lane to the west. The proposed development would provide 139 (34%) car parking spaces and 404 (100%) cycle spaces. 5 electric charging spaces are proposed and 5 of the spaces would be for disabled drivers.

- 1.8 The site has an area of 0.77 ha giving a density of 524 dwellings per ha. The application is supported by a Planning Statement, Design and Access Statement, Heritage Statement, Archaeological Technical Note, Sunlight and Daylight Assessment, Transport Assessment and Travel Plan, Construction, Logistics & Site Environmental Plan, Noise Assessment, Landscape Strategy, Ecology Assessment, Foul and Surface Water Drainage Assessment, Flood Risk Assessment, Ground/Land Condition Report, Air Quality Assessment, Birmingham Airport Safeguarding Note, Archaeological Technical Note, Sustainability and Energy Statement, Economic and Regeneration Impact Statement, Wind Microclimate Study and Financial Appraisal.

- 1.9 [Link to Documents](#)

## 2. Site & Surroundings

- 2.1 The application site covers approximately 0.77 ha and lies close to and just north of the city centre core. It has a long frontage to the north side of Shadwell Street which extends back to the edge of the Birmingham and Fazeley Canal. It also has short frontages to Lower Loveday Street to the east and William Booth Lane to the west. Access to the site is currently gained from the street frontage to Shadwell Street or from William Booth Lane at the rear.
- 2.2 The site is currently occupied by two large brick industrial/warehouse units and an associated 4-6 storey office building known as Shadwell House which fronts Lower Loveday Street. It is currently occupied by FGF Limited who manufactures insulation and cladding materials. The existing buildings are set back from the Shadwell Street frontage behind a hard surfaced area used for parking. The site frontage is enclosed with 2 metre high paladin fencing and the boundary to the canal is open to view but marked by a concrete retaining wall, the remains of a brick wall and railings. Several areas of hard standing within the site including those adjacent to the canal are used for deliveries and external storage.
- 2.3 Levels across the site vary by about three metres along the Shadwell Street frontage and there are also level changes within the site of 2-3 metres from the street to the canal edge.
- 2.4 The surrounding area is characterised by a mix of uses. To the north of the site on the opposite side of the canal is a development of 6 storey student accommodation, a large warehouse/industrial building known as MB Stores and Depot, a more modern office building with a decked car park to the canal edge beyond which is modern apartments at Honduras Wharf. To the east on the opposite side of Lower Loveday Street is a former 3 storey house and works at 37-38 Princip Street now being converted to residential accommodation and Barkers Bridge which crosses over the canal. To the south on the opposite side of Shadwell Street is a 3 storey commercial building, two storey residential accommodation within the converted Abingdon Work and the garden area to St Chad's Cathedral with the main cathedral buildings beyond. The west boundary of the site abuts the St Chad's Sanctuary and William Booth Centre run by the Salvation Army.
- 2.5 A number of these buildings are listed including St Chad's Cathedral (Grade II\*), the Abingdon Works (Grade II), 37-38 Princip Street (Grade II) and Barker Bridge (Grade II). Other listed buildings nearby include The Gunmakers Arms and 100-101 Bath Street both listed Grade II. The MB Stores and Depot on Lower Loveday Street/Summer Lane is locally listed Grade B.

## 2.6 [Site Location](#)

## 3. Planning History

- 3.1 There is no recent planning history on the site which appears to have been used for industrial/storage purposes for many years and has previously included a chemical works, wire mill and wharf.

## 4. Consultation/PP Responses

- 4.1 Transportation – No objections subject to conditions requiring a package of highway measures including reinstatement of redundant footway crossings and TRO changes to provide additional car parking bays on Shadwell Street, that the car and cycle



parking is laid out prior to occupation, that a Construction Management Plan is provided and that measures are provided on site frontage to prevent parking where the development has been set back. Comments that the 38% parking provision is deemed suitable given the sites proximity to the City centre and the surrounding roads are protected by parking controls. The scheme also includes 100% cycle parking provision.

- 4.2 Local Services - No objections but as the development is for over 20 dwellings it should provide an off-site POS contribution in accordance with BDP policy. A contribution of £884,000 is requested which would be spent on the provision, improvement and/or biodiversity enhancement of public open space and its maintenance at Burbury and Aston Parks within the Aston Ward.
- 4.3 Regulatory Services – Comments awaited.
- 4.4 Lead Local Drainage Authority – No objection following the submission of additional information subject to conditions to require submission of the next stages of the design and a Sustainable Drainage Operation and Maintenance Plan.
- 4.5 Employment Access Team – Request that if conditions or a S106 agreement are to be in place there is a requirement to ensure that a construction employment plan is put in place so that employment is provided for New Entrants whose main residence is in the Local Impact Area.
- 4.6 Education School Places – Request a contribution under Section 106 for places at local schools (subject to surplus pupil place analysis) of £25,096.74 for nursery places, £645,659.78 for primary school places and £694,920.13 for Secondary School Places making a total of £1,365,676.66.
- 4.7 Severn Trent Water - No objection subject to conditions requiring a drainage scheme.
- 4.8 Environment Agency - No objection subject to a condition requiring a remediation strategy to deal with the risks associated with contamination of the site.
- 4.9 West Midlands Police – No objection subject to the apartments be undertaken to the standards laid out in the Secured by Design 'Homes 2016' guide, that a lighting plan for the site be produced, that the gym be for residents only for security reasons, that the complex including the car park and cycle stores be the subject of CCTV coverage, that video intercom access control systems be installed on all doors into the building and the lifts, that a management plan be provided for the refuse storage areas to ensure there is a supervised collection processes and that all doors to bin stores be to an appropriate security standard, that a general post room be created subject of full CCTV coverage and that a 24 hour staff presence be maintained.
- 4.10 Historic England – Object to the application on the grounds that it would cause harm to the significance of the Grade II\* listed St Chad's Cathedral and of the cluster of Grade II listed Gun Quarter buildings in its setting. They consider that the proposed development will cause harm to the significance of multiple heritage assets and that this harm is at a high level of 'less than substantial harm'.
- 4.11 In their detailed comments Historic England advise that they are concerned about the impact on St Chad's Cathedral which lies diagonally opposite the site which is a structure of immense architectural and historic interest which is recognised by its Grade II\* listing, placing it in the top 8% of listed buildings in the country. When built St Chad's was a dominant building in the city and its twin spires were, and continue



to be, a local landmark that signal the cathedral's presence and mark its place in the city. Despite taller buildings in its setting now, such as Snowhill 1-3 these are on the other side of the Queensway and are read as part of the city centre cluster. The area on the other side of the Queensway is much lower in scale and the cathedral is an impressive mass in this context. Whilst previously being surrounded by many buildings organised in a tight urban grain none of these were of the same scale as the cathedral and did not undermine its civic distinctiveness and spiritual importance. They question why a tall building is proposed as the site is not included in High Places as a suitable location for a tall building and consider St Chad's Cathedral should remain the most prominent building. The proposal would mean that the cathedral would be sandwiched between taller buildings which would obscure the visual impact of its spires, compete architecturally with its dominance of the skyline and over the surrounding buildings, thus undermining its significance.

- 4.12 Historic England are also concerned about the impact of the proposed larger scale of the development on the two and three-storey listed buildings on Lower Loveday Street, Shadwell Street and Bath Street and on Barker Canal Bridge. They comment that these smaller fine-grained buildings of former houses and works premises epitomise the historic manufacturing character of the Gun Quarter and juxtaposing six and eight-storey blocks next to these will be harmful to their setting and significance. They consider the proposed massing should be more sensitive to the listed buildings primarily and then take opportunities to enhance the locally-listed buildings.
- 4.13 Victorian Society – Recommend that the application be refused on the grounds that the scale and massing of the proposed new development is inappropriate in this location and will have a negative impact on the character, appearance and significance of the grade II\* and grade II listed buildings. They make the following points:
- This site is outside the area identified for tall buildings in 'High Places'
  - The site is located to the north of the Queensway in an area traditionally characterised by buildings of 2 to 5 storeys, of which the grade II listed buildings in Shadwell Street, Princip Street and Loveday Street survive.
  - St Chad's Cathedral is and has been the most dominant building since the 19th century and is a "landmark". It was the first cathedral to be built in England since the Reformation in the 16th century and this significance is reflected in the listing at grade II\*.
  - The impressive scale of the Cathedral with its twin spires should remain strongly prominent, but the proposed development means it will, it will appear diminished between the proposed tower on the application site and the current tall towers on the southern city centre side of Queensway at Snow Hill.
  - We are also concerned about the impact of the proposed large scale of the development on the group of 2 and 3 storey grade II listed buildings on Lower Loveday Street, Shadwell Street and Bath Street, and on the Canal Bridge. These smaller buildings are amongst the last surviving fragments of the city's historic gun making quarter.
  - As the Gun Quarter's impressive history is now represented in the townscape by a number of listed buildings, locating 6 and 8 storey structures so close to these will have a negative impact on their character, setting and significance.
  - The proposed massing and grain of the new development should be more sensitive to the listed buildings in this context.
- 4.14 Canal and Rovers Trust – Consider that planning permission should not be granted for the following reasons:-

- The height, scale, massing, materials and design of the proposed development would cause a visually overbearing impact on the canal corridor and its users, reducing the attractiveness of the adjacent canal infrastructure for sustainable commuting, recreational travel and health and wellbeing benefits.
- No information has been submitted to assess the impact of the proposed development on the adjacent canal which should be considered as a heritage asset.
- The proposal would be contrary to or has not demonstrated how it meets Policies PG3, GA1.1 & 1.3, TP7, TP12, TP30 and TP38 of the Birmingham Plan 2031, paras 128- 129 and 131 of the NPPF, saved UDP text and policies DC1, DC12, DC17, ENV3, ENV4, ENV8 and ENV10. It would also be contrary to the objectives and principles of SPDs Places for All, Places for Living, High Places and the City Centre Canal Corridor Development Framework.
- This stretch of the Birmingham & Fazeley canal is characterised by longer views of the city centre and tall buildings in the background, but the built form alongside the canal is largely low in height, generally no more than 6 storeys and is often industrial or commercial in character. Where it is taller, it is set back much further from the water's edge than the proposal.
- The Trust consider the canal network forms a visual and interactive reminder of our cultural and industrial heritage, and in built environment terms helped to shape the layout, form and use of the city as it is now. It canal should be considered as a non-designated heritage asset that should be acknowledged, celebrated and protected.
- The SPD High Places suggests that a cautious approach be taken to the location and design of tall buildings and it is notable that this site falls outside the boundary where tall buildings are considered to be acceptable. Further it states that tall buildings will not normally be acceptable next to listed buildings, unless there are exceptional circumstances. This site has 5 listed buildings close by and there appears to be no justification from the applicant of any exceptional circumstances as required by this policy.
- The City Centre Canal Corridor Framework identifies this site for residential and commercial development of only 3 storeys in height with provision of canal side moorings.
- The proposed development has the potential to enhance and extend the existing network and improve links to the canal corridor green infrastructure if well designed. It should not result in a reduction of the effectiveness and benefit of the canal corridor.
- The design of block B would cause avoidable harm to the future amenity value of the canal corridor by resulting in an overbearing impact on those on the water space and the towpath due to its height, bulk, scale and massing. The block would read as an excessively tall vertical slab with an injurious character of high repetition. The design lacks any detailing or references to its context and would not provide a landmark or waymark for those using the canal.
- The plain sheet piling proposed to rise 1.5m-2m out of the canal water along the bottom of the development when viewed from the water space and towpath adds to the overbearing visual impact of the proposed development, providing an oppressive and uniform frontage to the water space. The Trust does not consider this to be an appropriate treatment.
- The height, bulk and massing would result in shading of the canal corridor which would alter its light and open character and reduce its attractiveness. The applicant's demonstrates a lack of understanding of the canal and the way it is and can be used as a public amenity enjoyed by a range of both static and transient activities.

- Whilst the redevelopment of this site has the potential to be beneficial in providing additional housing supply and regenerating a visually unattractive site, this should not be to the detriment of the surrounding environment and public benefits and amenities afforded by the adjacent canal network.
- As the site previously included industrial buildings and a wharf further survey and recording works should be required prior to any demolition or redevelopment occurring.
- The materials used along the canal should not be allowed to result in long term contamination or deposition of eroded material into the canal water as might be possible with the proposed corten steel material.
- Details are required on how any constructed scheme would be delivered in order to ensure that the structural integrity of the canal and confirmation is required that that there will be no reduction in the quality of the canal water from run off etc.
- A SuDS management strategy and Surface Water Discharge needs to be agreed to ensure water quality.
- Native rather than ornamental planting species should be sought together with the provision of bird and bat boxes to improve the habitats along the canal.
- Flood lighting should not be provided to the canal to show consideration for bats and other nocturnal species.
- If planning permission is to be granted, in order to encourage greater use of the towpath during the hours of likely demand, which include commuting times in winter months and evenings at weekends, it is requested that a planning obligation is included for providing lighting and landscaping along the stretch of towpath between Barker Bridge and the Snow Hill Undercroft, along with a mechanism for the provision, ownership and future maintenance thereof and associated improvements to the access point immediately east of the bridge, including way finding.

4.15 West Midlands Fire Service – No objection provided the final scheme allows access for a pumping appliance within 18m of each dry fire main inlet point, access for a pumping appliance within 18m of a suitable entrance giving access to the wet main and tank, provision of protected stairways/fire fighter shafts, that suitable water supplies for firefighting are provided for approval and the development obtains approval in respect of Part B of the Building Regulations 2010. They note that all flats are to have sprinklers.

4.16 Ward Councillors, MP, residents associations, local residents and businesses notified of the application and site/press notices displayed. The applicants also carried out their own pre application consultation with local stakeholders and residents. Four representations have been received 2 on behalf of the Archdiocese of Birmingham and 2 from the trustees and a supporter of St Chad's Sanctuary. The letters include the following objections and comments:-

- The Archdiocese has no objection in principle to the redevelopment but consider the opportunity to maximise housing numbers should not be at the expense of the setting of the Cathedral.
- St Chad's Cathedral, is of great historical importance to the Catholic Church and is a fine example of the works of Augustus Welby Pugin and John Hardman and rightly has a Grade II\* Listed status.
- St Chad's has a physical presence in the street scene that needs to be carefully nurtured and sensitively managed to ensure that the Cathedral is not overwhelmed, retains its important presence in vistas and becomes more accessible. The setting of the Cathedral has already been harmed by the development that is being built at Three Snow Hill which has unimpeded views of the spires.

- Concerned that the site is being considered in isolation without clear guidance on heights and a strategic framework for the area and that there will be a build-up of heights that does not maximise the townscape values of the City. .
- Consider the application proposals pay no heed to the presence of St Chad's Cathedral, the most significant building in the area, or to its other more diminutive neighbours.
- The setting of the Cathedral is being compromised by the sheer volume and height of the development on the site. In combination with Three Snow Hill, the development will defeat the City Council objective to have St Chad's as the centre-piece of the area.
- At its closest proximity to the Cathedral the development builds to 8 storeys and is further forward and much higher than the existing factory.
- The analysis of key views does not take into account the longer range views into and out of the Snow Hill and Gun Quarter areas. The site forms part of a wider area that should address the views from the north and east in a more coherent manner and respect the setting of the canal.
- The proposals do not take the opportunity to enhance and upgrade Shadwell Street which could be achieved by providing ground floor activity, maximising pedestrian priority and re-designing the appearance of on-street parking.
- There is no information on how the interests of the Cathedral and St Chad's Sanctuary will be safeguarded during the construction period.
- Concern regarding the loss of parking spaces on Shadwell Street which are used by volunteers/visitors at St Chad's Sanctuary, some with mobility issues.
- The development provides insufficient parking and therefore there will be a high demand for on street parking on Shadwell Street at the expense of visitors/volunteers at the Sanctuary.
- Need to ensure that there is no threat to the operation of St Chad's Sanctuary and that it can continue to help those in need and that users/visitors to the building will be kept safe and not suffer dust, dirt and debris and noise pollution.
- Planning permission should be denied until full details of the impact of the construction work on St Chad's Sanctuary is known including insurance for any damage to the building, how safe access will be maintained, impact of the building foundations, arrangement to protect users from noise, provision to be made for contractors parking, proposed working hours, need for party wall agreement and whether any road or footway closures will be necessary.
- The site is overdeveloped and the scheme should be modified to ensure:
  - The setting and views of St Chad's are protected
  - The highest parts of the development are reduced towards the Cathedral and canal
  - A vista is created through the site with St Chad's as its focus.
  - The canal towpath is considered as a means of encouraging pedestrian use as part of a coordinated strategy for this area.
  - That a natural break is provided between the site and the existing development at the Sanctuary
  - The Shadwell Street frontage of the building is set back to provide more activity at ground level, provide greater interest to the street scene.

4.17 The pre application proposals for the site were reported to the Conservation and Heritage Panel on 9 October 2017. Several members of the Panel highlighted the historic importance of this site which is set within the context of several smaller scale buildings many of which reflect the history of the area and indicate the original fine urban grain. During the discussion Panel members made the following points:-

- While more development is welcomed in this area, the Panel suggested that both the scale of the typical residential blocks and point block were very large and could have had a better relationship to smaller buildings in the immediate context.
- Concerns were raised about the overshadowing of St Chad's Cathedral and the risks of creating a canyon effect along the canal towpath. It was suggested that some buildings be set lower to better reflect the historic grain.
- The urban design logic, placement and form of the point block were questioned and a concern was raised that the tower will set a precedent for future developments.
- It was noted that St Chad's Cathedral is forward of the street from the western approach along the Great Charles Street Queensway and subsequently the proposed development would have limited impact on this key view.
- It was suggested that a more selective palette of materials and colours would benefit the design. The Panel also questioned the inclusion of balconies facing onto Shadwell Street and suggested that interest on this elevation could instead come through high quality detailing.
- Several Panel members suggested that the scheme would benefit from ground floor commercial uses and that facilities such as the gym could be opened up to the surrounding community.
- It was noted that the back of pavement strategy was not typical of the surrounding urban environment.
- It was recommended that there be less detailing for the low rise and simplification of the high rise cross section be considered.

In summary the Panel concluded that there was no detrimental impact on St Chad's Cathedral and the storey heights, including the tower had been justified by the applicant. The detailing of the blocks and the tower would benefit from further refinement using a simplified palette of materials. The Panel were positive about the work of the applicant to regenerate this part of the city

## 5 Policy Context

- 5.1 Birmingham Unitary Development Plan (Saved Policies) 2005, Birmingham Development Plan 2017, Big City Plan, Places for Living SPG; High Places SPG; Car Parking Guidelines SPD; Public Open Space in New Residential Development SPD; Lighting Places SPD; Loss of Industrial Land to Alternative Uses SPD, City Centre Canal Corridor Development Framework 2002 and National Planning Policy Framework 2012.
- 5.2 There are a number of listed buildings in close proximity to the site including St Chad's Cathedral (Grade II\*), the Abingdon Works at 29A- 32 Shadwell Street and 94-98 Bath Street (Grade II), 37-38 Princip Street (Grade II) and Barker Bridge on Lower Loveday Street (Grade II). Other listed buildings nearby include The Gunmakers Arms at 92-93 Bath Street and 100-101 Bath Street both listed Grade II. The MB Stores and Depot building on Lower Loveday Street/Summer Lane is locally listed Grade B.

## 6. Planning Considerations

### 6.1 **The Issues**

- 6.2 Local Planning Authorities must 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 as is the National Planning Policy Framework. Also to be considered are the representations received from consultees and third parties. It is considered that the proposals raise a variety of planning-related issues which are discussed below.

### **6.3 Land Use Policy**

- 6.4 The Birmingham Development Plan (BDP) which was formally adopted on 10 January 2017 sets out a number of objectives for the City until 2031 including the need to make provision for a significant increase in population. Policy PG1 quantifies this as the provision of 51,000 additional homes 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.
- 6.5 Policy GA1.3 relates to the Quarters surrounding the city centre core and states that development must support and strengthen the distinctive characteristics, communities and environmental assets 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. A development framework for the City Centre Canal Corridor has been prepared which seeks to realise the full potential of the canal as a focus for regeneration and positive development. It particularly notes that there are sections of the canal within the Gun Quarter where there is a poor mix of uses, design and layout of buildings which discourages the full potential of the network and states that a key objective of the framework is to remedy this position. The application site falls within the area identified as St Chad's Circus/Old Snow Hill which has seen some new housing development but states that more redevelopment needs to be done if the area is to realise its potential as a major gateway to the City Centre core.
- 6.6 The redevelopment of the application site therefore offers an important opportunity to deliver additional housing on a brown field site close to the City Centre core and also to contribute to the transformation of this part of the canal corridor. The proposals would represent a major investment into the City and into the Gun Quarter in particular which is identified as area with enormous potential for improvement and regeneration. A good mix of 1(39%), 2(54%) and 3(7%) bed apartment types are proposed with sizes ranging from 43.6 – 109.5 square metres, together with generous communal space for residents which would create an attractive and sustainable new neighbourhood. The development has also been designed to provide a high quality scheme which focuses on the canal frontage with apartments orientated towards this frontage together with landscaped gardens to the canal edge, viewing areas, terraces and balconies. This would significantly improve the appearance the site from the canal as well as making the towpath more attractive to users by providing natural surveillance of the area.
- 6.7 The site is currently being used for employment purposes being used by FGF Limited who have operated from the site for a number of years. Policy TP20 of the BDP relating to the protection of employment land is relevant and states that as employment land and premises are a valuable resource to the Birmingham economy and will be protected. The policy states that that outside Core Employment Areas there may be occasions where employment land has become obsolete and can no longer make a contribution towards the portfolio of employment land. In such cases

change of use proposals from employment land to other uses will be permitted where it can be demonstrated that either the site is considered a non-conforming use or the site is no longer attractive for employment development having been actively marketed, normally for a minimum of two years.

- 6.8 More guidance regarding the loss of employment land is set out in the “Loss of Industrial Land to Alternative Uses” SPD 2006 which 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, however, only where they lie in areas which have been identified in other planning policy documents that have been approved by Birmingham City Council, as having potential for alternative uses.
- 6.9 The site has not been marketed as an employment site and the applicants contend that the existing development is a non-conforming use as the immediate area is no longer characterised by industrial uses having regard to the approvals given in recent years for residential and student accommodation. There is also existing residential development adjacent and opposite the site. They advise that the site is not considered suitable for continued employment use and the existing offices are substandard and cannot be used. Although the current occupier has operated from the site for many years it is no longer sufficient for their needs and they intend to find larger alternative premises with improved warehouse/manufacturing space and better service yard provision. However as they are a long established Birmingham company they intend to remain within the city so they can retain their existing workforce.
- 6.10 The Canal Corridor Development Framework identifies the application site as a redevelopment opportunity should existing operations cease and suggests the site is suitable for residential and commercial development. As the site therefore lies in an area where a development framework proposes it be redeveloped it is considered that it falls within the exceptions allowed for by the “Loss of Industrial Land to Alternative Uses” SPG. This is reinforced in the Big City Plan which sets out a role for the Gun Quarter which is to support employment activities but also to create opportunities to enhance its appeal as a place to live and relax particularly utilising assets such as the canal corridor to deliver mixed and a vibrant range of activities. The site is therefore considered to be suitable for residential and would provide an opportunity to regenerate this underused brown field site, enhance the canal frontage and add to the mix of uses in the area.
- 6.11 One of the objection received to the application is that the site should not be considered in is site in isolation without clear guidance on heights and a strategic framework for the area. It is however considered that current planning policies as set out in the documents discussed above provide sufficient guidance on the area to allow a decision on the application to be made.
- 6.12 **Tall Buildings Policy**
- 6.13 Proposed Building B has been designed as a tall point block of 16, 19 and 21 storeys and therefore the City Council’s SPG on tall buildings High Places should be considered. The SPG states that the City welcomes and encourages well placed, high quality tall buildings which would enhance the image of the City and identifies a number of suitable locations. The application site is not specifically identified as a suitable for a tall building and in these circumstances would normally only be appropriate where it would aid legibility of the city’s form, mark an arrival point or key public facilities or is in close proximity to a major public transport interchange. It



should however be noted that the SPG is now relatively dated, having been adopted in 2003 and is to be reviewed as part of the City's new Design Guide SPD. The cityscape of Birmingham has changed significantly since 2003 and the Gun Quarter area, particularly sites around the canal corridor continue to be developed with taller buildings such as the 16 storey student accommodation under construction adjacent to the canal on Bagot Street. The site is also within a location where the existing buildings create a poor environment that requires regeneration and transformation.

- 6.14 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 a tall building 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 can help to signpost the canal and create legibility. The canal towpath route is currently quiet, poorly lit and slightly threatening 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 opposite side of the canal where buildings are generally taller up to 10 storeys high and the highest building also sits behind the street frontage. Subject to the consideration of the detailed design, the impact on the setting of St Chad's Cathedral and the other heritage assets in the vicinity it is considered that a tall building could be allowed in this location.
- 6.15 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. 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:-
- 6.16 *Local Context and Design*
- 6.17 The City Design Manager comments that the conception of four buildings along the Shadwell Street frontage sits very comfortably with the townscape principles of this area. It restores the eroded 20th century block of development by delivering a confident piece of modern development that introduces bold contemporary forms with link down to the canal via open spaces. The securing of new green habitat will help establish these buildings and allows Building D to sit at an angle from the street in the 20th century tradition, thereby responding to the legacy of construction north of the canal. Views between the buildings up to the large scale 20th century buildings north of the canal will also create visual permeability and legibility through to this part of the city which otherwise could be further disconnected by solid built form.
- 6.18 The proposed building heights would vary across the site between 3 to 21 storeys. Generally the lower height blocks which would be predominantly 6-10 storeys high would front Shadwell Street and Lower Loveday Street with the tall point block of 16/19/21 storeys facing the canal. The proposed buildings would be located close to the street frontages to follow the pattern of development in the Gun Quarter with perpendicular wings stretching towards the canal. The heights would be varied to the

street frontages to create variety to the street scene and respect the local context where existing building heights are lower. It is acknowledged that these building heights are higher than the existing predominantly 2 and 3 storey building heights on the opposite side of Shadwell Street however it is not considered that these heights would be excessive and out of context. The area also continues to change with new higher density development and taller buildings so that its character is continually evolving. The building height on Lower Loveday Street at 6 storeys would, for example, be higher than the existing 3-4 storey office building on the site. This however reflects the height of the more recent 6 storey student accommodation which lies opposite a 2 storey building.

- 6.19 In terms of layout the five buildings are arranged to create two continuous frontages along Shadwell Street, splitting the development into two halves, with the gap aligning with Little Shadwell Street. The buildings behind these frontages extend to the canal to form three courtyards that address the canal to the north. There would be a 15.8 metre gap in the frontage (enclosed by decorative railings) onto Shadwell Street between buildings C and D where an entrance courtyard is proposed to give views from the street to the landscaped courtyards beyond. The proposed courtyard gardens would provide an attractive setting for the residential buildings and also create a greener back drop to the canal and towpath. Some of the buildings are also set slightly back from the back of the pavement to allow a suitable relation between with neighbouring development and to also allow the streetscape to be improved with planting.
- 6.20 Objections have been received to the development on the grounds that it is only providing housing and that the proposals do not take the opportunity to enhance and upgrade Shadwell Street by providing ground floor activity. Although the original development framework suggested a mix of uses on the site the applicants have sought to provide to add interest to the street by locating communal facilities on part of the site frontage including the primary entrances, a residents gymnasium, lounges, meeting rooms, work-from-home spaces and a library. It is considered that these uses would add to the vitality of the area and provide natural surveillance of the street which would improve its appearance as the current buildings present a blank wall to the street. Landscaping is also proposed adjacent to Shadwell Street to the front of Building A and between Buildings D and E.
- 6.21 High Places require the design of tall buildings to be of the highest architectural quality and that the design at low level should reinforce local characteristics. On the Shadwell Street frontage it is proposed that the heights and roof form of the buildings steps up and down the street and pitched roofs are used for Buildings C and D to add interest and relate to the industrial heritage of the site and the power station building to the north. The proposed base treatment has been designed to relate to the rest of the street and the top would be more expressive and include elongated slender window proportions. Brickwork is proposed as the primary material in order to fit in with the character of the area with the use of red bricks for buildings A and E, a buff brick for buildings C and D. On the ground floor to Shadwell Street it is also proposed to provide decorative striped dark brick courses treatment as found on the MEB Power Station and Canal Towpath wall.
- 6.22 The design of the tallest point block B splits the proposed building into three forms. Its height allows the footprint of build development to be reduced to form gaps and openings within the development, allow light and views into the courtyard from the south and to create more green space on the site. The tallest section of the block would be next to the canal, opposite other taller buildings, including the MEB offices on the north side of the canal. The building B elevations have been designed to

create simple facades with three vertical forms that would be split into two window bays to create simple repetitive bays which would accentuate the elongated form. The bays would be identical apart from the colour of the brickwork which it is proposed would have a darker colour to the middle form and light grey brickwork to the outer forms. The base of the building would be treated as a double height element to form a more solid looking base with vertical proportions where it hits the ground.

- 6.23 There has been criticism of the design on the grounds that the *“point block would read as an excessively tall vertical slab with an injurious character of high repetition and that the design lacks any detailing or references to its context”*. Although the building has been designed with a simple façade the stepped form creates a distinctive profile which would break up the mass and scale and would avoid it appearing as a “slab”. It has also been designed with a distinctive top, middle and base and the proportions and windows are balanced and equal and form a rhythmic pattern along the length of the building. The City Design Manager confirms the architecture employed is well considered. In addition the angled roof forms between each block would align to create a series of positive spaces between the building forms that extends down the street, from building to building.
- 6.24 To the northern side of the site the buildings would face out to the canal and sit above the lower ground floor level. Building forms would be brought down to canal level and dual aspect flats directly overlooking the canal and towpath are proposed. The design for all buildings also includes balconies to overlook the canal, as well as the courtyard gardens and the wider area. The landscaping would extend in front of the podium walls so that the courtyard gardens appear to spill down towards the canal and would significantly improve the appearance of canal frontage. Objections have been received to the use of corten steel for the revised canal wall on the grounds that it could result in contamination of the canal material and the objector recommends a brick finish. The use of corten steel however would however be acceptable from a planning point of view has an industrial type appearance. Any issues regarding its impact on the quality of the watercourse would however need to be agreed between the applicant and Canal and River Trust.
- 6.25 *Microclimate and Shadowing*
- 6.26. A Daylight and Sunlight study has been undertaken, which concludes that the layout of the proposed development follows the BRE guidelines and will not significantly reduce sunlight or daylight to existing surrounding properties or amenity spaces. The scheme demonstrates broad compliance with the BRE guidance in respect of the daylight and sunlight enjoyed by neighbouring properties however there are a small number of rooms to dwellings around the site that would be below the BRE guidance and the impact on neighbours amenity will be addressed further in paragraph 6.61 below.
- 6.27 The study has also considered the impact of the proposed development on the canal towpath and concludes that the entire towpath will receive at least two hours of sunlight on 21st March when the sun is low in the sky in both the existing and proposed condition and satisfies BRE guidelines. An overshadowing study has also been undertaken as of 21st June which indicates that the amount of overshadowing is much reduced and that although the majority of the towpath will be in the shadow between 6.00am and 7.00am the area in shadow reduces to approximately half by 9.00am and there will be no overshadowing of the towpath by the development by 1.00pm. Overall the proposed scheme would meet the BRE criteria for the availability

of sunlight to amenity areas and that, although there will be some increase in shadowing, this will be confined to the early morning during the summer months.

- 6.28 It will be noted from the objections from the Canal and Rivers Trust that they consider that the applicants have not properly assessed the impact of the development on the canal. They consider the development would cause a visually overbearing impact on the canal corridor and its users, reducing its attractiveness and use and therefore would be contrary to BCC policies which are seek to ensure new development is sympathetic to historic, cultural or natural assets and require regard to be had to the impact the proposed development would have on the local character of an area including views, skyline, open spaces and landscape, scale and massing and neighbouring uses. They point out that the scale new buildings is required to generally respect the area surrounding them, and should reinforce and evolve any local characteristics, including natural features such as watercourses.
- 6.29 It is acknowledged that the development would have a significant impact on the canal however it is not agreed that this would be negative or cause excessive overshadowing. The current buildings on the site turn their back on the canal and the canal frontage is for deliveries and external storage and is marked by a concrete retaining wall. Although the new buildings would be significantly higher they are set back from the canal edge and the blocks that face the canal would be separated by three courtyard gardens having widths of 22, 25.8 and 28.4 metres. The soft landscaping proposals would also link the proposed garden spaces with the canal edge and canal viewing platforms are also proposed which would contain seating, amphitheatre style steps and a look-out point. Whilst Block B is a taller element on the canal there would be no impact on the use or function of the canal and there are other tall buildings adjacent to the canal in its wider context. Overall it is not considered that the development would be unduly overbearing and would activate the canal frontage.
- 6.30 A wind microclimate assessment has also been undertaken, which concludes that wind conditions in and around the proposed development are generally expected to be suitable, both in terms of pedestrian comfort and safety, for the intended use by the general public. Wind mitigation measures would be required at the base of the south-west facing facades of Block B and on the occupied elevated terraces (Blocks A and B) within the proposed development and this is to be addressed by provision of 1.5m screening. The assessment also recommends recessing entrances onto the terraces to mitigate wind effects.
- 6.31 *Helping People Move Around*
- 6.32. The proposed tower would be significantly taller than other buildings in the locality and would be visible in the street scene, from the metro stop canal towpath. It would therefore act as a local landmark to help legibility within this part of the City Centre. The ground floor communal space and entrances into the development would provide activity to ground floor frontages on Shadwell Street and together with the balconies would make the streets and canal towpath feel safer. All the main entrances would be at street level and suitable for people with disabilities and would meet building regulation requirements.
- 6.33 *Sustainability and Living Conditions*
- 6.34 The site currently has low ecological value due to it being predominantly hard standing or buildings so that there is scope for enhancements. Key sustainable measures included within the development include:-

- Designs which prioritise passive measures, energy, prevent overheating and include water efficient fixtures and fittings to reduce water consumption.
- Measures to reduce waste, prevent pollution and during the construction period
- Procurement practices to ensure that local materials and labour are prioritised.
- The new dwellings will include the installation of water efficient fixtures and fittings to reduce water consumption.
- Reduction in impermeable area post-development to reduce surface water runoff.
- Provision of green infrastructure to support existing biodiversity and enhance the wellbeing of residents
- Development of a residential Travel Plan to promote the sustainable location and use of sustainable modes of transport.

6.35 The Canal and Rivers Trust have commented that the proposals should be amended to include native trees and plants of value to nature conservation in order to continue the existing biodiversity and habitat provisions along the canal and this can be covered by conditions. The Council's ecologist confirms that the proposed development represents an opportunity to deliver ecological enhancements and that the new street tree planting and the three podium/courtyard gardens would help to establish a useful habitat link from the canal corridor to St Chad's Cathedral Garden. The selection of ecologically beneficial plants is recommended to maximise the value of the site for birds, bats, pollinating insects and other invertebrates. The ecologist further comments that the inclusion of the rill feature in the central garden is a welcome addition and is supported as a means of increasing the habitat diversity (and biodiversity value) of these green spaces but requests that green roofs are incorporated on the flat roof sections of the building. The applicant however wishes to use the flat roof areas as terraces for residents but is willing to incorporate integral habitat features for crevice roosting bats and urban bird species in suitable locations.

6.36 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. All of the apartment sizes meet the guidance set out in the National Space standards and many also have a terrace or balcony. A range of communal spaces are proposed for residents including a lounge and gym, courtyard gardens and canal viewing areas. The design of the buildings is considered to be of a high quality and a glazing and ventilation specification is proposed to deal with any facades affected by noise or air quality issues as recommended in the submitted supporting documents.

6.37 *Impact on local public transport*

6.38. The site benefits from good connectivity to the local facilities and access to public transport networks providing an alternative to car journeys. It is within walking distance of bus and metro stops and multiple train stations a short walk of a range of local amenities within the city centre. It is not considered that there are shortcomings in the local infrastructure that need to be remedied in connection with the development however the proposals provide the opportunity to improve the canal towpath which would make it more attractive to use by pedestrians and cyclists.

6.39 *Lighting*

6.40 The application does not include a detailed lighting scheme however this can be covered by conditions and the applicants advise that the lighting of the building will be appropriate for its context and setting and take into consideration the amenity of residents and adjacent sensitive receptors. The comments from the Canal and River

Trust and West Midlands Police regarding lighting will also be taken into account when agreeing the scheme details.

- 6.41. Overall, I consider that the design of the scheme is to a high standard and design as required by High Places and the Policy PG3 of the BDP. Conditions are recommended to secure samples of materials, suitable landscaping and lighting.

**6.42 Impact on Heritage Assets**

- 6.43 Consideration also needs to be given to the impact of the development on the setting of adjacent heritage assets including the nearby listed buildings, locally listed buildings and the canal. The statutory test for development involving listed buildings is that 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 it possesses. The NPPF clarifies setting as contributing to the significance of heritage assets, and how it can enable that significance to be appreciated. The area surrounding the application site contains a significant number of listed buildings including St Chad's Cathedral (Grade II\*), the Abingdon Works at 29A- 32 Shadwell Street and 94-98 Bath Street (Grade II), 37-38 Princip Street (Grade II) and Barker Bridge on Lower Loveday Street (Grade II). Other listed buildings nearby include The Gunmakers Arms at 92-93 Bath Street and 100-101 Bath Street both listed Grade II.
- 6.44 The applicants Heritage Assessment has considered the impact of the development on the adjacent heritage assets and concludes that the proposed development would not diminish or harm their significance. Whilst a tall building is proposed, the assessment comments that the site is within an area already characterised by a mix of low rise and tall buildings such as the Holiday Inn Express and One to Three Snowhill. It advises that the scheme has been carefully designed to respond to the significance of nearby heritage assets and that the use of differing character areas across the site, the varying roof lines and suitable materials that are characteristic of the Gun Quarter, the proposed development would not appear dominant in views such that it would detract from the significance of nearby heritage assets. It contends that the slender and elegant form of the tower whilst prominent within certain views would not compete with the robust architectural form or overall significance of St Chads Cathedral. Also that the overall layout, siting, form and appearance of the proposals all respond to St Chads Cathedral and the listed buildings along Shadwell Street and Bath Street.
- 6.45 It will be seen from the consultation responses received that objections have been raised by Historic England, the Victorian Society and the Archdiocese of Birmingham on the grounds that the development would cause harm to the significance of the Grade II\* listed St Chad's Cathedral and of the cluster of Grade II listed Gun Quarter buildings in its setting. Historic England and the Victorian Society also consider that the proposed development will cause harm to the significance of multiple heritage assets and that this harm is at a high level of 'less than substantial harm'. Conservation and Heritage Panel members expressed some concerns at the pre-application stage regarding the overshadowing of St Chad's Cathedral and the risks of creating a canyon effect along the canal towpath, but concluded that there was no detrimental impact on St Chad's Cathedral and the storey heights, including the tower had been justified by the applicant.
- 6.46 *St Chad's Cathedral*
- 6.47 St Chads Cathedral is primarily experienced from the footpath of Snow Hill looking northwest towards the site. The tall Block B has been positioned on the canal edge

so that it will not be experienced within view and where its symmetrical composition and projecting towers are prominent features. Block B would be seen as a backdrop to one side of St Chads from St Chads Circus so would have some impact on how the asset is experienced in wider views. However the tall building is setback from the street frontage alongside the canal and would be about 80 metres from the Archbishop's House at its closest point and 100 metres from the Cathedral nave/chancel and would not compete with the architectural quality of the building. Distant views of the listed building from along Great Charles Street Queensway to the north east will remain unchanged. Along Shadwell Street, the build form proposed is taller than existing building and generally located to the back of the footway in order to reinstate the historic context. However it is not considered that this will adversely alter the experience of the rear elevation of the Cathedral along Shadwell Street, with its varying roofscape and neighbouring archbishop's house.

- 6.48 With regard to the impact on St Chad's cathedral the City Design Manager comments that the Cathedral can be truly considered to be a landmark in the city and has aesthetic, historic, evidential and communal value associated with its architecture, designer, completeness and religious associations and that these qualifies its high significance and grade II\* listing. He notes that the Heritage Statement explores the significance of the setting of the cathedral and accurately notes that the original setting of the building has been lost and the dense, low scale and canal fronting development surrounding the church has been replaced (in part) with much larger modern development. The development to the southern side of the ring road is substantial and reflects the characteristics of a modern city centre business district.
- 6.49 The City Design Manager notes that the land surrounding the cathedral to the north of the ring road comprises development that reflects the eaves and roof height of the cathedral itself however the Snow Hill Masterplan seeks to define the ring road corridor with stronger built form, which includes taller scale on the northern side. This relates to the larger structures north of the canal in the cathedrals intermediate setting. The Heritage Statement defines the principle aspects from which the cathedral is experienced and these include the footpath looking northwest towards the site, where it is confirmed that the development would be screened behind the cathedral. The view of the western flank of the cathedral is prominent (across the open area of public realm in this location) but the scheme has been designed so that the point block is stepped away from the nave/chancel. Whilst this form becomes more evident further away from the Cathedral the proposal from this western perspective become distinctly separate and far less significant from this perspective. The tall building would be positioned amongst a network of lower, yet substantial buildings and therefore from most aspects the form would not be as dominant as typical tall buildings, which occupy street frontages and prominent positions on the city centre ridge. Therefore whilst its location is not identified in High Places SPG, the tower can be absorbed into its setting without causing substantial harm. Views along Shadwell Street are only informal views of the nave roof and chancel of the cathedral and the scale of Blocks A, C, D and E do not compete with it.
- 6.50 The City Design Manager however considers greater harm is caused in the immediate and intermediate setting, where the experience of the cathedral from the significant perspectives (south and west) would be distracted by the development rising up behind it. The area on the north side of the Queensway is currently much lower in scale and the Cathedral is an impressive mass in this context. The proposed development would alter this and in some views compete with the dominance of the Cathedral on the skyline. Whilst the design has been modelled so as to limit the impact on the setting of the Cathedral, he considers the proposal still has some harmful impact on the setting of the cathedral which can be qualified as *'less than*



*substantial harm'* as defined by paragraph 134 of the NPPF. This 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 and is addressed in paragraph 6.61 below.

6.51 *Other Gun Quarter listed buildings*

6.52 The application site sits to the west of a principle group of grade II listed buildings that form the hub of the Gun Quarter. These buildings all range between two and three-storeys in height and are located at back of pavement and form part of an established grid of streets. They sit together in a shared townscape and contribute to one another's settings setting but also form part of a wider and much altered townscape which has no coherent form due to the wide range of developments and infrastructure that have occurred over the course of time. This includes the flyover of the inner ring road to the south, large scale modern buildings and cleared land used for car parking to the east and a range of 20th century development of modest to substantial scale to the north and west, which have caused cause harm to their setting. Unlike the cathedral, the application site contributes more directly to the setting of these listed buildings due to proximity and scale. It is considered that the loss of the existing buildings causes no harm, however the replacement buildings are substantially larger and will therefore have an impact on setting.

6.53 The City Design Manger comments that the views from most of these listed buildings towards the west are dominated by larger modern buildings and a fragmented townscape that has been eroded by poor quality development throughout the 20th century. The proposed development goes some way to deliver buildings that better address the street and restores a townscape that has been lost through modern sheds set back behind fencing. The scale of the proposed buildings is however substantially different from these historic buildings particularly the point block B, however it will be less dominant in their setting due to the position of blocks A, C, D and E, that will create separation in the immediate setting.

6.54 With regard to the proposed street frontage blocks A, C, D and E the City Design Manager notes there is still a scale change in the townscape between the historic hub of the Gun Quarter and the existing taller structures north of the canal. The development buildings include an interesting variety of forms and are broken down into massing that would go some way to counter the transition in height, preventing them from being a dominant linear blocks that create a canyon effect to the street and linking this area back down to the canal. The development would also help reinstate a street and link the Gun Quarter to the Jewellery Quarter. Overall he considers the development would have a positive impact on the listed buildings by removing the existing harmful buildings on this site, however there is still some harm caused due to the scale and massing of the proposed buildings, which is considered to be less than substantial harm and in accordance with paragraph 134 of the NPPF it must be established that that the harm is outweighed by public benefits.

6.55 *Other Heritage Assets*

6.56 The applicant's heritage assessment has also considered the impact of the development on the locally listed MB Stores and Depot building on Summer Lane. This building includes a large brick ended warehouse type section that extends back into its plot towards the canal towpath. The assessment states that proposed development presents the opportunity to enhance the significance of the MB Stores and Depot building by reintroducing built development adjacent to it and creating a new context to address its current exposed and isolated position. It is agreed that the

proposed development will not compete or alter views of the building from along Summers Lane and that although the view at the rear of the site along Little Shadwell Street will change it is not considered this would compete or affect its setting.

- 6.57 The Canal and River Trust originally included in their objections to the development objected concerns that that applicants have not acknowledged that the Birmingham & Fazeley Canal as a heritage asset. The Trust contend that the canal network forms a visual and interactive reminder of our cultural and industrial heritage, and in built environment terms helped to shape the layout, form and use of the city as it is now. Therefore they consider it of significant merit and worthy of consideration as a non-designated heritage asset when making planning decisions in accordance with the NPPF definition.
- 6.58 Following the receipt of this objection an addendum to the heritage statement has been submitted which considers the impact of the development on the character of the Birmingham and Fazeley Canal as a non designated heritage asset. The Trust has reviewed the additional information and advises that planning permission should not be granted for the reasons previously given and in their view the additional information does not provide further justification to alter the view of the Trust in relation to the harmful impact that the proposed development would have.
- 6.59 The additional heritage information provided by the applicants points out that the character of the canal has undoubtedly changed from industrial to residential in the 19th and 20th centuries and its interest lies in its functional purpose and contribution to the historic development of Birmingham in the late 18th-19th centuries. The redevelopment of the site with a tall building would not affect this key aspect of its significance. The setting of the canal varies along its 15 mile length, and it is experienced alongside high rise development located close to the canal side. As both a linear and meandering feature, views are available to the wider surrounding area which encompasses views towards the city centre of Birmingham, and further high rise developments. It concludes that the site currently forms an unattractive frontage to the canal and that the proposed development seeks to address this by creating an active frontage and by reinstating the relationship between the buildings on the site and the canal.
- 6.60 The City Design Manager has also considered the impact of the development on the canal and acknowledges that although it is not a designated heritage asset it is an important layer in the townscape of Birmingham. However he comments that little can be done to this asset itself to animate it further or provide surveillance as this can only really be achieved by the development that fronts it. The development proposals mark the alignment of the canal that is otherwise lost in the urban cityscape and this pattern of development is common along canals in most of Britain's major city centres as seen elsewhere in Birmingham. He supports giving legibility to the canal as this is important in sustaining their post-industrial existence as new routes across the city. Historically it is not uncommon for buildings to be taller along a canal in an urban area as wharfs and warehouses were stacked along these routes of commerce and trade. Whilst the point block would be prominent from the canal frontage where it is fully visible it acts as a pivotal point in the development, would allow permeability and views through to open spaces and streets beyond and would achieve a suitable juxtaposition between the elevated new built form and the canal space.
- 6.61 Although the applicants Heritage Assessment considers that the development would not diminish or harm the significance of the elements that contribute to the setting of the heritage assets in the vicinity of the site it is considered that the proposed development would cause some harm, although this would be at the lower end of

less than substantial harm. In such circumstances the National Planning Policy Framework at paragraph 134 requires the harm to be weighed against any public benefits associated with the development. In this case the public benefits include redevelopment of an underused City Centre site with a high density residential redevelopment that would deliver 404 apartments and which would help meet the city's housing needs. The proposals also provide an opportunity for the regeneration and transformation of this part of the Gun Quarter and would increase activity and overlooking of the canal and its towpath and provide active uses to the Shadwell Street frontage. Overall, it is considered that the public benefits outweigh the less than substantial harm caused.

**6.62 Residential Amenity**

**6.63 *Living and Amenity Space***

6.64 When assessed against the nationally prescribed housing standards, the 1 bedroom one person apartments would be 43.6 sqm and therefore exceed the minimum standard of 39sqm and the 1 bedroom two person apartments at 50.3 sqm would comply with the minimum standard of 50sqm. The 2 bedroom three person apartments would be 64.3 sqm and therefore comply with the minimum standard of 61sqm and the 2 bedroom four person apartments at 72.3 sqm would exceed the minimum standard of 70sqm. All the 3 bedroom six person apartments at 109.5 sqm also exceed the minimum requirement of 95sqm. A total of 0.21ha of amenity space is provided in the form of the 3 courtyard gardens and a further 0.28 ha in the form of private terraces and balconies (an average of 12.4 sqm of amenity space per apartment). A communal lounge and resident's gym would also be provided. Separation distances between windowed elevations vary between 9 and 33 metres. However where the distances on the blocks fronting Shadwell Street are lower the apartments are dual aspect to avoid undue overlooking. The scheme would therefore provide a good standard of living and amenity space.

**6.65 *Impact on Neighbours Amenities***

6.66 The applicants have submitted a daylight and sunlight report which considers the effect of the proposed development upon the existing surrounding properties, having regard to the recommendations in BRE guide to good practice. The assessment criteria considers the existing and proposed condition so that the daylight and sunlight levels before and after development are quantified and the relative change is determined. The report assesses the impact of the development on living accommodation within 37 & 38 Princip Street/16 Lower Loveday Street, the Abingdon Works on Shadwell Street, 29 Shadwell Street, Gunmakers Arms, Cathedral House, Archbishops House, William Booth Centre, The Hub at Honduras Wharf, Honduras Wharf Phase 2, 50 and 60 Lower Loveday Street, and 21-24 Lower Loveday Street.

6.67 The analysis of the scheme demonstrates good compliance with the BRE guidance in respect of the daylight enjoyed by neighbouring properties and will not significantly reduce daylight to existing surrounding properties. It did however twelve habitable rooms falling just short of meeting the guidance. These are at 16 Lower Loveday Street/37-38 Princip Street which lies opposite the site and where a residential conversion scheme is being implemented. Here six of rooms (4 living rooms and 2 bedrooms) facing the site would be below the BRE guidelines, although the guide notes that bedrooms are less important than living rooms. The other rooms affected are within the Abingdon Works which has been converted to residential use. Here ten rooms situated on the Shadwell Street elevation opposite the site and spread over ground and first floor levels would be below standard. Three of the affected

rooms are bedrooms and all windows would still enjoy good daylight distribution with only two experiencing less than 50% coverage.

- 6.68 There would therefore be a small number of rooms around the site that would be below the BRE guidance however these rooms currently enjoy high levels of good daylight and sunlight for a dense urban environment as the existing buildings on the site are of a lower scale. The development would effectively correct this to a more normal situation in city centre location and it is therefore considered that this can be tolerated. In addition the site was previously occupied by a mix of industrial buildings, including a chemical works, wire mill and wharf which were located to the back of the footway on Shadwell Street, so in the past the Abingdon Works had buildings much closer to its front windows. There would also be benefits to neighbouring residents from the redevelopment of the site including the loss of the existing business with its associated noise and large delivery vehicles and its replacement with a high quality residential development.
- 6.69 The daylight and sunlight report has not considered the impact on the development on St Chad's Sanctuary as this building is not in residential use, however it is located on the west boundary of the site and is set back from the site frontage in line with the William Booth Centre and the position of the existing buildings on the site. The new development is generally proposed to be located to the back of the footway on Shadwell Street however Building A where it would abut the neighbouring building, has been set back to follow the building line and its height in this location would be 3 storeys. Although this would be slightly higher than its neighbour, as it is located above a semi basement, this arrangement is considered to ensure there would be no overbearing impact.
- 6.70 Objections have been received regarding the impact Building A would have on St Chad's Cathedral as it builds up to a height of 8 storeys on the Shadwell Street frontage and is further forward and higher than the existing factory. However the closest corner of Building A has been set back from the site frontage as mentioned above and the distance between the development and the Archbishops House would be approximately 30 metres at its closest point extending to about 45 metres from the Cathedral nave/chancel. It is not considered that the height proposed would be unduly dominant. The Archdiocese of Birmingham also have requested that a vista is created through the site with St Chad's as its focus and that a natural break is provided between the site and the existing development at the Sanctuary. However the build form of development in the area has traditionally been to the back of the pavement in the form of perimeter blocks. The Cathedral spires will still be prominent in the area and the proposals do provide a gap between C and D in the street frontage to allow views from the street to the courtyard gardens.
- 6.71 In response to the comments received that assurances are required that there would be no threat to the operation of St Chad's Sanctuary a condition is recommended requiring a construction management plan to further develop the Construction, Logistics and Site Environmental Plan submitted with the application. Issues raised relating to insurance for any damage to the building, impact of the building foundations; need for party wall agreement and whether any road or footway closures will be necessary are dealt with by other legislation however the applicants have advised that they will discuss these matters with the Sanctuary.
- 6.72 **Transportation matters**
- 6.73 The proposed development would use the existing access from William Booth Lane which would be reconfigured to serve a basement parking area with 139 spaces

which would comprise of 129 standard spaces, 5 electric charging spaces and 5 mobility impaired spaces. 100% cycle storage space is also to be provided. This assess would also be used for servicing so that the existing vehicular access to the site from Shadwell Street would be closed. Pedestrian assess would still be provided onto Shadwell Street as this frontage would provide the main entrances into the development. Transportation has no objections to the proposals subject to conditions. Although an objection has been received that the development provides insufficient parking they consider that the 38% provision is suitable given the sites proximity to the City centre and the surrounding roads are protected by parking controls. The scheme also includes 100% cycle parking provision.

- 6.74 In the vicinity of the site, the roads have a number of parking restrictions including double and single yellow lines however on Shadwell Street there are 2 sections of on street parking bays either side of the existing access each with a capacity of about 8 spaces. It is proposed that the kerb and footway will be reinstated in the location of the existing access and the current provision of on street parking will be extended through this section to link the two sets of parking bays. Although concerns have been raised regarding the possible loss of parking spaces on Shadwell Street the proposals would increase the number of on street parking bays. Transportation supports this proposal, although they advise that TRO changes will be required to provide the additional bays.

**6.75 Other Matters**

- 6.76 The Canal and River Trust request that as the site included industrial buildings and Corporation Wharf further survey and recording works be required prior to any demolition or redevelopment occurring. The applicants have submitted an archaeological technical note which is considered to be sufficient to determine the application but it is considered that a further archaeological watching brief/recording should take place during the demolition/construction work and a condition to secure this is recommended. Conditions are also recommended to require details showing how the structural integrity of the canal would be retained and maintained during the construction period. The Police have requested subject of full CCTV coverage and this can also be covered by conditions.
- 6.77. In response to the comments made by West Midlands Fire Service the applicants have confirmed that that each building would be designed to meet current fire regulations, the lower ground floor is provided with a water tank room to enable the sprinklers to be provided, the apartments would be compartmentalised and a fire fighting lobby and lift is proposed for each block. To reduce the loss of electric supply to fire protection systems secondary power supplies in the form of diesel powered generators are proposed and the main building materials would be non- combustible. These matters would also be considered as part of any subsequent buildings regulations application. The request from the employment team for a construction employment plan has been agreed by the applicant although they wish to amend the person weeks of employment provided per £1 million to a minimum of 30 weeks rather than the normal 60 weeks as they are not proposing traditional construction on site and therefore advise that the number of on-site personnel will be reduced. This can be covered through a condition.

**6.78 CIL and Section 106 Obligations**

- 6.79. The proposed development does not attract a CIL contribution but given the number of proposed apartments the City Councils policies for Affordable Housing and Public Open Space in New Residential Development apply. The applicant is not able to

meet in full the affordable housing or off-site public open space requirements. The applicant has submitted a Viability Statement with the application, which has been independently assessed by the City Council's independent consultants and an off-site contribution of £808,000 has been agreed which is considered to be a fair and justifiable offer. The site is however owned by the City Council and as the applicant does not currently have an interest in land for Section 106 purposes, it would be necessary for the Section 106 to be secured via the applicant completing a Section 111 of the Local Government Act 1972.

- 6.80. It is considered that in this instance the financial contribution should be split between off-site affordable housing and improvements to the canal as requested by the Canal and River Trust. Although Local Services have requested £884,000 to be spent on improvement/enhancement/maintenance of Burbury and Aston Parks within the Aston Ward, it is considered that the development provides an opportunity to enhance the more immediate area particularly the local canal network. Education has requested a contribution towards school places, however these are funded through CIL payments. The applicant has also agreed that that construction employments plan will be provided and a condition to secure this is recommended.

## **7. Conclusion**

- 7.1. The BDP encourages residential development in the City Centre where it provides well-designed high quality living environments and the City Centre Canal corridor is identified as a focus for regeneration. In particular this site is identified as being in a location where there are enormous development opportunities for improvement of the canal environment. The proposed development would assist in this regeneration, providing much needed housing and a large investment on this area. It signals a confidence in the area, as a location for residential development, an aspiration that the City supports.
- 7.2. The justification for a tall building in this location is accepted, the design is to a high quality and subject to suitable conditions the scheme would provide a high standard of residential accommodation. Whilst it is acknowledged that there are concerns about the impact of the development on its surroundings including the listed buildings in the vicinity and on the canal the public benefits of the scheme are considered to outweigh the less than substantial harm caused to the setting of nearby heritage assets. I therefore consider that the application is acceptable subject to securing the off-site contributions via legal agreements as below:-.

## **8. Recommendation**

- 8.1. That consideration of application 2017/09308/PA be deferred pending the completion of a Section 111 of the Local Government Act 1972 legal agreement to require the applicants to enter into a Section 106 agreement to secure:
- a) A financial contribution of £500,000 (index linked from the date of this resolution) toward off site affordable housing to be paid prior to first occupation;
  - b) A financial contribution of £308,000 (index linked to the date of this resolution to the date on which payment is made) to be paid prior to first occupation towards improvements to the stretch of towpath between Barker Bridge and the Snow Hill Undercroft including lighting, landscaping, improvements to the access point immediately east of the bridge and way finding along with a mechanism for the provision, ownership and future maintenance, and

- c) Payment of a monitoring and administration fee associated with the legal agreement of 3.5% of the affordable housing and public open space sum, 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 29 March 2018, planning permission be refused for the following reasons:

- In the absence of a legal agreement to secure a financial contribution towards affordable housing, the proposal conflicts with Policy TP31 Affordable Housing of the Birmingham Development Plan 2017 and the Affordable Housing SPG
- In the absence of a legal agreement to secure a financial contribution toward improvements to the Birmingham and Fazeley canal towpath the proposal conflicts with conflict with Policies TP38, TP39 and TP40 of the Birmingham Development Plan and the City Centre Canal Corridor Development Framework

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

8.4. That in the event of an appropriate legal agreement being completed to the satisfaction of the Local Planning Authority by the 29 March 2018, favourable consideration be given to this application, subject to the conditions listed below:-

- 
- |    |   |
|----|---|
| 1  | Requires the prior submission of investigation for archaeological observation and recording                             |
| 2  | Requires the prior submission of a method statement for demolition and construction works.                              |
| 3  | Requires the prior submission of a construction method statement and management plan                                    |
| 4  | Requires demolition to take place outside the period 1st March and 31st August unless a qualified ecologist is present. |
| 5  | Requires the prior submission of a contamination remediation scheme   |
| 6  | Requires the submission of a contaminated land verification report  |
| 7  | Requires the prior submission of a drainage scheme  |
| 8  | Requires the submission prior to occupation of the properties of a Sustainable Drainage Operation and Maintenance Plan. |
| 9  | Requires the prior submission of a construction employment plan.  |
| 10 | Requires the prior submission of sample materials   |
| 11 | Requires the prior submission of hard surfacing materials   |
| 12 | Requires the prior submission of hard and/or soft landscape details   |
| 13 | Requires the submission of a landscape management plan  |
| 14 | Requires the prior submission of a scheme for ecological and biodiversity   |
-



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enhancement measures

- 15 Requires the prior submission of window and roof light details and samples.
  - 16 Requires the submission of new gates, louvres and ground floor metal panels..
  - 17 Requires the submission of public interfacing ramps, retaining walls and step details
  - 18 Requires the prior submission of the plant enclosure, flues and lift overruns.
  - 19 Requires the submission of details of terrace and balconies
  - 20 Requires the prior submission and completion of works for the S278/TRO Agreement.
  - 21 Requires the prior submission of a residential travel plan
  - 22 Requires the provision of cycle parking prior to occupation
  - 23 Requires the parking area to be laid out prior to use
  - 24 Requires submission of details of treatment to site frontages
  - 25 Requires the implementation of the noise insulation and ventilation measures
  - 26 Requires the ground floor glazing to the communal facilities to be clear and not obscured without consent.
  - 27 Requires the prior submission of a CCTV scheme
  - 28 Removes PD rights for telecom equipment and any roof structures
  - 29 Requires the scheme to be in accordance with the listed approved plans
  - 30 Implement within 3 years (Full)
- 

Case Officer: Lesley Sheldrake

## Photo(s)



Figure 1: Site frontage to Shadwell Street



Figure 2: Site frontage to Canal



Figure 3: Site frontage to William Booth Lane



Figure 4: Site frontage to Lower Loveday Street





Figure 5: View of site from canal towpath



Figure 6: View of site from Barker Bridge



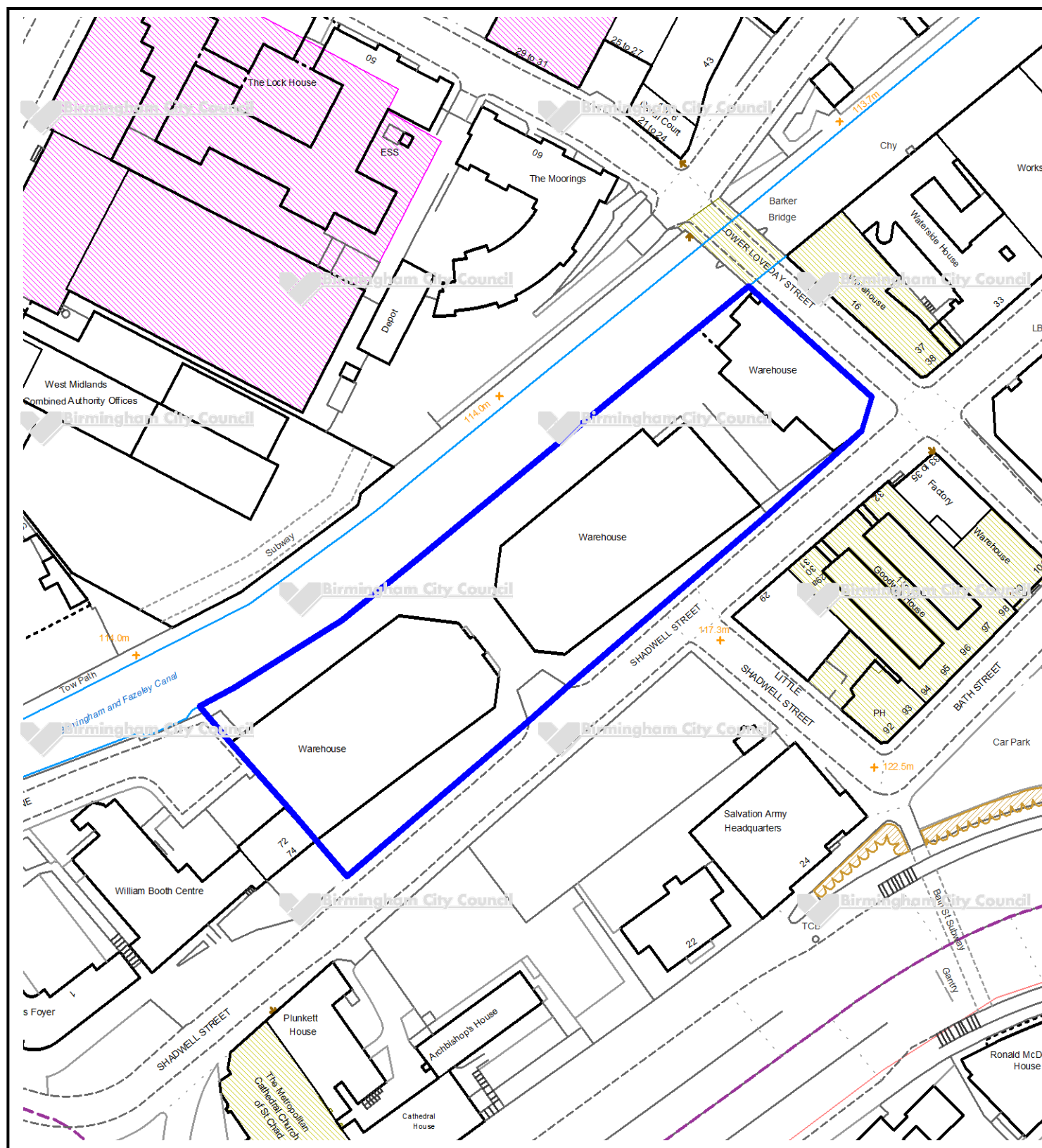
Figure 7: View of site from Little Shadwell Street



Figure 8: Wider view of site in the context of St Chad's Cathedral and the Sanctuary



## Location Plan



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|                 |            |                     |               |
|-----------------|------------|---------------------|---------------|
| Committee Date: | 15/02/2018 | Application Number: | 2017/08095/PA |
| Accepted:       | 15/09/2017 | Application Type:   | Full Planning |
| Target Date:    | 16/03/2018 |                     |               |
| Ward:           | Ladywood   |                     |               |

Sherborne Wharf, Sherborne Street, Birmingham, B16 8DE

Demolition of existing buildings (except for Psonex House), erection of buildings between 3 and 10 storeys and change of use of Psonex House providing a total of 87 apartments (C3) with associated car parking, landscaping, access and ancillary works

|            |   |
|------------|---|
| Applicant: | Inland Ltd<br>c/o Agent   |
| Agent:     | Nexus Planning<br>Unit 3 Weybridge Business Park, Addlestone Road, Weybridge,<br>Surrey, KT15 2BW |

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Recommendation

**Approve Subject To A Section 106 Legal Agreement**

1. Proposal

- 1.1. Application seeks consent to clear the site (with the exception of Psonex House), and erect two new buildings, which along with the change of use of Psonex House, would result in the provision of 87 apartments, hard and soft landscaping and car parking.
- 1.2. The accommodation would be provided within 2 new blocks and the retained Psonex House. The two, new, blocks would range in height between 3 and 10 storeys whilst Psonex House would be retained at 2 storeys. The tallest 10 storey element would be positioned to the north western corner of the site, closest to the canal, before reducing to six storeys and three storeys towards the central/eastern part of the site. The second block would be positioned to the south west of the site, to the north of 1 Sherborne Gate. It would range in height between 3 and 4 storeys. The buildings would enclose the canal frontage and provide enclosure to an internal public space.
- 1.3. The buildings would be of a modern, flat roofed, simple design with floor to ceiling openings, and projecting and recessed balconies articulated in a standard rhythmical pattern. The two new blocks would be different shades of grey brick but use the same pallet of other materials such as timber cladding and powder coated metal balustrades. In addition, a suite of window types would be used across the scheme with larger windows used for rooms such as living rooms/kitchens. Some windows would be recessed whilst others would be flush. Specific material and window reveal detail would be required by condition.
- 1.4. Vehicular access would be to the south east of the site via a new access off Sherborne Street as approved under planning application 2016/10683/PA. Vehicle



access to the site would be for canal maintenance and private residents parking only. Pedestrian access would be available via this access, via Sherborne Street and via the canal tow path.

- 1.5. The development would comprise of 30 one bed apartments at 50 sq m (35%), 55 two bed apartments between 61- 70+ sqm (63%) and 2 three bed apartments (2%), with all new build apartments complying with national standards.
- 1.6. Hard and soft landscaping would be provided across the site, much of which would be publically accessible.
- 1.7. 54 car parking spaces would be provided within a basement car park (62%) and 100% cycle parking provision would be provided in secure ground floor stores within each apartment block.
- 1.8. A Planning Statement (including community involvement), Design and Access Statement, Landscaping Strategy, Noise Assessment, Heritage Assessment, Transport Statement, Daylight and Sunlight Report, Archaeological Desk based Assessment, Phase 1 Geo-Environmental Desk Study, Ecological Assessment, Flood Risk Assessment and Drainage Strategy Commercial Assessment Report and Viability Assessment have been submitted in support of the application.

1.9. [Link to Documents](#)

2. [Site & Surroundings](#)

- 2.1 The application site is approx. 0.38 hectares and is predominantly flat. It is located to the north of Sherborne Street and the former City Council depot site and to the south of the Birmingham Canal.
- 2.2 The application site was formerly used in connection with the canal, including storage of goods and materials and the repair and maintenance of boats. It was previously occupied by the Canal and River Trust, but has become surplus to their needs and requirements. Residential accommodation is the predominant use in the immediate area. Building heights in the immediate vicinity vary between 1 storey and 8/9 storeys.

3. [Planning History](#)

Former depot site, to the south

- 3.1 2016/10683/PA Clearance of the site and erection of buildings containing 148 apartments, car parking, landscaping, access and ancillary works – approved subject to S106 and conditions.

30-33 Sherborne Street to the south west

- 3.2 5<sup>th</sup> April 2016 2015/08644/PA Construction of part four and part five storey building to provide 21 apartments means of access and associated car parking. Approved subject to conditions.

4. [Consultation/PP Responses](#)

- 4.1. Canal and River Trust – no objection subject to conditions/informatives.

- 4.2. Education - £305,244.05 required.
- 4.3. Lead Local Flood Agency – no objection subject to conditions.
- 4.4. Leisure Services – £189,800 required for Edgbaston Reservoir (boundary treatments, reservoir edge treatments and stepped access)
- 4.5. Regulatory Services – no objections subject to noise insulation, travel plan, vehicle charging point, restriction on vehicle emissions and land contamination conditions.
- 4.6. Severn Trent – no objections subject to drainage conditions.
- 4.7. Transportation Development – no objection subject to conditions requiring access road and cycle parking prior to occupation.
- 4.8. West Midlands Police – no objections but various comments with regard security, need for lighting and cctv.
- 4.9. West Midlands Fire – no objections.
- 4.10. Local residents associations', neighbours, Ward Councillors, MP and District Director have been notified. 21 objection letters raising the following concerns have been received:
- Proposal would conflict with the 45 Degree Code;
  - adversely affect the quality of life as a result of loss of light and loss of privacy;
  - it would introduce overlooking;
  - raise security issues;
  - increase car parking demands and congestion;
  - the proposed building is too high compared to surrounding buildings;
  - the bridge should be mandatory;
  - the design is uncharacteristic of the area;
  - there is a lack of existing infrastructure and amenities;
  - a better mix of house types is required;
  - it would have an adverse impact on the canals as a historic asset;
  - buildings adjacent the canal should be set back;
  - a wind tunnel will be created;
  - construction noise;
  - vibration and dust will be an issue;
  - raise maintenance issues;
  - the cumulative impact of this and other developments needs to be considered;
  - inadequate and out of date supporting information has been provided;
  - insufficient time has been given to residents to respond;
  - it would create a dark and claustrophobic area;
  - it would have an adverse impact on city wildlife;
  - no provision has been made for boat owners to park their vehicles near to the canal side;
  - Fire exits and rights of way need to be considered.

## 5. Policy Context

- 5.1. Birmingham Development Plan 2017 (BDP), Saved policies of the UDP 2005, Places for Living (2001), Places for All (2001), Affordable Housing (2001), Public Space in new Residential Development (2007), Car Parking Guidelines (2012), Sherborne Street Development Brief (2000), Nature Conservation Strategy for Birmingham (1997) and National Planning Policy Framework.

## 6. Planning Considerations

### **Principle**

- 6.1. The application site is located in the City Centre Growth Area as defined by BDP policy GA1. Policy GA1.1 states that the City Centre will be the focus for retail, offices, residential and leisure activity. Furthermore, policy states that “Residential development will continue to be supported in the City centre where it provides well-designed high quality living environments...” The application site lies within the Westside and Ladywood Quarter of the city centre, the aim for which is to “Create a vibrant mixed use area combining the visitor, cultural, commercial and residential offer into a dynamic well connected area...”. The application site is identified for residential development within the Sherborne Street Development Brief and national planning policy seeks to encourage well-designed residential developments on brownfield land within sustainable locations.
- 6.2. Policy encourages the provision of mixed use developments. However, the site is in a largely residential area off Broad Street where there are examples of existing unsuccessful commercial uses within existing residential developments. A Commercial Report highlights that the site has a limited ‘catchment area’, is already well served by existing retail facilities within Brindley Place and Broad Street and would command only a ‘low’ rent. Concluding that the provision of ground floor commercial units would be neither sustainable nor viable. I also note that the introduction of further residents into this area would improve the potential retention of the existing commercial units. Therefore, in this instance, I consider it would be to the detriment of the overall scheme to require ground floor commercial uses.
- 6.3. The principle of residential development is therefore acceptable in this location subject to detailed matters.

### **Siting/mass/design**

- 6.4. Local and national policy require high quality residential development and, in particular, the Sherborne Street Development Brief identifies a series of planning and design principles, including pedestrian permeability, materials, design and car parking for the site.
- 6.5. The current proposal would range in height between 2 and 10 storeys, with the building height stepping up and away from Psonex House with the highest 10 storey element positioned to the north western part of the site, at the ‘pinicle’ of the site and closest to other similar scaled developments. The development would be publically accessible, with clearly defined public and private spaces and have active frontages. I consider the proposal would result in a development at a scale reflective of, and appropriate to, the surrounding existing development.
- 6.6. The design approach is also reflective of the development approved on the former depot site, adjacent. The Head of City Design considers the developments design

would result in a robust and simple building form which would be broken up and well-articulated by the use of large window openings and that a mix of projecting and recessed balconies would provide depth and interest to the elevations. Further the use of a palette of materials across the two blocks, and two sites, would tie the development together, complement the buildings form and ensure its mass is not over dominant.

- 6.7 Internally the accommodation would range in size between 50 – 88 sqm and all the new build accommodation would comply with national standards. One of the 3 bed flats would be approx. 10 sqm smaller than required however this apartment would be contained within the original Psonex House building envelope whose appearance would be compromised if additional floor space was required. I therefore consider the spirit of the technical guidance would be complied with. A number of the apartments would have patio/balcony areas in addition to the publically accessible hard and soft landscaping provided across the site.

- 6.8 A canal tow path would be provided along the canal edge extending the existing towpath and access to it, in line with policy. However, to ensure the security of existing canalside residents, access to the towpath would be restricted, by gates, during the evening hours in line with the existing arrangement and this would be secured by condition.

#### Heritage Impact

- 6.9 The application site is not in a conservation area and there are no locally or statutory listed building on the site or in the immediate vicinity which would be adversely affected by the proposed development. However the application site is immediately adjacent the Oozel Street Loop of the Birmingham Canal which is identified on the Historic Environment Record and should be considered a non-designated heritage asset in accordance with the NPPF as it forms a visual and interactive reminder of our cultural and industrial heritage.
- 6.10 The character of the area around this part of the canal has in more recent years undoubtedly changed from industrial to residential. The proposed development would be of a similar scale to the surrounding existing residential development and set back over 6m from the canal edge allowing a canal tow path to be introduced along the length of the site where there currently is none. The proposed development would therefore increase access to the canalside and introduce an interactive and attractive frontage to the canal side. I therefore consider the development would not harm the significance of the canal as a non-designated heritage asset. I also note that neither the Canal and River Trust or my Conservation Officer raise objections to the proposed development.

#### Residential amenity

- 6.10 The development plot is surrounded by existing residential development and a number of existing residents have raised concerns about the position, layout and height of the proposed development and the subsequent impact this has on overlooking, loss of privacy and the creation of a wind tunnel.

#### Overlooking and privacy

- 6.11 The building proposed to the north of the site would have windowed elevations between 34 and 36m away from Sherborne Lofts to the east and it would be between 28 and 32m from Liberty Place across the canal to the north. The proposed new

building to the south west of the site would be positioned tight to the southern boundary. 1 Sherborne Gate and the development approved on the site adjacent have blank elevations to this boundary as would the proposed development. Further whilst this new build element would introduce a windowed elevation to the Glasshouse, where there is currently none, it would be four storeys only, positioned further away than the existing warehouse and be between 14 and 16.5m away across the canal inlet. I therefore consider that the distance separation distances achieved between existing and proposed properties are good given the site's location within a city centre locality. Further, I do not consider the proposal would adversely affect the amenities of existing, or future residents, by virtue of loss of privacy or overlooking.

#### Loss of light

- 6.12 Local residents have also raised concerns about the loss of light and a sunlight/daylight assessment and a shadow analysis have been submitted in support of the current application.
- 6.13 The sunlight/daylight assessment has been conducted in line with the BRE Guidelines. It has assessed relevant windows within King Edward Wharf, Glasshouse, Liberty Place, Jupiter Development, Sherborne Lofts, 1 Sherborne Gate and the consented scheme on the Depot Site. It concludes that the majority of rooms and windows around the development site are fully compliant, or sufficiently close to the numerical guidance levels to be considered acceptable. However, even in the isolated locations within Liberty Place, King Edward Wharf and the Glasshouse where 11 windows do not meet numerical standards (1% of all windows surveyed), the impact and retained levels of daylight are considered good given the sites urbanised location.
- 6.14 In addition, whilst the shadow analysis shows that shadows would be cast on Canal Square and the adjacent canal side at various points of the day, given the sites position to the south of the canal, within a dense existing urban environment I do not consider the development would be significantly different to the existing surrounding development and overall consider it would have a relatively limited impact.
- 6.15 Therefore, given the sites location within a urban area, the existing site situation with only single buildings present, the need to consider optimisation of a site's development potential and the flexibility provided by the BRE Guidelines for urban locations I do not consider the proposal would have an adverse impact on existing residents sufficient to warrant refusal.
- 6.16 I do not consider the proposal would conflict with the 45 Degree Code to existing residential properties. In addition given the scale of the proposed development and the sites locality I do not consider wind would be a significant concern.
- 6.17 Therefore on the basis of the scale, massing and location of the proposed development, the site's locality and the content of the sunlight/daylight assessment I do not consider the proposal would adversely affect residential amenity sufficient to warrant refusal.

#### Parking

- 6.18 The proposal includes provision for 54 car parking spaces and 87 bicycle spaces. The proposal is for 87 apartments and a car parking ratio of 62% and 100% bicycle parking would be provided. However, a number of strong objections have been

received in terms of the level of car parking proposed and the impact this development would have on the surrounding highway.

- 6.19 The level of car parking and cycle parking provision is similar to the recently approved former depot site immediately adjacent, local roads are generally subject to parking controls and census data confirms that half of local residents do not own a car. Furthermore, the site is excellently located for public transport close to bus, tram and train stops/stations and within walking distance of a wide range of facilities. I also note that this level of provision compares favourably to other residential schemes in the vicinity. I therefore concur with Transportation Development who raise no objection to the proposal subject to conditions, which I attach accordingly.

### **Housing mix**

- 6.20 The application proposes a total of 30 one bed apartments (34%), 55 two bed apartments (64%) and 2 three bed apartments (2%). The units would all comply with national standards
- 6.21 Whilst the City's housing evidence base indicates that there is a need for larger properties, this is with reference to Birmingham's strategic housing area as a whole. It does not take account of demand in more localised locations such as the City Centre where there is significantly less land available, that housing densities are expected to be higher or that detailed data analysis suggests demand for smaller units is more likely. I also note that Policy PG1 identifies the need for 89,000 additional homes over the plan period 2011 and 2031 and that TP30 requires developments to be of densities of at least 100 dph in the City Centre and to meet local need. On balance therefore, I consider that the proposed mix is acceptable and that it would positively contribute to the City's housing requirements. I welcome the larger percentage of 2/3 beds.

### **Planning obligations**

- 6.22 TP9 requires new public open space should be provided in accordance with the Public Open Space in New Residential Development SPG whilst TP31 requires 35% affordable housing unless it can be demonstrated that this would make the development unviable.
- 6.23 A financial appraisal has been submitted to demonstrate that, with a policy compliant contribution, the scheme would not be financially viable. An independent assessment has been undertaken which concurs with this view, but considers that the scheme could support an increased financial contribution than that initially offered. A revised offer of £326,250 has therefore been agreed with the applicant.
- 6.24 The site is immediately adjacent to the canal and the Sherborne Development Brief has long identified the need to increase pedestrian connections and improve public accessibility to the canal in this area. Whilst this development will significantly improve public access to the canal and connectivity with the wider area, there remains a further opportunity to connect the development site to Canal Square directly to the west. Such a provision is beyond the developers control and the costs would be likely to be in excess of the financial sum agreed. Leisure Services have also requested monies towards improvements at Edgbaston Reservoir however monies have been secured for this purpose from the adjacent development. In this instance I consider, in the interests of 'good planning' it is imperative that the opportunity to provide this link is maximised and the monies agreed in relation to this application should, in the first instance, be used to help facilitate this provision. The

developer has also agreed to identify a piece of land where the potential bridge link could be 'fixed'. However if after a period of 5 years (of receiving the monies) it is not possible to bring forward the bridge link these monies should revert to affordable housing and the safeguarded land to the landowner accordingly. I consider this contribution would accord with policy and comply with the CIL Regulations 2010.

- 6.25 The site is located in a low value residential area and does not therefore attract a CIL contribution.

#### **Other**

- 6.26 A noise assessment has been submitted in support of the application which does not highlight any issues.
- 6.27 The site is located within an air quality management zone (AQMA) (as is the whole of Birmingham), however Regulatory Services have confirmed that an air quality assessment is not required as the air quality in this location is acceptable.
- 6.28 My ecologist concurs with the recommendations made in the ecological report and conditions to secure soft landscaping, green and brown roofing and bat/bird nesting boxes are proposed.
- 6.29 Issues of construction noise/dust, rights of way, maintenance and private parking provision for canal occupiers are covered by other legislation and are not therefore attributed significant weight as a planning consideration.

#### **7. Conclusion**

- 7.1. Proposal would result in a sensitive and well-designed, well-articulated development which has been supported by extensive supporting information including a BRE sunlight/daylight assessment. The development would also provide an acceptable living environment which would not materially impact upon the highway network.
- 7.2. The proposal would therefore result in a high quality brownfield development within a sustainable City Centre location in accordance with the aims and objectives of both local and national planning policy. Therefore subject to the signing of the S106 agreement, the proposal should be approved.

#### **8. Recommendation**

- 8.1. That consideration of planning application 2017/08095/PA be deferred pending the completion of a planning obligation agreement to secure the following:
- a) A financial contribution of £326,250 (index linked from date of resolution) towards the provision of a bridge link to Canal Square or affordable housing.
  - b) Payment of a monitoring and administration fee associated with the legal agreement of £10,000.
- 8.2 In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority by 16<sup>th</sup> March 2018 the planning permission be refused for the following reasons:



- a) In the absence of any suitable legal agreement to secure a financial contribution toward off site public realm/affordable housing the proposal would be contrary to TP9 and TP31 of the Birmingham Development Plan.
- 8.3 That the City Solicitor be authorised to prepare, seal and complete the planning obligation.
- 8.4 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority by 16<sup>th</sup> March 2018, favourable consideration be given to this application subject to the conditions listed below.

- 
- |    |  |
|----|--|
| 1  | Requires the prior submission of details of bird/bat boxes   |
| 2  | Requires the implementation of the submitted mitigation/enhancement plan   |
| 3  | Requires the prior submission of a contamination remediation scheme  |
| 4  | Requires the prior submission of a contaminated land verification report   |
| 5  | Requires the prior submission of a sustainable drainage scheme   |
| 6  | Requires the prior submission of sample materials  |
| 7  | Requires the prior submission of level details   |
| 8  | Requires the provision of cycle parking prior to occupation  |
| 9  | Requires the scheme to be in accordance with the listed approved plans   |
| 10 | Requires the prior submission of details of green/brown roofs  |
| 11 | Requires the prior submission of a lighting scheme   |
| 12 | Requires the prior submission of boundary treatment details  |
| 13 | Requires the prior submission of hard and/or soft landscape details  |
| 14 | Requires the submission prior to occupation of the properties of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan |
| 15 | Requires the prior submission of earthworks details  |
| 16 | Requires the prior submission of a landscape management plan   |
| 17 | Requires the prior submission of a parking management strategy   |
| 18 | Requires gates to be set back  |
| 19 | Requires the prior submission of a construction method statement/management plan   |
| 20 | Requires the prior submission of a CCTV scheme   |
| 21 | Secures gated access to the canal  |
-

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- 22 Secure noise mitigation
  - 23 Requires the provision of a vehicle charging point
  - 24 Secures road access.
  - 25 Secures window setbacks
  - 26 Implement within 3 years (Full)
- 

Case Officer: Joanne Todd

## Photo(s)



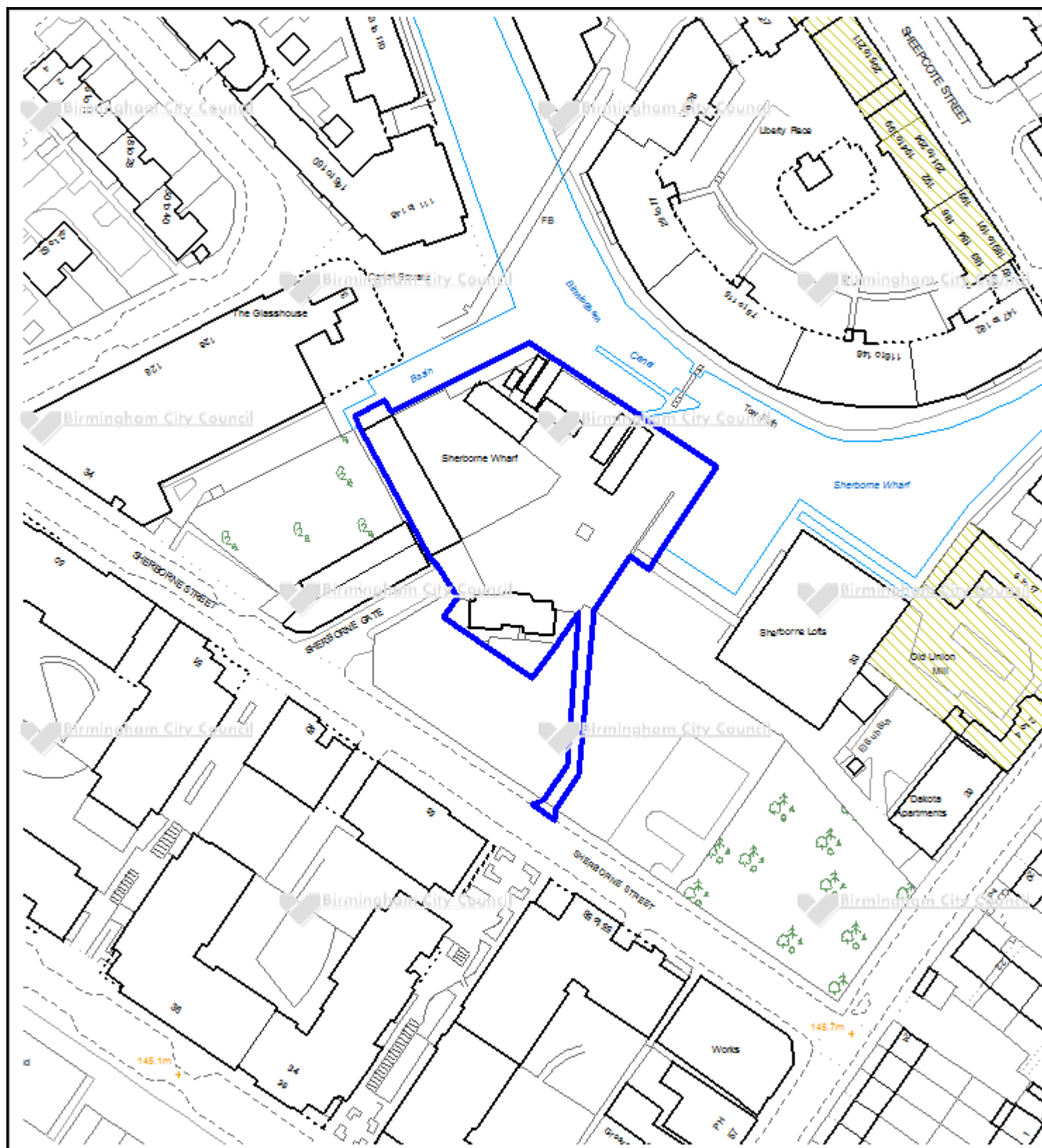
Photo 1: site from Sherborne Lofts



Photo 2: Looking towards Psonex House from canal tow path



## Location Plan



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|-----------------|------------|---------------------|---------------|
| Committee Date: | 15/02/2018 | Application Number: | 2017/09292/PA |
| Accepted:       | 30/10/2017 | Application Type:   | Full Planning |
| Target Date:    | 29/01/2018 |                     |               |
| Ward:           | Ladywood   |                     |               |

Beneficial Building, 28 Paradise Circus Queensway, City Centre, Birmingham, B1 2BJ

Conversion of existing office building to 130 bedroom boutique hotel with associated front and back of house facilities. Retention and refurbishment of existing retail/commercial units at ground floor level. Creation of a layby on Suffolk Street and associated external alterations.

|            |   |
|------------|---|
| Applicant: | Beneficial House (Birmingham) Regeneration LLP<br>c/o CSAM Ltd, 26 Cornwall Terrace Mews, London, NW1 5LL |
| Agent:     | ISA<br>4-5 Blenheim Place, Edinburgh, Scotland, EH7 5JH   |

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Recommendation

**Approve Subject To Conditions**

1. Proposal

- 1.1. This application is for change of use of the existing building to a 130 bedroom hotel above a restaurant, retail/commercial unit and gym. The hotels main entrance would be from the corner of Paradise Street and Suffolk Street. The restaurant would be accessed from Suffolk Street Queensway, while the retail unit and basement gym would be accessed from Paradise Street.
- 1.2. The existing rainscreen cladding installation has already failed twice with 6 panels and 3 or 4 copings becoming detached and falling. It is therefore not an option to leave the rainscreen in its present condition. In light of the current defective cladding and degradation of the original material beneath, the application proposes re-cladding and upgrading of the existing fabric. The proposal seeks to overclad the original structure using glass reinforced concrete (GRC) cladding. It is intended that the colour and form of the panelling will be sympathetic to the original building.
- 1.3. The proposed redevelopment proposes a glazed facade at ground floor areas to act as a shop front along the primary elevations facing onto Paradise Street and Suffolk Street Queensway. Further to this all glazing bays between upper floor fins would be replaced with new clear double glazed curtain walling that would either be left fully transparent or back painted in certain instances to allow for party walls to interface with the facade in a neat manner. The rear facade would be rendered in a dark colour to improve resistance to discolouration that could arise.
- 1.4. Roof level plant space would be enclosed with an anodised aluminium louvered plant screen. In addition, to the rear of the building new ducting to serve the kitchen is proposed.
- 1.5. The existing Beneficial Building already contains a service yard to the rear and the

proposed design intends to utilise and extend this for the proposed hotel. Added to this there is an existing bus stop and taxi rank located on Suffolk Street elevation, which would be altered to create a layby. The applicant has also indicated that the footways in front of building would be improved with enhanced paving materials to marry in with the Midland Metro works.

- 1.6. The application is accompanied by a Planning Statement, Transport Statement and Acoustic Report.

- 1.7. [Link to Documents](#)

## 2. Site & Surroundings

- 2.1. The application site is a seven-storey office building, constructed in the early 1960s, with commercial uses at ground floor level. The office element itself has been vacant for about 3 years, with the original concrete structure clad in metal panels as part of a refurbishment programme in the early-2000s (2000/03530/PA). This cladding has had protective scaffolding in situ for several years to prevent the cladding from coming off. A stepped canopy running above ground floor level was removed during the refurbishment works. To the rear, is a yard, accessed from Swallow Street, with the railway line to Wolverhampton beyond this and running beneath the building in a tunnel. There is a myriad of plant and telecommunications equipment on the roof of the building.
- 2.1. At ground floor is a restaurant and former nightclub fronting Paradise Circus. The lobby for the offices is on the corner, with a number of vacant retail units along Suffolk Street Queensway. Around the site the pavement is relatively wide with a number of concrete planter beds and other street furniture. There is also a lay-by along Suffolk Street Queensway for a taxi rank and bus stop.
- 2.2. Surrounding sites are of mixed use, reflecting the city centre core location, with the cage multi-storey car park to the south on the opposite side of Brunel Street/Swallow Street. Offices within Alpha Tower and the Crowne Plaza hotel are to the west on the opposite side of Suffolk Street Queensway, with the proposed Paradise Circus redevelopment site to the north. Ground floor commercial with upper floor office and residential uses are in adjacent buildings along Paradise Circus, to the east.

## [Site Location](#)

## 3. Planning History

- 3.1. 26 October 2000 Application 2000/03530/PA. Planning consent granted for refurbishment works including replacement glazing, cladding and new art work.
- 3.2. 10 September 2004 Application 2004/02707/PA. Planning consent granted for rooftop telecoms equipment.
- 3.3. 14 January 2005 Application 2004/06561/PA. Planning consent granted for external refurbishment works to ground floor units along the north west and south west elevations, including improvements to external planters and paving and siting of sculpture.
- 3.4. 8 September 2008 Application 2008/03381/PA. Planning consent granted for installation of new shop fronts.



- 3.5. 30 January 2009 Application 2008/06491/PA. Planning consent granted for removal of existing canopies fronting Suffolk Street Queensway, installation of new cladding panels and public art sculpture.
- 3.6. 11 September 2009 Application 2009/03527/PA. Planning consent granted for the installation of roller shutters shop units fronting Suffolk Street Queensway and alterations to shopfronts.
- 3.7. 23 November 2012 Application 2012/06589/PA. Planning consent granted for change of use from offices (Use Class B1a) to 137 bedroom hotel and 53 serviced apartments (Use Class C1) with ground and basement floor commercial units (Use Classes A1-A3 and D2) and associated external alterations. Consent granted subject to a legal agreement to secure £30,000 towards public realm improvements, public art and / or Wayfinding.
- 3.8. 29 July 2013 Planning Application 2013/03125/PA. Planning Consent granted for minor material amendment attached to planning approval 2012/06589/PA to amend the development to change of use from offices (B1a) to 99 suite apart-hotel(C1), ground floor and basement floor commercial units (A1, A3 & D2), creation of a lay-by on Suffolk Street and associated external alterations.
- 3.9. 17 October 2017 Planning application 2017/07624/PA. Advertisement consent refused for the display of 1 no. externally illuminated advertisement banner. Subsequent appeal to be determined.
4. Consultation/PP Responses
  - 4.1. MP, local ward councillors, residents associations, Colmore and Retail BID's and nearby occupiers notified. Site and press notices displayed. No comments received.
  - 4.2. BCC Regulatory Services - they do not prescribe noise and vibration criteria but recommend that noise levels within hotel bedrooms do not exceed the criteria specified in Table 4 of BS8233:2014. Similarly they recommend that vibration levels in hotel bedrooms do not exceed 0.14 mm/s peak particle velocity or the assessment of vibration levels results in a low probability of adverse comment when assessed in accordance with BS 6472. There are no contaminated land issues arising from this application.
  - 4.3. BCC Transportation Development - no objection subject to conditions to secure cycle parking and a construction management plan, which will need to be coordinated with the Metro and Paradise projects.
  - 4.4. Local Lead Flood Authority – no adverse comments as the proposed development is a refurbishment of an existing building with minor external works.
  - 4.5. BCC Employment Access Team - request inclusion of employment obligations.
  - 4.6. Severn Trent Water - no objections subject to drainage plans for the disposal of foul and surface water flows.
  - 4.7. Network Rail - the proposal area is over a Network Rail tunnel and to ensure that works on site and as a permanent arrangement do not impact upon the safe operation of the railway tunnel, the applicant will need to seek their agreement to any sub surface proposals, any changes in loading and crane working on site. The applicant will also need to submit directly to Network Rail, a Risk Assessment and

Method Statement. As the proposal includes works which may impact the existing operational railway and in order to facilitate the above, a BAPA (Basic Asset Protection Agreement) will need to be agreed between the developer and Network Rail.

- 4.8. Centro Metro Team (Edgbaston) – holding objection submitted given the close proximity of the Metro to the planned construction works.
- 4.9. Transport for the West Midlands – no objections.
- 4.10. West Midlands Police – recommend that:-
  - strict control of the interaction between the uses, ensuring that the various uses are kept apart. Also each individual room is treated as a separate dwelling for the purpose of the standards of door security;
  - work be undertaken to the standards laid out in the Secured by Design 'New Homes 2016' guide and Secured by Design 'Commercial 2015' guide;
  - a lighting plan for the site be produced and CCTV be installed, including coverage of the gym;
  - concerned that the designated taxi / car drop off is shared with potential lay-by facility for buses and there is the potential for too many vehicles competing for this limited layby, resulting in congestion on the southbound lane of Suffolk Street Queensway;
  - the location for the reception of the hotel is well placed, in that it allows staff to have a clear line of sight to the main entrance to the hotel, and the entrance lobby area;
  - the external bin store would allow easy refuse collection process at the rear of the site, without creating the potential for the site to be left insecure by off-site staff. This is supported; and,
  - it is unclear what staff will be on site and during what time periods and they recommend that permanent staffing is employed.

## 5. Policy Context

- 5.1. Birmingham Development Plan 2017, Birmingham Unitary Development Plan Saved Policies 2005, Car Parking Guidelines SPD 2012, Places for All SPG 2001, Lighting Places SPG 2008, Shopfronts Design Guide SPG 1995, Access for People with Disabilities SPD 2006 and National Planning Policy Framework.

## 6. Planning Considerations

### Background and Policy Context

- 6.1. In 2012 planning permission was granted for change of use from offices to a hotel and apart-hotel with ground floor and basement commercial uses. A minor material amendment to this scheme was then approved in in 2013. However, this scheme has not been implemented and the permissions have now expired.

- 6.2. In January 2017, the City Council adopted the Birmingham Development Plan (BDP). The BDP is intended to provide a long term strategy for the whole of the City and will replace the saved policies of the Birmingham Unitary Development Plan 2005, with the exception of the City Wide policies contained within Chapter 8 of that plan. These policies will continue in force until the adoption of the Council's proposed Development Management DPD.
- 6.3. Policy 8.19 of the UDP relates to new major hotels and highlights that to provide a balanced range of hotel bedspaces capable of meeting the needs of tourism and business visitors, the provision of additional hotels and extensions will be encouraged subject to local planning, amenity and highway considerations.
- 6.4. In terms of the BDP, Policy GA1.1 advises the City Centre will continue to be the focus for retail, office residential and leisure activity within the context of the wider aspiration to provide a high quality environment and visitor experience. Policy GA1.3 adds that the City Centre Core will continue providing an exceptional visitor experience with a diverse range of uses set within a high quality environment. In addition, Policy TP24 notes that hotels will be important and proposals for well-designed and accessible accommodation will be supported.
- 6.5. In principle, therefore, the use of the site for a hotel is acceptable. The inclusion of a basement gym and ground floor retail and restaurant uses are also acceptable as they would help enliven the primary frontages along Paradise Street and Suffolk Street Queensway. The proposed development is also consistent with the National Planning Policy Framework, which promotes sustainable development in accessible locations, such as the application site.

#### Transportation Issues

- 6.6. The adjacent Metro and Paradise projects have revised the highway layout and a layby facility is retained that would maintain stopping facilities for buses along with provision for taxis to drop-off and pick-up. Refuse and retail/hotel servicing will take place from the rear of the site with use of the carriageway stub on Swallow Street.
- 6.7. The Midland Metro Team (Edgbaston) have submitted a holding objection on grounds of the close proximity of the Metro to the planned construction works. I understand that this objection is based on agreement of access to construct the highway works. Therefore to address this objection, as recommended by BCC Transportation Development conditions are attached, including a condition to secure a construction management plan, which will need to be coordinated with the Metro and Paradise projects.
- 6.8. The hotels main entrance would be from the corner of Paradise Street and Suffolk Street. Positioned on a highly visible corner it would take advantage of the step back in the building profile creating an entrance square for guests and visitors. Good quality external surfacing, boundary treatments, and street furniture are needed. It is essential that these external works respect and marry into the Metro proposals. A Grampian condition is therefore attached to secure external landscape works along Paradise Circus and Suffolk Street Queensway.

#### Internal and External Alterations

- 6.9. The units facing onto Paradise Street would be reconfigured to create a larger retail space, with the existing eight small shop units along Suffolk Street remodelled to

create two large units, containing the hotel lobby and a restaurant. These improvements to the ground floor areas together with the basement gym and hotel would bring the building back into occupation and reactivate the street frontage.

- 6.10. I also welcome the external alterations to overclad the existing building. These works would greatly improve the visual appearance of this prominent corner building and complement nearby works taking place at Paradise Circus. Conditions are attached to secure details of the external materials including the proposed glass reinforced cladding. Whilst normally render cladding is not supported, in this instance it would only be used on the rear elevations and would overcome the technical failing of the existing cladding.
- 6.11. The revisions to the ground floor are more radical as they seek to rationalise the street interface into three clear uses. These new frontages must be soundly handled and conditions are attached to secure details of the shopfronts and a signage strategy.
- 6.12. To the rear of the building facing Latham House, new external ductwork is proposed to serve the kitchen. Although the ductwork would be to the rear of the building it would be visible from Swallow Street. A condition is attached to secure details of the ductwork, together with details of the fume extraction equipment.

## 7. Conclusion

- 7.1. The proposed uses for the building are considered to be an appropriate mix in this location, with the alterations planned improving the overall appearance of a vacant building and enhance the surrounding area. Subject to safeguarding conditions, the scheme would fully reuse a large vacant commercial building, delivering significant new investment within a key City Centre Core location.

## 8. Recommendation

- 8.1. Approve subject to conditions

- 
- 1 Shop Front Design
  - 2 Requires the window not to be obscured
  - 3 Requires the prior submission of a drainage scheme
  - 4 Requires the prior submission of extraction and odour control details
  - 5 Requires the prior submission of sample materials
  - 6 Requires the prior submission of a construction method statement/management plan
  - 7 Requires the scheme to be in accordance with the listed approved plans
  - 8 Requires the prior submission of a CCTV scheme
  - 9 Requires the prior submission of cladding system and repair works details
  - 10 Requires the prior submission of a construction employment plan.
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- 11 Requires the prior submission of a lighting scheme
  - 12 Requires the prior submission of cycle storage details
  - 13 Requires the prior submission and completion of works for the S278/TRO Agreement
  - 14 Implement within 3 years (Full)
- 

Case Officer: David Wells

## Photo(s)



View from Suffolk Street Queensway

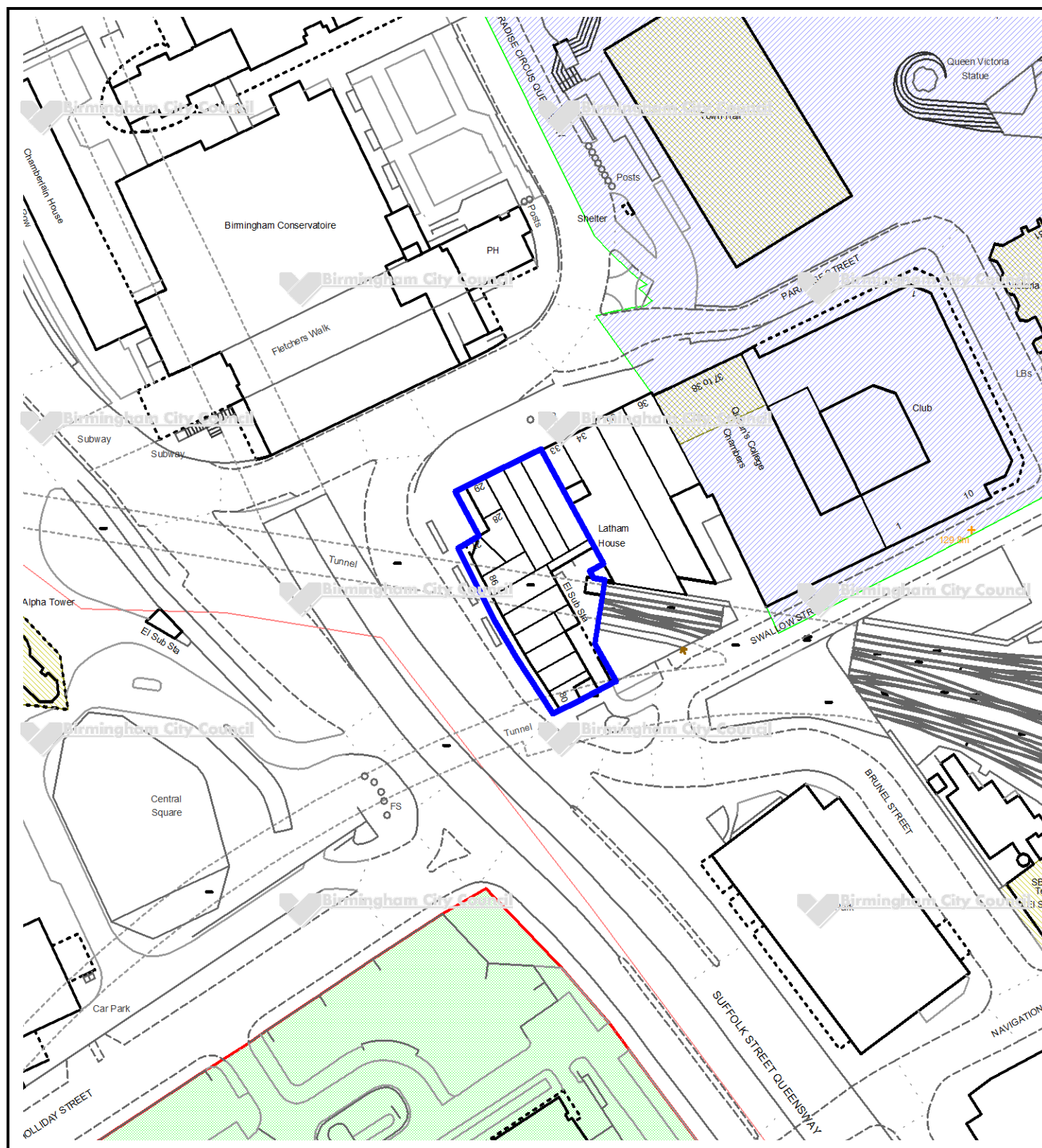




View from Paradise Circus



## Location Plan



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|                 |            |                     |                        |
|-----------------|------------|---------------------|------------------------|
| Committee Date: | 15/02/2018 | Application Number: | 2017/09616/PA          |
| Accepted:       | 15/12/2017 | Application Type:   | Variation of Condition |
| Target Date:    | 16/03/2018 |                     |                        |
| Ward:           | Ladywood   |                     |                        |

Land Bounded By, Sheepcote Street/Broad Street/Oozells Way, City Centre, Birmingham, B15 1AQ

Variation of Condition 23 of Planning Permission 2016/08890/PA to amend plans to allow 2 further storeys (comprising 12 additional residential units) to provide a 33 storey residential building (Class C3) containing 217 apartments including ground floor restaurant use (Class A3), internal and external residential amenity space, associated hard and soft landscaping, infrastructure and engineering works

|            |   |
|------------|---|
| Applicant: | Regal (West Point) Ltd                                    |
|            | C/o Agent   |
| Agent:     | WYG   |
|            | 54 Hagley Road, 3rd Floor, Edgbaston, Birmingham, B16 8PE |

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Recommendation

**Approve Subject To A Section 106 Legal Agreement**

1. Proposal

1.1. This application is to vary the plans schedule condition attached to planning consent reference 2016/08890/PA, increasing the height of the building by 8.5m to add two additional storeys making a 33 storey tower. Internally, 12 additional apartments would be providing making a total of 217 apartments. The mix of new apartments would be as follows:-

- 2 x Type A 2 bed 75.45sqm
- 2 x Type B 1 bed 45.77sqm
- 2 x Type D 2 bed 75.27sqm
- 2 x Type G 2 bed 67.39sqm
- 2 x Type X 1 bed 56.5sqm
- 2 x Type Y 2 bed 90.66sqm

1.2. Externally, the additional 2 storeys would be articulated to create a “crown” to the building by increasing the density of the silver frame spindles/bars. The crown structure also screens the roof top plant from being visible from street level outside of the site boundary. Surrounding this are strips of vertical blue lighting to define the crown and to ensure the building is recognisable.

1.3. The application is supported by a Planning Statement and updated Design and Access Statement, Aviation Safeguarding Assessment, Acoustic Report, Air Quality Assessment, Heritage Report, Wind Microclimate Study, TV and Radio Impact Assessment, Ecological Appraisal, Transport Assessment and Daylight / Sunlight Report.

- 1.4. In addition, a viability report has been submitted, which has been assessed by independent consultants. The consultants consider that in addition to a CIL payment of £1,176,629, the revised scheme for 217 apartments can sustain an extra £24,000 S106 contribution, making a total S106 Contribution of £224,000.

- 1.5. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site (approx. 0.12 hectares) is located approximately 1km west of the city centre between Broad Street, Oozells Way and Sheepcote Street. Construction has started on the proposed tower and work is nearing completion on the adjoining tower at the corner of Oozells Way and Sheepcote Street.
- 2.2. Broad Street and the Grade II listed 78-79 Broad Street are to the south east. Broad Street is one of the City's key entertainment venues with a number of restaurants and bars as well as offices. To the north is Oozells Way, which provides a short link road from Broad Street to Sheepcote Street serving the adjacent Brindley Place and NIA developments and the Ladywood residential district immediately to the south of the site. To the west is the consented Phase 1 residential tower. To the south is Sheepcote Street which is partly pedestrianised and has restricted vehicle access. Across Sheepcote Street to the west and facing the site is the now vacant Brasshouse language college and the rear buildings of the Grade II Listed Royal Orthopaedic Hospital, which fronts onto Broad Street, and is being used as a bar/restaurant/sheesha lounge known as Zara's.
- 2.3. Existing properties around the site generally comprise a mixture of commercial and hotel premises with residential properties to the north west on Essington Street. The nearest licenced premises to the site are located to the south west at Zara Bar and to the south across Broad Street at Velvet Rooms, Sugar Suite and the Bierkeller.

[Site Location](#)

3. Planning History

- 3.1. 8 April 2011 Application 2009/04215/PA. Planning consent granted for 56 storey mixed use building, to include ground floor retail, 289 bed hotel and either 256 serviced apartments or additional hotel accommodation and 1,280sqm of residential accommodation with one level of basement car parking.
- 3.2. 27 November 2015 Application 2014/09348/PA. Planning permission granted for the development of a 22 storey residential building containing 189 apartments including ground floor restaurant and retail space and a 18 storey hotel building (C1) with ancillary retail and leisure uses, including a ground floor restaurant space (A3). The development included part demolition of the Grade II listed 78 - 79 Broad Street and also includes hard and soft landscaping, infrastructure and engineering works. The application was subject to a S106 legal agreement to secure financial contributions towards off-site affordable housing and public realm improvements at Centenary Square.
- 3.3. 27 November 2015 Application 2014/09350/PA. Listed building consent granted for demolition of rear extensions with the exception of the wing adjoining Sheepcote Street, reinstate brickwork, insertion of windows and external staircase at 78 - 79 Broad Street.

3.4. 30 March 2016 Application 2015/10462/PA. Planning consent granted for removal of Condition No. 18 (phasing of development) attached to approval 2014/09348/PA to allow the residential and hotels towers to be constructed separately. Application subject to a S106 legal agreement to secure:-

- a) A financial contribution of £566,000 (index linked from 28 May 2015) towards off-site affordable housing to be paid prior to first occupation of the residential element of the scheme;
- b) A financial contribution of £184,000 (index linked from 28 May 2015) toward off-site public realm improvements at Centenary Square to be paid prior to first occupation of the residential element of the scheme; or, in the event that the hotel building is occupied first, £100,000 (index linked from 28 May 2015) toward off-site public realm improvements at Centenary Square to be paid prior to first occupation of the hotel building and £84,000 (index linked from 28 May 2015) toward off-site public realm improvements at Centenary Square to be paid prior to first occupation of the residential element of the scheme;
- c) The public realm works, removal of the two unauthorised adverts (one at the corner of Broad Street and Oozells Way and the second on Oozells Way near the roundabout junction with Sheepcote Street), the removal of the existing car park and refurbishment of the listed Left Bank Building be carried out prior to first occupation of any part of the development; and,
- d) An undertaking by the applicant that they will not make a S106 A/B application to reduce the financial contribution of £750,000 secured toward public realm improvements and affordable housing.

3.5. 19 April 2017 Planning Application 2016/08890/PA. Planning consent granted for a 31 storey residential building (Class C3) containing 205 apartments including ground floor restaurant use (Class A3), internal and external residential amenity space, associated hard and soft landscaping, infrastructure and engineering works. Application subject to a CIL payment of circa £1.029m and S106 contributions of £100,000 towards off site affordable housing and £100,000 for the provision of a resident's car club to be reasonable.

#### 4. Consultation/PP Responses

4.1. Adjoining occupiers, residents associations, local ward councillors and MP notified. Site and Press notices displayed.

4.2. Two letters of objection from a resident and the managing agent of Sherbourne Lofts commenting that:-

- the consultation process is over the Christmas period
- can the fire and emergency services protect this and surrounding buildings?
- is there any research or evidence available to support the view that there is a market for luxury apartments over 31 floors high on Broad Street

- original concerns over traffic management are only made worse by the increased number of apartments now proposed
  - lights on the crane of the new tower block point directly into their apartments away from the tower site causing a nuisance.
  - the towers face directly into the living areas and bedrooms of residents of Sherborne lofts and already during the construction phase there has been a loss of light and privacy. An additional two storeys will exacerbate the situation
  - since construction has begun there has been an increase of noise with the comings and goings of the site workers and deliveries of materials to and from site. More concerned about the long term noise from the comings and goings of new residents and businesses
  - if the Left Bank Tower is passed at 33 storeys then this could give justification to the Sherborne Wharf application to also be approved
  - impact on local amenities, roads, parking and emergency services given the enormous number of units being built in the Left Bank Tower scheme.
- 4.3. One letter from occupiers of a property in Grosvenor Street West commenting they are not opposed to the development in general but note no provision is made for car parking within the development, which is at a premium in the area. Therefore on the basis of the additional parking requirements they object to 2 additional storeys of apartments at this development.
- 4.4. BCC Transportation Development - no objection subject to previous conditions.
- 4.5. BCC Regulatory Services - no objections provided the conditions attached to the application for the original 31 storey building are attached.
- 4.6. BCC Leisure Services - no objections, as per previous comments an off- site POS contribution should be sought, which based on the new residential mix would be £438,100. This would be spent on the provision, improvement and /or maintenance of Chamberlain Gardens within the Ladywood Ward.
- 4.7. BCC Housing – awaiting comments.
- 4.8. Local Lead Flood Authority – no adverse comments as this application is for approval of additional floors to the proposed building with minimal effect on the proposed drainage system.
- 4.9. West Midlands Police – the development should be undertaken to the standards laid out in the Secured by Design 'Homes 2016' guide and Secured by Design 'Commercial 2015' . Any lighting plan should follow the guidelines and standards as indicated in 'Lighting Against Crime' guide. CCTV should be installed.
- 4.10. Historic England - do not wish to offer any comments.
- 4.11. Transport for the West Midlands - no objections.

4.12. West Midlands Fire Service – awaiting comments.

4.13. Severn Trent Water – awaiting comments.

4.14. Birmingham Airport – awaiting comments.

5. Policy Context

5.1. Birmingham UDP 2005 Saved Policies; Birmingham Development Plan 2017; High Places SPG; Places for Living SPG; Places for All SPG; Access for People with Disabilities SPD; Car Parking Guidelines SPD; Lighting Places SPD; Public Open Space in New Residential Development SPD; Affordable Housing SPG and the National Planning Policy Framework.

5.2. Adjacent is 78-79 Broad Street a Grade II Listed Building, whilst further along Broad Street is the Grade II Listed Royal Orthopaedic Hospital. Nearby locally listed buildings include Lee Longlands, 224-228 Broad Street, and O'Neills Public House, Broad Street, both of which are categorised at Grade B.

6. Planning Considerations

Background and Policy

6.1. This application seeks to vary the plans schedule condition (condition 23) attached to planning consent 2016/08890/PA to allow two additional floors and 12 additional apartments making a 33 storey tower with 217 apartments. For this type of application Government advice is that Local Planning Authorities should focus their attention on updated national and local policies or any other material considerations which may have changed since the original grant of permission, as well as the changes sought.

6.2. Since the most recent consent was granted in April 2017 there has been no change in national or local planning policy. In principle, the proposed development is consistent with the NPPF, which supports sustainable development, especially that of previously developed land in locations that are easily accessible, such as the application site.

6.3. In January 2017, the City Council adopted the Birmingham Development Plan. The BDP is intended to provide a long term strategy for the whole of the City and will replace the saved policies of the Birmingham Unitary Development Plan 2005, with the exception of the City Wide policies contained within Chapter 8 and paragraphs 3.14 to 3.14D of that plan. These policies will continue in force until the adoption of the Council's proposed Development Management DPD.

6.4. Policy PG1 of the BDP advises that over the plan period significant levels of housing, employment, office and retail development will be planned for and provided along with supporting infrastructure and environmental enhancements. Policy GA1.1 adds that residential development will be continued to be supported in the City Centre where it provides well-designed high quality living environments. With regard to Westside and Ladywood, Policy GA1.3 aims to create a vibrant mixed use area combining visitor, cultural, commercial and residential uses.

6.5. The scheme would provide 12 additional apartments, comprising 4 x 1 bedroom apartments and 8 x 2 bedroom apartments ranging in size from 45sqm to 90sqm.

The mix of apartments is acceptable and internal layouts meet the space requirements set out in the National Technical Housing Standards.

#### Residential Amenity

- 6.6. This part of Broad Street is very vibrant at night with noise from nearby bars, traffic, some music from passing cars, sirens from emergency vehicles, noise from pedestrians / revellers. Notwithstanding concerns raised by BCC Regulatory Services to the original planning application, consent was granted scheme subject to conditions to reduce external noise levels to an acceptable standard internally. An Updated Noise Assessment has been submitted in support of the current application and subject to the same conditions as the previous application BCC Regulatory Services have raised no objections. Accordingly, the same conditions as per the previous consent are attached.
- 6.7. The Air Quality Assessment submitted with the application concludes that it is not necessary to include mitigation measures for the proposed development.
- 6.8. The scheme includes a resident's lounge above the entrance lobby and a first floor internal amenity area of 162sqm, which could be used for a residents lounge or gym. In addition between Tower 1 and Tower 2 is a shared private amenity space of approximately 250sqm. Whilst, with 12 additional apartments, there would be slightly less amenity space provision per apartment, I consider that the proposed scheme provides a reasonable amount of private amenity space. In addition the scheme is within walking distance of the many City Centre attractions.

#### Design and Heritage Impacts

- 6.9. Following an initial meeting with the Planning Authority to discuss the addition of two floors, it was agreed that the top floors be articulated to provide a crown feature. This has been achieved by increasing the density of the verticals in the silver filigree frame, adding an additional silver horizontal band and adjusting the secondary colour to the dark grey to both tie in with the window and spandrels of the tower and to further emphasise the silver crown. Use of LED lighting recessed into the dark grey cladding will illuminate the crown feature at night. Overall, I consider that the revised scheme with two additional storeys is well designed and enhances the top of the building.
- 6.10. The planning report for the previous consent concluded that "Whilst the building would clearly have an impact on nearby listed buildings, this impact is "less than substantial harm" and I consider the schemes public benefits outweigh the harm caused." I am of the view that the increase in height of two storeys will not result in any further harm to the significance of any heritage asset, whether designated or non-designated, than that already concluded.
- 6.11. The supporting Aviation Assessment concludes that there is a clearance of 5.34m between the height of the building and the outer horizontal surface for the Airport; that the extended Tower 2 would not impact on navigation or surveillance equipment at the Airport; and, the proposal does not have any implications for aviation safeguarding. As per the previous consent conditions are attached to secure details of crane operation as part of the construction management plan and a lighting scheme to include obstacle lighting, if required.
- 6.12. The applicant has provided a Fire Safety Strategy with the application. The principle mode of evacuation for the residential accommodation is a "defend in place"



strategy, meaning only the occupants of the apartment of fire origin will evacuate. This standard approach reflects the high degree of compartmentation, ventilation and sprinkler protection present in these types of building and minimises the impact of false alarms – an important consideration in residential accommodation.

- 6.13. The commercial unit and all other ancillary accommodation (i.e. amenity space, entrance lobby etc.) will adopt a simultaneous evacuation strategy, meaning that upon activation of the alarm system within these local areas will result in the immediate evacuation of all the occupants from the area. The fire alarm system is to be zoned separating the residential areas from the commercial unit. Further evacuation of the building would not take place unless it is dictated by either the fire service, building management (if provided) or the independent decision of the occupants.

#### Impact on nearby residents

- 6.14. I note the concerns of residents of Sherbourne Lofts about loss of light and privacy. However, Sherbourne Lofts is about 190m away and I do not consider that the proposed two additional storeys would have an adverse impact on their amenities. Furthermore, a Daylight and Sunlight Report has been prepared for the additional two storeys. The analysis notes no significant effect on any residential properties over and above the previous assessment carried out for the approved 31 storey residential building.
- 6.15. Turning to Wind and Microclimate, an updated report has been submitted, which notes that the additional two storeys does not have a greater impact than the 31 storey tower and with the mitigation measures proposed will create a suitable wind environment for pedestrians.
- 6.16. An updated Television and telecommunications report has been submitted, which notes that the additional two storeys in height proposed as a result of this development are a minor change to the height of the building given the 31 storeys previously approved and no mitigation measures are required.

#### Highway Issues

- 6.17. I note the concerns of local residents about traffic generation and lack of parking. However, the principle of a “car free” tower on this site has been accepted with the previous planning permission. The application site is located in a highly accessible location to all modes of travel. There are excellent opportunities for pedestrians and cyclists to travel to and from the City Centre and surrounding areas from the site. There are regular and frequent bus services within convenient walking distance of the site that provide access to the surrounding areas. In addition to this, the site is located within 1.5km of all three of the Birmingham railway stations and metro links.
- 6.18. BCC adopted parking guidelines specify maximum parking levels of provision would for 217 apartments equate to 325 car parking spaces. However, the SPD also states that in areas with high levels of accessibility by public transport, lower levels of car parking provision would be acceptable. Given the highly accessible location of the site and the excellent transport infrastructure in the vicinity, the application (as per the previous scheme) is proposing no on-site car parking. There are public and private car parks within a 5 minute walk of the site, which visitors rather than residents may use. The adjacent roads are protected by parking controls and these are well managed and enforced. The nearest available space to park freely would be on Ryland Street, Sherborne Street or Essington Street where some free on-street

parking is available, though parking controls may be developed for this area and they are heavily used already.

- 6.19. The applicants are proposing a contribution towards a car club, similar to that agreed at the Beorma residential scheme in Digbeth, which had limited on-site parking. There is a 'car-club' bay proposed on Essington Street as part of the Ladywood CPZ proposal. This would include providing a series of 'floating' bays across the City, which will mean the approved car-club branded vehicle can be parked in the on-street parking bays anywhere in the city centre. These are being permitted on Granville Street and Berkley Street, so again in close proximity to the development. The applicant is also in discussion with local car park operators who have indicated that they would offer long term parking leases for prospective residents who wish to have a car park parking space.
- 6.20. BCC Transportation Development have no objections and I do not consider that an additional 12 apartments would have a significant adverse impact on traffic generation or parking to justify refusal. As per the previous application conditions are attached to secure a delivery vehicle management scheme, cycle storage details and residential travel plan.

#### Community Infrastructure Levy and Planning Obligations

- 6.21. Under the previous consent development of Tower 2 secured a CIL contribution of circa £1.029m, together with £100,000 toward affordable housing and £100,000 toward a car club. The current application is supported by a Viability Report, which has been assessed by independent consultants. The independent consultants consider that when taking into account the increased CIL payment of £1,177m, the 12 additional apartments can sustain a further S106 contribution of £24,000, making a total of £224,000. I consider that the extra S106 contribution is reasonable and suggest that it be split evenly between off site affordable housing and the provision of a resident's car club. These contributions would need to be secured via a legal agreement.

#### 7. Conclusion

- 7.1. The BDP encourages residential development in the City Centre where it provides well-designed high quality living environments. Broad Street is changing and the proposed development of this significant new building would help its further regeneration, providing much needed housing units and a large investment on this site. It signals a confidence in Broad Street, as a location for a wider mix of uses, an aspiration that the City is supportive of.
- 7.2. The design of the two additional storeys is acceptable and would have no greater impact on heritage assets or nearby residents than the previous consented scheme. Given the sites highly accessible location and excellent public transport infrastructure no on-site parking is proposed. I do not consider that an additional 12 apartments would have a significant adverse impact on traffic generation or parking to justify refusal.
- 7.3. I therefore recommend approval subject to safeguarding conditions and completion of a suitable S106 agreement to secure £112,000 towards off site affordable housing and £112,000 for the provision of a resident's car club.

#### 8. Recommendation

- 8.1. That consideration of application 2017/09616/PA be deferred pending the completion of a planning obligation agreement to secure the following:-
- a) a financial contribution of £112,000 index linked from 2 March 2017 towards off-site affordable housing to be paid prior to first occupation of the building;
  - b) financial contribution of £112,000 index linked from 2 March 2017 towards a car club to be paid prior to first occupation of the building; and,
  - c) payment of a monitoring and administration fee associated with the legal agreement of £1,500.
- 8.2. In the absence of the suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 15 March 2018 planning permission be refused for the following reason(s):
- a) in the absence of any suitable legal agreement to secure a financial contribution towards off site affordable housing the proposal conflicts with the Affordable Housing SPG and Policy TP30 of the Birmingham Development Plan 2017; and
  - b) in the absence of a legal agreement to secure car club funding, the proposal conflicts with TP37 of the Birmingham Development Plan 2017.
- 8.3. That the City Solicitor be authorised to prepare, seal and complete the S106 legal agreement.
- 8.4. That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 15 March 2018, favourable consideration be given to this application, subject to the conditions listed below

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|    |  |
|----|--|
| 1  | Requires the prior submission of a contamination remediation scheme  |
| 2  | Requires the prior submission of a contaminated land verification report   |
| 3  | Limits the hours of operation of the ground floor commercial uses 0700-midnight daily.                                       |
| 4  | Limits delivery time of goods to or from the restaurant (A3) unit 0700-1900 Mondays to Saturdays and 0900-1900 Sundays.      |
| 5  | Requires implementation of the approved Sustainable Drainage Scheme  |
| 6  | Limits the noise levels for Plant and Machinery  |
| 7  | Requires the prior submission of noise insulation  |
| 8  | Requires the scheme to be in accordance with the glazing specification   |
| 9  | Requires no external openable windows, doors or vents to habitable rooms and alternative means of ventilation - Floors 1 - 6 |
| 10 | Requires the prior submission of a ventilation strategy  |
| 11 | Requires the prior submission of a noise and ventilation validation report   |

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|----|---|
| 12 | Requires the prior submission of hard and/or soft landscape details                 |
| 13 | Requires the prior submission of a lighting scheme                                  |
| 14 | Requires the prior submission of sample materials                                   |
| 15 | Requires the prior submission of a construction method statement/management plan    |
| 16 | Requires the prior submission of extraction and odour control details               |
| 17 | Requires the prior submission of details of refuse storage for the commercial unit. |
| 18 | Removes PD rights for telecom equipment   |
| 19 | Requires the prior submission and completion of works for the S278/TRO Agreement    |
| 20 | Requires the prior submission of details of a delivery vehicle management scheme    |
| 21 | Requires the prior submission of cycle storage details                              |
| 22 | Requires the prior submission of a residential travel plan                          |
| 23 | Requires the scheme to be in accordance with the listed approved plans              |
| 24 | Requires the prior submission of roof top plant screen details                      |
| 25 | Broad Street late night noise   |
| 26 | Limits the approval to 3 years (Full)   |
- 

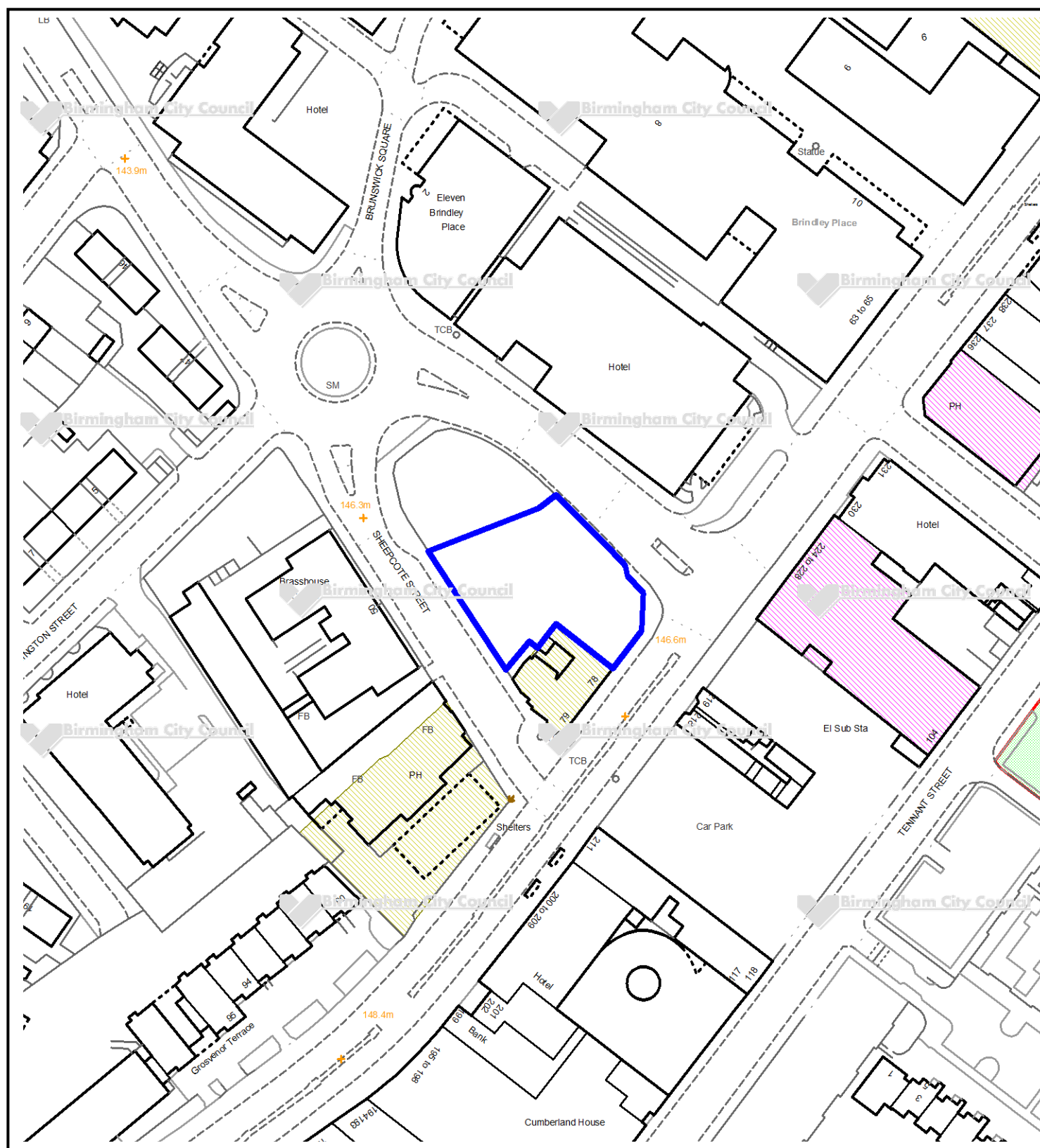
Case Officer:        David Wells

**Photo(s)**



View from Broad Street

## Location Plan



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# **Birmingham City Council**

## **Planning Committee**

**15 February 2018**

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

| <u>Recommendation</u> | <u>Report No.</u> | <u>Application No / Location / Proposal</u>  |
|-----------------------|-------------------|--|
| Approve – Conditions  | 14                | 2017/09293/PA<br><br>5 Manor Drive<br>Sutton Coldfield<br>Birmingham<br>B73 6ER<br><br>Demolition of existing dwellinghouse and erection of 4 detached dwellinghouses including new service road with associated car parking and landscaping.  |
| Approve – Conditions  | 15                | 2017/09371/PA<br><br>Plot 6B The Hub<br>Nobel Way<br>Birmingham<br>B6 7EU<br><br>Reserved Matters application in order to determine access, appearance, landscaping, layout and scale in relation to the erection of Use Classes B1 (b,c), B2 and B8 industrial/warehouse units in relation to outline approval 2016/00969/PA. |
| Approve – Conditions  | 16                | 2017/07184/PA<br><br>Former garage sites at The Leverretts<br>Handsworth<br>Birmingham<br>B21<br><br>Erection of 4 dwelling houses with associated car parking and landscaping   |



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|                 |                |                     |               |
|-----------------|----------------|---------------------|---------------|
| Committee Date: | 15/02/2018     | Application Number: | 2017/09293/PA |
| Accepted:       | 03/11/2017     | Application Type:   | Full Planning |
| Target Date:    | 29/12/2017     |                     |               |
| Ward:           | Sutton Trinity |                     |               |

5 Manor Drive, Sutton Coldfield, Birmingham, B73 6ER

Demolition of existing dwellinghouse and erection of 4 detached dwellinghouses including new service road with associated car parking and landscaping.

|            |   |
|------------|---|
| Applicant: | Massey Limited<br>c/o Agent   |
| Agent:     | Cerda Planning Limited<br>Vesey House, 5-7 High Street, Sutton Coldfield, Birmingham, B72 1XH |

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Recommendation

**Approve Subject To Conditions**

1. Proposal

- 1.1. Proposal is for the demolition of the existing dwelling and the erection of 4 detached dwellings including a new service road with associated car parking.
- 1.2. The proposed dwellings would be of traditional bespoke designs, 2 storeys in height with additional accommodation within the roofspace and all contain 5 bedrooms.
- 1.3. An access road and turning head would be provided off Manor Drive with a new wall at the entrance. Plots 1 and 4 would have detached double garages and 2 car parking spaces and Plots 2 and 3 would have attached single garages with 2 car parking spaces.
- 1.4. Each dwelling would have private amenity areas in excess of 70sq.m with walled patios which are indicated as being level with rear gardens.
- 1.5. Additional tree planting (Field Maples) is proposed on the rear boundary and also on the boundary with 3b Manor Drive. Existing boundary trees would be retained and lopped.
- 1.6. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site is currently occupied by a two-storey detached residential dwelling with a detached garage and a separate timber shed and outbuilding. The site includes fruit and mature trees and there is a mix of boundary treatments including a 1.8 metre high close boarded fence, a 1.8 metre high wire mesh fence, a

1.8 metre high timber panel fence and a 1.95 metre high brick wall. The site falls by 3.42 metres from south to north. The land to the north in Woodland Rise and the railway line is significantly lower than the application site.

- 2.2. The site is located at the end of Manor Drive, which is a private residential road with no footpath and is bounded by holly hedges and mature trees. Manor Drive is accessed off Manor Hill, where Manor Hill makes a right-angled bend into Driffold.
- 2.3. To the northwest of the site, is a Grade II listed dwelling house known as 'Sutton Coldfield Manor House' which is on the site of a former medieval manor house and has both historic and archaeological significance. To the east is a railway line, which is located in a cutting not far from the boundary. To the north of the site is a mix of two and three storey dwellings fronting Woodland Rise. To the south is a two-storey residential property. The trees to the south within the gardens of Nos. 1, 3a, 3b, 3c and 3d Manor Drive are all subject to a Tree Preservation Order (TPO 1062).
- 2.4. The surrounding area is predominantly residential in character
- 2.5. [Site Location and Street View](#)

### 3. Planning History

- 3.1. 6 July 2012 - 2012/02391/PA - Planning permission granted for demolition of existing dwelling house, garages and outbuildings and erection of four, five bedroom dwelling houses with garages, new access road and associated landscaping, subject to conditions.
- 3.2. 21 March 2013 – 2013/00554/PA - Planning permission granted for demolition of existing dwelling and erection of 4 no. detached dwellings, including new service road, car parking and landscaping, subject to conditions.

### 4. Consultation/PP Responses

- 4.1. Transportation Development – No objections subject to conditions requiring parking and circulation areas provided prior to occupation and a pedestrian visibility splay.
- 4.2. Regulatory Services – No objection subject to a condition requiring acoustic glazing to habitable rooms.
- 4.3. Severn Trent Water – No objections.
- 4.4. West Midlands Police – No comments to make.
- 4.5. Councillors, Residents Associations and nearby occupiers notified. 7 letters have been received objecting to the proposal on the following grounds;
  - Red line has not been continued to nearest public highway which invalidates the application
  - Private drive hasn't capacity for 3 further dwellings, access narrow and dangerous

- Fire Service objected to previous application on grounds of inadequate access and insufficient water supplies
- Plans drawn to show potential access to rear of 3b Manor Drive which would make access worse and more dangerous
- Houses at 90 degrees to Manor Drive would be out of character
- Conflict with places for Living, should be 29 meters to rear of houses in Woodland Rise
- Density of development at 15 dwellings per hectare is out of character
- The proposal would constitute over-development of the site and contribute to the erosion of the locality
- Set a precedent for other similar properties to do likewise and cumulatively create over-development and erode the general mass, siting, appearance, orientation and density of the dwellings in the area.
- Appears that new trees would be planted across boundary
- Field maple trees existing hedge should be kept to a legally accepted height
- Field maple trees grow to 20m and will block light to properties in Woodland Rise
- Noise, light and exhaust pollution to no.3b
- Cause problems with drainage
- Need to protect birds on the site

## 5. Policy Context

- 5.1. Birmingham Development Plan 2017, UDP 2005 (saved policies), Places for Living SPG, Mature Suburbs SPD, Car Parking Guidelines SPD, NPPF (2012).

## 6. Planning Considerations

- 6.1. **Background** – Planning permission has been granted on 2 previous occasions for the demolition of the existing dwelling and the erection of 4 dwellings, therefore, I consider the proposal is acceptable in principle. The main issues are the acceptability of the revised house type design, siting, scale and massing and whether the proposal would have any greater impact on the amenities of local residents or harm to the character of the local area.
- 6.2. **Design and Character of the Area** - The proposed dwellings are slightly larger than those approved in the previous applications and would utilise the roofspace to provide additional accommodation. The dwellings would be of traditional design with each property having its own bespoke design and I consider this to be an improvement on the previously approved scheme. The appearance of the proposed dwellings is acceptable.
- 6.3. The scale of the proposed dwellings would be no greater than the 2 larger dwellings in the previously approved scheme although the increased massing would reduce the spatial separation between the dwellings. I do not consider the reduction in the space between the proposed dwellings would have an adverse impact on the character of the immediate area and the separation would be similar to more recent development of dwellings at 3a-3d Manor Drive.
- 6.4. **Standard of Accommodation for Future Occupiers** – The proposal is for four large, 5 bedroom dwellings and all dwellings, bedrooms and storage areas exceed the minimum sizes required by the “Technical housing standards – nationally described space standard”.

- 6.5. Each of the proposed dwellings would have a private amenity area well in excess of the 70sq.m required by Places for Living for this type of dwelling.
- 6.6. **Residential Amenity** – The current proposal would have no greater impact on existing residents than the previously approved schemes. The siting of the plots has been amended so the rear elevations are no closer to the rear elevations of properties in Woodland Rise (approximately 26m-28.2m) than the previously approved schemes. Despite the fall in level of 4m to Woodland Rise to the north, the proposed dwellings would be sufficient distance from the boundary (15m at the nearest point of Plot 4) not to result in any loss of privacy through overlooking to the rear gardens of the properties in Woodland Rise. Rooflights to the roofspace accommodation would be located high on the roof with the applicants confirming the eill level would be a minimum of 1.6m above floor level to prevent overlooking.
- 6.7. Despite the minor shortfall in the separation between the rear of the proposed properties and those in Woodland as recommended by Places for Living (21m plus 2m for every 1m change in level), the already substantial rear boundary screening would be bolstered by the planting of Field Maple trees to enhance the screening. These have been chosen as they are a species which do not grow particularly tall as residents in Woodland Rise were concerned about trees overshadowing their gardens. It is also proposed to plant additional trees on the boundary with the garden to 3b Manor Drive to increase screening although the front elevations of the dwellings would exceed the minimum required separation distance from this boundary.
- 6.8. **Highways** – The proposed development would contain adequate car parking provision and the access off Manor Drive is in the same position as the previous planning approval. I have recommended a condition preventing the erection of gates at the access. Transportation Development have raised no objections and I concur with this view.
- 6.9. **Environmental** – Regulatory Services have recommended a condition requiring acoustic glazing to habitable rooms due to the close proximity of the railway line to the eastern boundary of the site.
- 6.10. **Trees and Ecology** – The Tree Officer has commented that trees to be removed are as previously agreed and additional tree planting will compensate for any loss. A condition is recommended that requires the submission of an Arboricultural Method Statement and details of tree protection measures during construction.
- 6.11. Surveys submitted with previous applications concluded the site had low potential for roosting bats. A condition is recommended requiring bird/bat boxes to be incorporated into the new dwellings.
- 6.12. **Community Infrastructure Levy (CIL)** – The site is in a CIL chargeable area. Additional floorspace 1,145sq.m, CIL charge £79,005.

## 7. Conclusion

- 7.1. I consider that the proposed revisions to the scheme in terms of house type design and siting, scale and massing would not harm the local character or result in a greater impact on the amenity of existing residents than the previously approved schemes.

8. Recommendation

8.1. Approve Subject to Conditions.

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- |    |   |
|----|---|
| 1  | Requires the prior submission of investigation for archaeological observation and recording |
| 2  | Requires the prior submission of details of bird/bat boxes                                  |
| 3  | Requires the prior submission noise insulation details                                      |
| 4  | Requires the prior submission of hard and/or soft landscape details                         |
| 5  | Requires the prior submission of hard surfacing materials                                   |
| 6  | Requires the prior submission of boundary treatment details                                 |
| 7  | Requires the prior submission of a lighting scheme  |
| 8  | Requires the prior submission of sample materials   |
| 9  | Requires the prior submission of level details  |
| 10 | Prevents occupation until the landscaping scheme including replacement trees are provided.  |
| 11 | Prevents gates being erected across the access road.  |
| 12 | Removes PD rights for extensions  |
| 13 | Prevents occupation until the turning and parking area has been constructed                 |
| 14 | Requires pedestrian visibility splays to be provided  |
| 15 | Arboricultural Method Statement - Submission Required                                       |
| 16 | Requires the prior submission of domestic sprinkler system for each house                   |
| 17 | Requires the scheme to be in accordance with the listed approved plans                      |
| 18 | Implement within 3 years (Full)   |
- 

Case Officer: John Davies



## Photo(s)



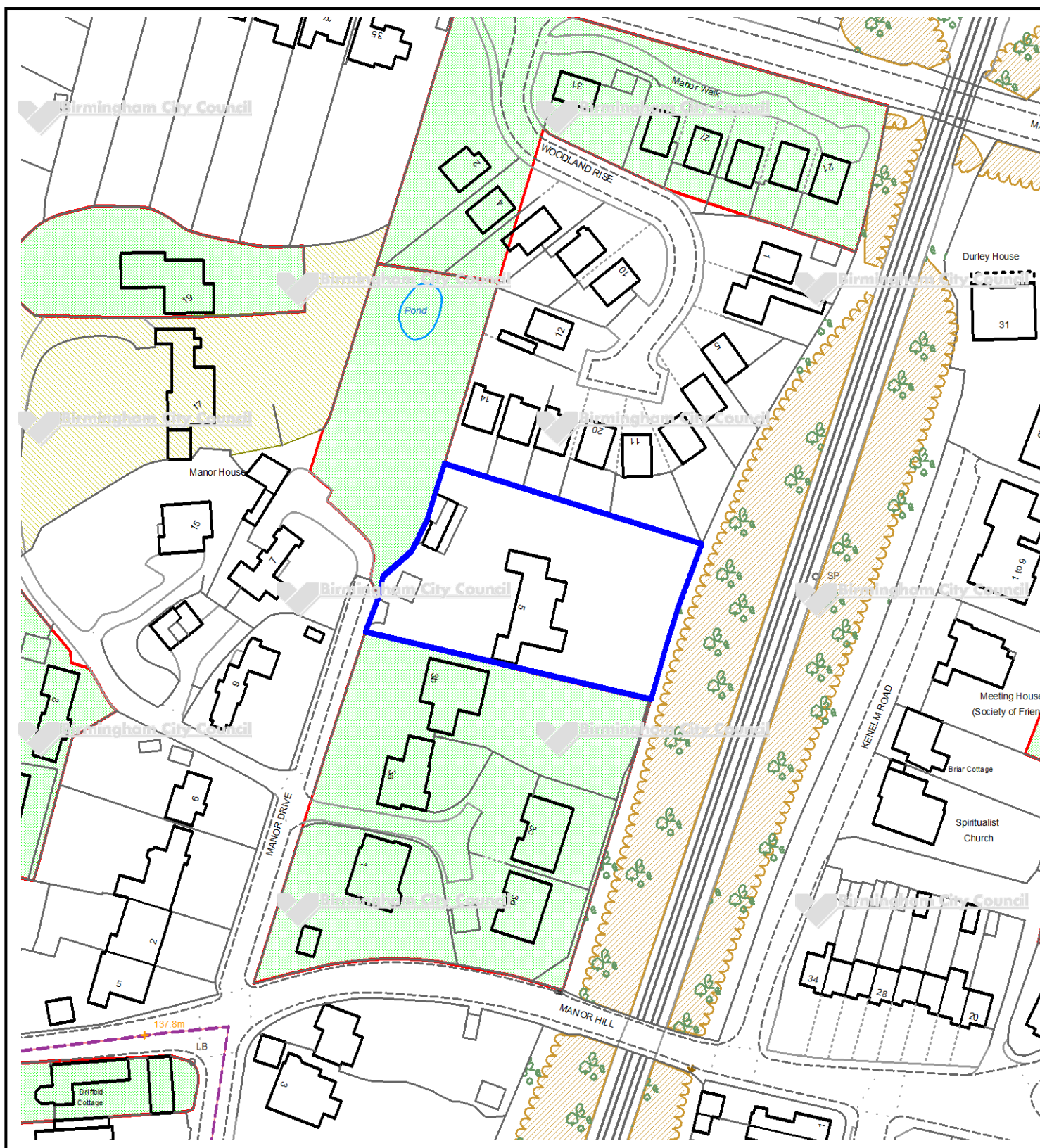
**Figure 1 – Existing House**



**Figure 2 – Existing Garden**



## Location Plan



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|                 |            |                     |                              |
|-----------------|------------|---------------------|------------------------------|
| Committee Date: | 15/02/2018 | Application Number: | 2017/09371/PA                |
| Accepted:       | 02/11/2017 | Application Type:   | Reserved Matters Development |
| Target Date:    | 01/02/2018 |                     |                              |
| Ward:           | Perry Barr |                     |                              |

Plot 6B The Hub, Nobel Way, Birmingham, B6 7EU

Reserved Matters application in order to determine access, appearance, landscaping, layout and scale in relation to the erection of Use Classes B1 (b,c), B2 and B8 industrial/warehouse units in relation to outline approval 2016/00969/PA.

|            |   |
|------------|---|
| Applicant: | IM Properties Developments Ltd<br>c/o agent                   |
| Agent:     | Quod<br>Ingeni Building, 17 Broadwick Street, London, W1F 0AX |

#### Recommendation

#### **Approve Subject To Conditions**

##### 1. Proposal

- 1.1. As background to this application, the site in question was granted reserved matters approval for the erection of Use Classes B1 (b,c), B2 and B8 industrial/warehouse units under application 2017/06899/PA in November 2017. This new current application is a significant departure in the layout from that approval and hence the applicant has submitted this new reserved matters application.
- 1.2. This reserved matters application for the erection of 4 industrial units (Use class B1 (b,c), B2 and B8) on land within The Hub Employment estate seeks confirmation of the access, appearance landscaping, layout and scale of the proposed scheme.
- 1.3. This reserved matters application follows the approval of an outline consent (2016/00969/PA) with all matters reserved (which was amended by an non material application 2017/05840/PA).
- 1.4. The aforementioned outline application covered two parcels of land set within the wider Hub employment estate. One of those parcels of land sat to the north of a central service road (Nobel Way) running through the Hub estate whilst the other sat to the south of it. This reserved matters application seeks development solely of the southern parcel of land of the outline scheme.
- 1.5. The floorspace of the units would range from 2044 sq.m to 23,267 sq.m creating a total floorspace of 37,389 sq.m.
- 1.6. Though the floorspace of each of the units would vary, they would be of a regular shape (rectangular) and be of a similar design as they would incorporate shutter bay openings and powder coated aluminium windows and doors to their exterior elevation. Their main exterior façade would comprise horizontally laid profiled silver coloured cladding panels interspersed with vertically laid profiled dark grey colour

cladding with horizontally laid white colour panels running below the eaves and the roof formed out of goosewing grey cladding.

- 1.7. The internal layout of each unit would follow a similar pattern in providing for a large expanse of open plan warehouse/industrial floorspace together with ancillary office floorspace and W.C's on the ground and first floor.
- 1.8. Each of the units would be provided with its own car parking, ranging from 19 spaces for the smallest unit (2,044sqm) to 250 spaces for the largest unit (23,267 sqm) and servicing areas.
- 1.9. The site layout of the development would have the two largest units (unit 1 and unit 4), set further into the site than the two smaller units (2 and 3). The units would be accessed from Nobel Way which forms a route through the Hub Estate.
- 1.10. The site layout drawing shows that other works would be undertaken which include the provision of an attenuation pond, next to unit 3. The development would provide for waste areas to each unit whilst the submitted drawings indicate the provision of smoking/cycle shelters and external condenser to each of the units. Two electric sub stations and four gas governors would be provided. Only elevations of the cycle shelters have been provided with this application.
- 1.11. The applicant proposes to secure parts of the site perimeter to the individual plots with 2.4 m high paladin security fence and has indicated the provision of a 5 metre high acoustic fence to run along the southern part of service yard to unit. 4. It is also proposed to secure the refuse areas with 2.4 metre high timber hit and miss fencing.

1.12. [Link to Documents](#)

## 2. Site & Surroundings

- 2.1. The application site is split into two, north and south of Nobel Way, within the Hub employment estate. The estate has already been largely built out with various warehouse and industrial units whilst the new wholesale markets building is currently nearing completion in the south west corner of the Hub. To the south of this part of the application site (southern parcel of land) runs a railway line, to the north across Nobel Way is the northern parcel of land that forms the remainder of the application site which is nearing completion in terms of the build out of two units on it (for TNT and Argos) having been approved under a separate reserved matters application relating to the wider outline consent that covered the entire Hub estate and to the east are other commercial premises within the Hub.

2.2. [Site location](#)

## 3. Planning History

- 3.1. 09.11.2017- 2017/0699/PA- Reserved Matters application in order to determine access, appearance, landscaping, layout and scale in relation to the erection of Use Classes B1 (b,c), B2 and B8 industrial/warehouse units in relation to outline approval 2016/00969/PA- Approved subject to conditions.
- 3.2. 09.06.2016- 2016/00969/PA- Outline application for erection of industrial/warehouse units (Use Classes B1 (b,c), B2 and B8) with associated roads, parking areas and landscaping with all matters reserved- approved with conditions.

4. Consultation/PP Responses

- 4.1. Surrounding occupiers, community group, local MP and local councillors notified as well as site and press notices displayed- no responses received.
- 4.2. Transportation Development- no objection subject to conditions relating to parking provision, visibility splays, Travelwise and cycle storage.
- 4.3. Regulatory Services- Whilst not objecting they highlight that a noise assessment is required under condition 19 of the outline approval, and therefore cannot agree to the acoustic fence proposed under this reserved matters application as a means of mitigating noise from this development without first agreeing a satisfactory noise report.
- 4.4. Network Rail- concern that an increase in HGV movements to and from the site could damage a railway bridge (on Witton Road) if hit by such vehicles and recommend a series of measures that could be used to protect Network Rail assets.
- 4.5. LLFA- No objection to the development subject to condition 4 as applied to the original consent remaining in place.
- 4.6. Environment Agency- no objection.
- 4.7. West Midlands Police- recommend a CCTV system and works accord with Secured by Design Commercial, seek clarification on the proposed method of securing the site during non-operational hours, the currently exposed alleyway to the south of unit 1 be the subject of appropriate access control i.e. gate/fence line, each unit be subject to a separate intruder alarm and the hit and miss fencing proposed around the condensers for unit 2 and 3 offer the opportunity for burglars to climb over the adjacent paladin fence that would secure their service yards.
- 4.8. West Midlands Fire Service- fire service vehicle access is required to at least 75% of the perimeter to unit 4 and that high reach vehicle access is required for buildings over 11 metres (in height), confirmation is sought that vehicle access from the car park to the fire track (of unit 4) is possible and available. Fire service vehicle access is required to at least 50% of the perimeter to unit 1. Each elevation with vehicle access requires an access door.

5. Policy Context

- 5.1. Birmingham Development Plan (2017); Birmingham UDP (Save Policies) 2005, SPD Car Parking Guidelines, Places for All SPG and the NPPF.

6. Planning Considerations

- 6.1. Access- With respect to the expected parking and highway impact the development is expected to generate, I consider the submitted layout satisfactorily demonstrates that the units would be provided with a satisfactory level of on site parking for cars and lorries. The site is set in a well established employment estate which sits adjacent to Witton Road. Witton Road is well served by public transport including bus and train services whilst Witton Road local centre which includes access to a large supermarket is within walking distance. The proposal has shown the provision of satisfactory pedestrian and vehicle accesses to the individual units. Transportation Development raises no objection subject to conditions, all of which are attached to the outline consent with the exception of the Travel Plan.

- 6.2. The units 1 and 4 accord with the comments regarding access for fire service vehicles provided by West Midlands Fire Service.
- 6.3. Appearance, scale, layout and landscaping- The design, appearance and scale of the proposed new units and overall development would appear in keeping with the surrounding units on the estate. The units would appear functional in design whilst incorporating a common exterior pallet of materials to provide consistency in the appearance of the overall scheme, whilst those materials would be thoughtfully incorporated along the exterior façade so as to help break up the visual appearance of what would otherwise be large monotonous rectangular units. They would have glazed features and entrance doors that would distinguish the pedestrian access points from the otherwise main active frontages which would serve as loading bays.
- 6.4. The layout of the development would be logical in that it would provide for a practical and functional development allowing both pedestrians and motorists to access and move within it along largely separated routes for both. The layout allows for the incorporation of an attenuation pond whilst also providing for greenery throughout the site. With respect to the landscaping on site, though not detailed landscaping details have been provided with this submission, I consider that the layout provides satisfactory scope for a detailed landscape details covered by condition associated with the outline approval.
- 6.5. With respect to the substations and condenser units indicated on the submitted layout plan, these are not expected to give rise to any adverse impact subject to details of such being agreed under condition which I recommend is attached to this development is approved.
- 6.6. Neighbour amenity- In terms of protecting the amenity of the nearest residential occupiers to the scheme which would be terrace dwellings located to the south of the railway line, it is proposed to install a 5 metre high acoustic fence to screen them from noise from the development. This is consistent with a 5 metre high acoustic fence to the southern boundary of the adjacent Wholesale market development (Sui Genris) in order to protect the amenity of the residential dwellings to the south. However, given that this scheme proposes B1(b,c), B2 and B8 units, which other than a B8 use, are expected to potentially have a different type of noise impact in comparison to a wholesale market (though the main difference in noise impacts are likely to be related to activity within the buildings rather than the outside).
- 6.7. Whilst Regulatory Services have raised no objection to this reserved matters application, they have highlighted the need for a noise assessment, as required by condition associated with the outline consent, which will identify any necessary mitigation measures. As such whilst this application is proposing a 5m high acoustic fence as its mitigation measures this does not override the requirement of the condition attached to the outline consent. Regulatory Services are confident that there are other mitigation measures that could be applied if the acoustic fence is not adequate to secure an effective noise environment for neighbouring noise-sensitive premises. The applicant has been reminded of the requirement of this condition and they have advised that a noise assessment has already been commissioned.
- 6.8. Other matters- I note the comments received from WM Police who request a CCTV condition. I do not consider that this is necessary as such features are expected to be installed by the developer. Similarly, the estate is controlled by 24 hour security therefore the question as to how the site will be secured when the not in use should be addressed by this. With respect to their comments about the potential for



intruders to climb the hit and miss fencing that would enclose the condensers for unit 2 and 3, I note that the main security barrier to the service yard of neighbouring units would be secured by 2.4 metre high paladin secure fencing which would have pointed tops which should be able to deter potential intruders.

- 6.9. With respect to the comments provided by Network Rail, I recommend these are forwarded to the agent as an advisory. The applicant would be required to incorporate, where possible, their requirements in the scheme such as Network Rails request for the installation of suitable high kerbs or crash barriers near the boundary with the railway line which can for example be incorporated into the details the applicant submits to discharge boundary conditions under the outline approval.

7. Conclusion

- 7.1. The submitted details satisfactorily demonstrate that a scheme in terms of access, appearance landscaping, layout and scale could deliver new industrial development that is in accordance with relevant policy and guidance.

8. Recommendation

- 8.1. Approve subject to conditions.

- 
- |   |  |
|---|--|
| 1 | Requires the applicants to join Travelwise                             |
| 2 | Requires the prior submission of sub-station details                   |
| 3 | Requires the prior submission of the proposed smoking shelter details. |
| 4 | Requires the submission of the condensor unit details.                 |
| 5 | Requires the scheme to be in accordance with the listed approved plans |
- 

Case Officer:        Wahid Gul

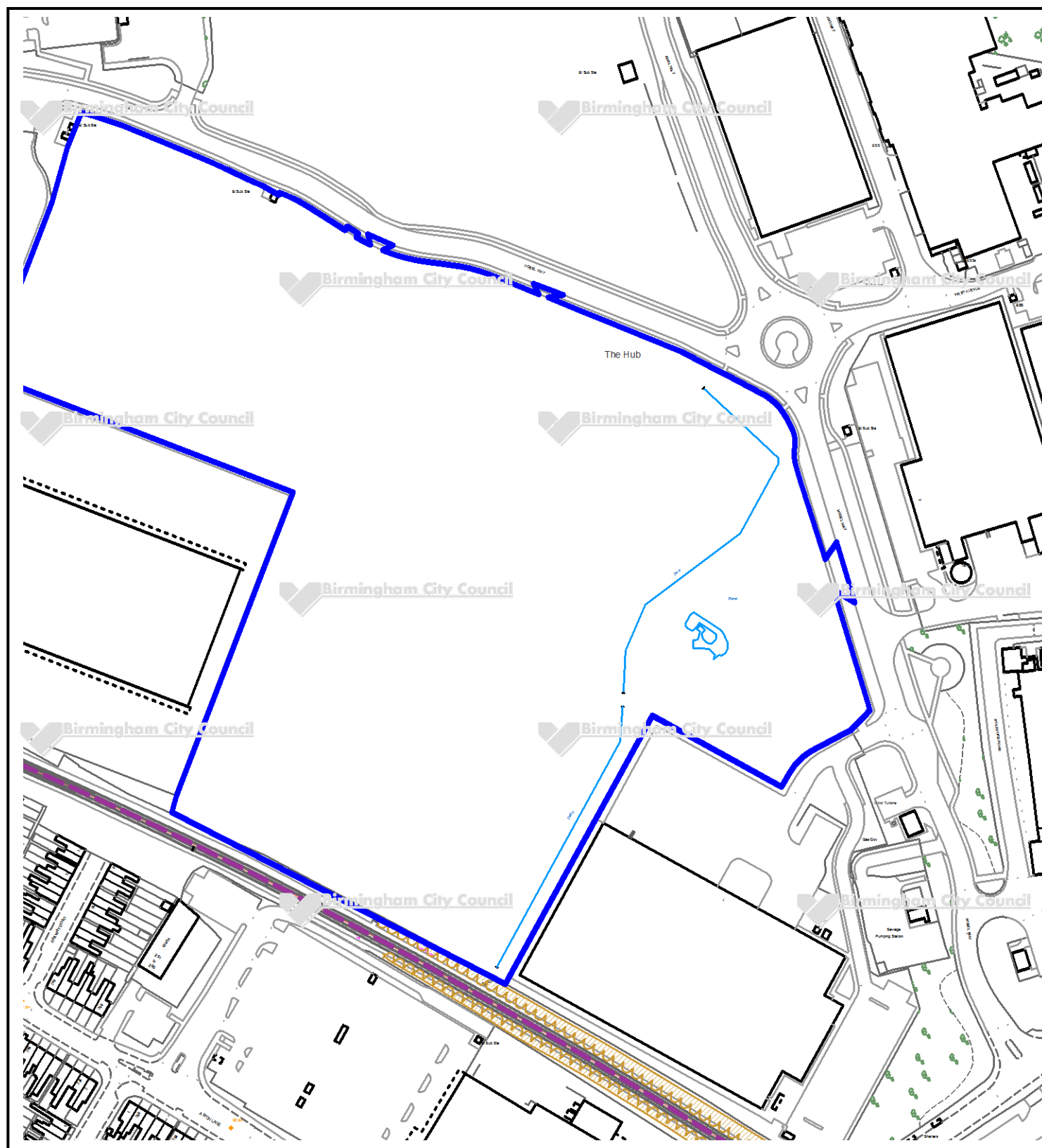


**Photo(s)**



View of site with the view of the wholesale market in the background

## Location Plan



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|                 |                 |                     |               |
|-----------------|-----------------|---------------------|---------------|
| Committee Date: | 15/02/2018      | Application Number: | 2017/07184/PA |
| Accepted:       | 15/08/2017      | Application Type:   | Full Planning |
| Target Date:    | 10/10/2017      |                     |               |
| Ward:           | Handsworth Wood |                     |               |

Former garage sites at The Leverretts, Handsworth, Birmingham, B21

Erection of 4 dwelling houses with associated car parking and landscaping

|            |   |
|------------|---|
| Applicant: | Birmingham City Council<br>BMHT, 1 Lancaster Circus, Birmingham, B4 7DJ |
| Agent:     | BM3 Architecture Ltd<br>28 Pickford Street, Birmingham, B5 5QH          |

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Recommendation

**Approve Subject To Conditions**

1. Proposal.

- 1.1. This planning application relates to the proposed erection of four dwellings for affordable rent with associated parking and landscaping on rear garage land as part of the Birmingham Municipal Housing Trust (BMHT) programme. The proposed dwellings would be sited on two separate rectangular shaped plots which are both accessed off The Leverretts, Handsworth Wood, an unclassified road with no TROs enforced at or around the application site.
- 1.2. The tenure of the development as affordable rent is proposed in response to identified unmet local need with regard to existing social housing waiting list. The proposals are made having regard to the Birmingham Strategic Housing Market Assessment and seeking to address this established need.
- 1.3. The dwellings would comprise four two storey semi-detached, three bedroom dwellings, with a pair of semi-detached dwellings on each of the two rear garage plots. The dwellings would be outward facing onto The Leverretts and would benefit from on-plot parking for two vehicles for each dwelling as well as a private rear garden.
- 1.4. The three bedroom 5 person dwellings would measure 93.8sqm in floorspace. The two double bedrooms would measure between 11.5sqm and 12.6sqm and the single bedroom would measure 8.2sqm.
- 1.5. The proposed dwellings would be designed to incorporate projecting gables, doorway canopies and large feature windows with pitched roofs. The dwellings would be constructed out of facing red brickwork and red tiled roofs, with grey framed windows. The proposed dwellings will have 1.8m high rear boundary treatments and also subject to a gating scheme to protect the rear boundaries of the existing dwellings.
- 1.6. Each of the proposed dwellings would have driveway parking associated with the plot and would benefit from two car parking spaces (200%).

- 1.7. The proposed residential density would be approximately 30 dwellings per hectare.
- 1.8. [Link to Documents](#)
2. Site & Surroundings
  - 2.1. The application site comprises of two rectangular shaped plots which are both accessed off a driveway off the west of The Leverretts. The site area is 0.0130 hectares and the plot is relatively flat. Residential properties are situated to the north, south, east and west of the site.
  - 2.2. The surroundings are predominantly residential in character with semi-detached and terrace housing which was mostly constructed as Council housing in the mid-1970s. The site has reasonable public transport available from Oxhill Road.
  - 2.3. [Site Location Plan](#)
3. Planning History
  - 3.1. None relevant.
4. Consultation/PP Responses
  - 4.1. Transportation Development – no objection subject to condition relating to visibility splays.
  - 4.2. Regulatory Services – no objection subject to conditions to secure a Construction Method Statement, a Contamination Remediation Scheme, a Contaminated Land Verification Report and a vehicle charging point condition.
  - 4.3. West Midlands Police – recommends a boundary treatment condition to secure additional pedestrian gates to control access and flow of movement to the existing alleyways.
  - 4.4. West Midlands Fire Service – no objection.
  - 4.5. Severn Trent Water – No objection.
  - 4.6. Site Notice posted. MP, Ward Members and neighbours notified. 4 representations received on the following grounds:
    - The proposed dwellings will not solve existing anti-social behaviour and criminal activities.
    - Loss of a secure, gated and safe site.
    - Loss of privacy and overlooking issues.
    - air pollution/ dust and excessive noise caused the building work will cause.
  - 4.7. In addition to the above objections, a petition has been received from 39 local occupiers stating an objection to the proposal. Reasons for objections not stated.
5. Policy Context



- 5.1. National Planning Policy Framework (2012); Birmingham Development Plan (2017); Birmingham Unitary Development Plan Saved Policies (2017); Places for Living SPG (2001); Car Parking Guidelines SPD (2012); DCLG Technical Housing Standards – Nationally Described Spatial Standard (2015).
6. Planning Considerations
- 6.1. **Principle of Development** – The application site is located within a predominantly residential area which largely forms social and Council housing stock. The prevailing character of the area is therefore overwhelming residential.
- 6.2. The application site comprises a brownfield site in a sustainable location. The proposed development is reflective of the residential character of the surrounding area.
- 6.3. The application site is located within a sustainable location with reasonable access to public transport, and a number of public services accessible within a reasonable distance. The site is unconstrained in respect of flood risk or protected trees.
- 6.4. **Layout and Design** – The application proposals comprise the development of 4no. two storey semi-detached houses. The proposed houses would be outward facing on to The Leverretts and would form an active frontage to the site. The proposed layout is considered to be a well arranged approach to the site. I note the development would represent backland development. However, it would have a front facing elevation and would be approximately 33.5m (L) walking distance from The Leverretts and would infill a void area previously occupied by garages. Therefore the establishment of new build development at these two particular plots is acceptable.
- 6.5. The proposed design of the dwellings is contemporary with a strong aesthetic appearance which would have a positive impact on the current vernacular of the area. The dwellings are of a high quality design, of an appropriate scale and mass for the area.
- 6.6. The landscaping proposals for the development would have a positive impact on the current appearance and visual amenity of the site. The proposed development would make a positive contribution towards the appearance and general environment of the surrounding area.
- 6.7. I consider that the application proposals would meet the principles of good urban design and would have an acceptable impact on visual amenity.
- 6.8. **Residential Amenity** – The proposed dwellings comply with the Nationally Described Spatial Standards, exceeding the minimum floorspaces for the total dwelling and meeting the bedroom standards set out within the document. Furthermore, I am of the view that the indicative layouts of the dwellings would be functional and would be conducive to the creation of a good living environment and an acceptable standard of residential amenity.
- 6.9. The proposed garden sizes exceed the guidelines set out within Places for Living SPG of a minimum of 70sqm for larger dwellings, and would provide an acceptable external amenity space for recreation and functional activities. Boundary treatments are proposed to secure the privacy of residents, which are considered appropriate and consistent with the surrounding residential character of the area. Places for Living SPG sets out the recommended separation distances between residential

dwellings and all plots achieve these i.e. the 12.5m (L) separation distance to gable walls of development and the 21m (L) window to window separation distances to habitable windows of neighbouring dwellings. With regard to neighbouring residential amenity, the proposed orientation of the dwellings would not breach the 45 Degree Code to the existing neighbouring residential properties. The proposed development would not have an adverse impact on outlook, overlooking or loss of privacy to the neighbouring dwellings.

- 6.10. Concerns regarding air pollution, dust and noise caused by building work are noted and a construction method statement condition is recommended. It is considered a condition requiring vehicle charging points would not be necessary as the plots have dedicated car parking spaces whereby the occupiers can install electric charging points at a later date if desired.
- 6.11. **Highway Safety** - Transportation Development states that the additional traffic generation associated with the proposal would not have an adverse impact upon the operation of The Leverretts. The Council's Clearance Land and Property Team have confirmed that only 9 nine vehicles were using the sites, rather than the 46 garages that previous occupied them prior to their clearance. Furthermore, the site is located within a sustainable location with reasonable public transport available from Oxhill Road. The eight proposed parking spaces are deemed as acceptable with sufficient availability of on street parking. The existing access roads provide sufficient visibility splays and footpaths on either side. It is therefore concluded that the proposals would be unlikely to have an adverse impact on the free flow of traffic, and no objection has been raised subject to conditions.
- 6.12. **Other Matters** – The application site is located within a low residential value area and accordingly no CIL contribution is required.

## 7. Conclusion

- 7.1. The application proposals seek to secure the provision of 4no. houses available for affordable rent through the Birmingham Municipal Housing Trust programme. The proposals are acceptable in principle and would result good quality residential living accommodation. The proposals would be unlikely to have an adverse impact on highway safety. For the reasons set out above, I recommend that the application should be approved subject to conditions.

## 8. Recommendation

- 8.1. Approve subject to conditions.

- 
- |   |  |
|---|--|
| 1 | Requires the prior submission of a construction method statement/management plan |
| 2 | Requires the prior submission of sample materials                                |
| 3 | Requires the prior submission of a lighting scheme                               |
| 4 | Requires the prior submission of hard and/or soft landscape details              |
| 5 | Requires the prior submission of boundary treatment details                      |
-



- 
- 6 Requires the prior submission of level details
  - 7 Requires the prior submission of hard surfacing materials
  - 8 Requires pedestrian visibility splays to be provided
  - 9 Removes PD rights for new windows
  - 10 Removes PD rights for extensions
  - 11 Requires the prior submission of a contamination remediation scheme
  - 12 Requires the prior submission of a contaminated land verification report
  - 13 Requires the scheme to be in accordance with the listed approved plans
  - 14 Implement within 3 years (Full)
- 

Case Officer: Harjap Rajwanshi

**Photo(s)**

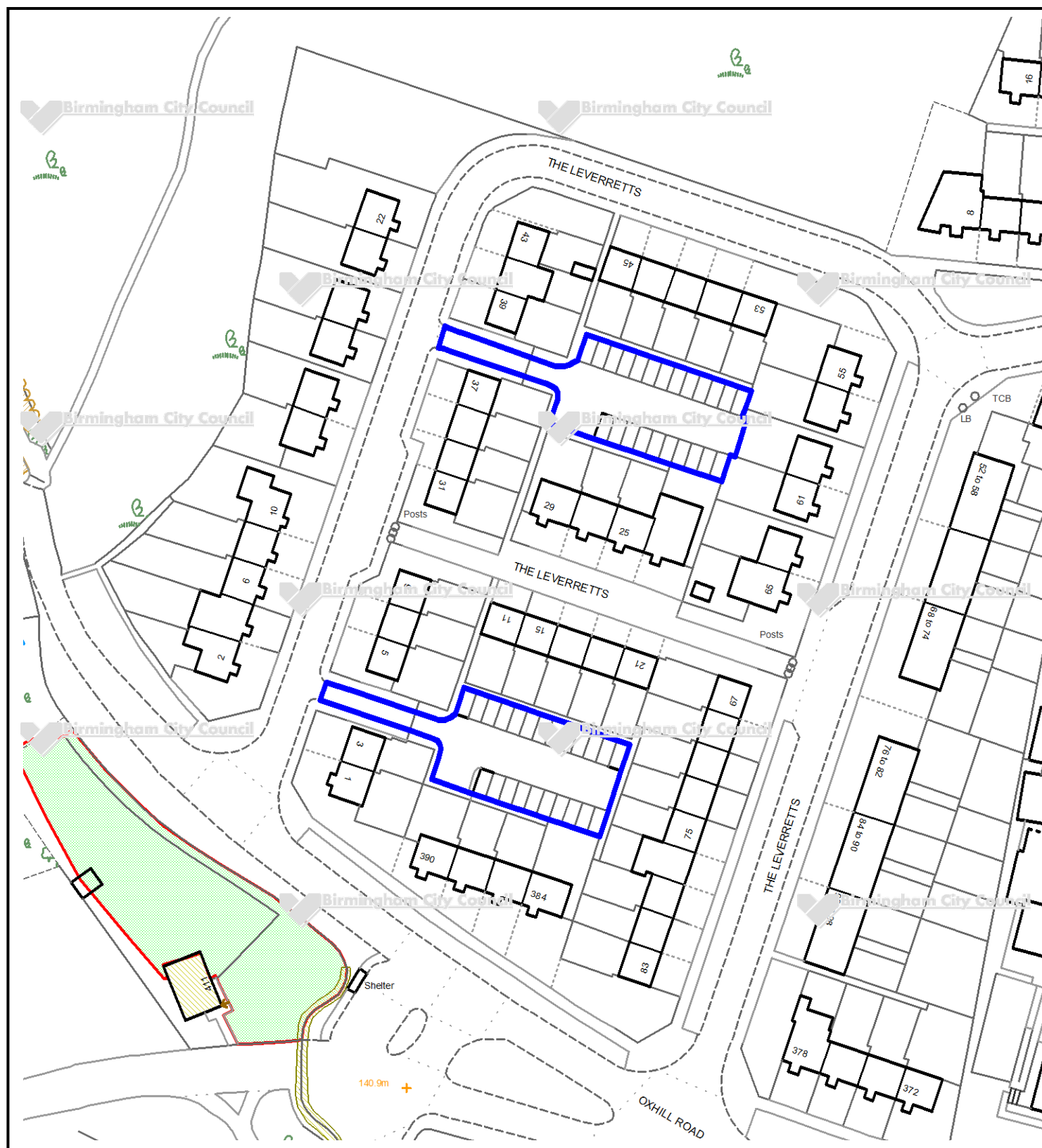


Picture 1 – Access off The Leverretts



Picture 2 – Application site

## Location Plan



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# **Birmingham City Council**

## **Planning Committee**

**15 February 2018**

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>   |
|------------------------------|-------------------|---|
| Defer – Informal Approval    | 17                | 2017/07055/PA<br><br>Station Road<br>(Former Bulls Head Allotments)<br>Land At<br>Stechford<br>Birmingham<br>B33 9AX<br><br>Erection of 59 no. dwellings, a pumping station,<br>landscaping and a new access taken from Station<br>Road (Phase One) |
| Section 191/192 not required | 18                | 2017/08163/PA<br><br>27 Harrison Road<br>Erdington<br>Birmingham<br>B24 9AB<br><br>Application for a Lawful Development Certificate for<br>the existing use as a 6 person HMO (Use Class C4)  |
| Section 191/192 not required | 19                | 2017/08958/PA<br><br>668 Chester Road<br>Erdington<br>Birmingham<br>B23 5TE<br><br>Application for a Certificate of Lawfulness for the<br>existing use as a 6-bedroom HMO (Use Class C4) in<br>excess of 10 years                                   |

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|                 |                             |                     |               |
|-----------------|-----------------------------|---------------------|---------------|
| Committee Date: | 15/02/2018                  | Application Number: | 2017/07055/PA |
| Accepted:       | 16/01/2018                  | Application Type:   | Full Planning |
| Target Date:    | 17/04/2018                  |                     |               |
| Ward:           | Stechford and Yardley North |                     |               |

Station Road, (Former Bulls Head Allotments), Land At, Stechford, Birmingham, B33 9AX

Erection of 59 no. dwellings, a pumping station, landscaping and a new access taken from Station Road (Phase One)

|            |   |
|------------|---|
| Applicant: | Westleigh Partnership Ltd<br>c/o The Agent  |
| Agent:     | Pegasus Group<br>5 The Priory, Old London Road, Canwell, Sutton Coldfield,<br>Birmingham, B75 5SH |

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Recommendation

**Approve Subject To A Section 106 Legal Agreement**

1. Proposal

- 1.1. This planning application seeks consent for the provision of 53no. dwelling houses and 6 no. apartments along with associated infrastructure and access roads on land, formerly known as The Bulls Head Allotments at Station Road, Stechford, B33 9AX.
- 1.2. The proposed dwellings and apartment blocks would address the proposed road frontages and would be designed with a simple, secure road format which loops through the development comprising of adopted and shared surface spaces. The proposal comprises of two storey dwellings within the site and which front the internal access road, and a three storey apartment block that fronts the busier Station Road and which provides a stepped approach into the wider site. The design of the dwellings and apartments across the whole site would be built from a honey coloured brick with pitched roofs finished in a slate roof tile with generously sized grey double glazed windows.
- 1.3. The layout of the proposed development would provide an internal (adopted) access road with shared surface and private driveways provided so as create a safe and secure environment, encouraging low vehicular speeds. Off street parking in the form of private driveways and courtyard style parking are proposed throughout the development to accommodate the parking demands of prospective residents.
- 1.4. The application site measures 1.35ha and would be accessed off Station Road using a new vehicular access point and a separate pedestrian access further along Station Road which would serve the proposed internal access roads within the site. The proposal comprises of a mix of two storey semi-detached and terraced houses and three storey apartments at a density of 44 no. units per hectare which are as follows;

- 26 no. three bedroom houses (82sq.m) with kitchen, ground floor W.C., open-plan living/dining room, two double bedrooms (11.45sqm average), one single bedroom (5.7sqm) and first floor family bathroom.
  - 12 no. two bedroom houses (74sq.m) with kitchen, ground floor W.C., open-plan living/dining room, two double bedrooms (11.25sqm average), and first floor family bathroom.
  - 15 no. two bedroom houses (68sq.m) with kitchen, ground floor W.C., open-plan living / dining room, two double bedrooms (11.25sqm average), and first floor family bathroom.
  - 6 no. two bedroom flats (67.4sq.m) with open-plan kitchen/living/dining area, two double bedrooms (11.75sqm average) and family bathroom.
- 1.5. Private rear gardens for the houses are proposed ranging in size from 40sq.m for 2 bed units and from 54sq.m for 3 bed units along with 85 no. parking spaces, a combination of private driveways and communal parking provision, which equates to approximately 144% provision overall.
- 1.6. The applicant has indicated that the proposal would provide a policy-compliant level of affordable housing at 35% provision (21 no. units) along with a policy compliant financial contribution of £217,575 towards the provision of offsite public open space and a play area.
- 1.7. [Link to Documents](#)
2. Site & Surroundings
- 2.1. The application site consists of a vacant and overgrown site, located off Station Road in the Stechford area of Birmingham adjacent to the Iron Lane/Flaxley Parkway/Station Road gyratory and measures approximately 1.35ha. The site was previously used as allotments, with the overall site known as The Bulls Head Allotments. The application site is the subject of a Tree Preservation Order (TPO) and there are a large number of trees on the site in addition to overgrown vegetation throughout the site. The site is generally flat in nature with frontages onto Station Road in two distinct parts as the site wraps around a parcel of land, formerly the Manor House Public House, which has since been demolished and which falls outside of the current phase 1 application site (Manor House PH would form part of phase 2 development works) and which currently has a hand car wash operating onsite. The application site is located within Flood Zone 1 and the River Cole and the River Cole valley runs north east to south west along the sites western boundary. Mears Drive, a residential cul-de-sac with two storey properties is located to the sites north east and eastern boundaries with the rear gardens of those properties facing onto the application site. To the south, the site is bounded by Station Road itself.
- 2.2. The surrounding area is varied in form and consists of two storey residential buildings, mostly developed in the latter half of the 20<sup>th</sup> century, a mix of commercial uses particularly along the Station Road frontage, including a petrol filling station on the opposite side of the road and Stechford Retail Park within approx. 50m along Station Road, which contains a variety of larger retail units and industrial uses, also along the Station Road frontage and in the nearby IMEX industrial estate. Station Road is served by a number of bus routes which serve routes within Birmingham and Solihull whilst there is also a train station, Stechford Train Station, which is located 400m away and serves the wider Birmingham and West Midlands region. The nearest local centre is located approximately 400m away along Station Road,



known as Stechford Neighbourhood Centre, which offers local services in addition to those offered by the nearby retail park.

2.3. [Site Location](#)

3. [Planning History](#)

3.1. None relevant.

4. [Consultation/PP Responses](#)

4.1. Transportation Development – No objection, subject to conditions;

- Construction Management Plan,
- Measures to prevent mud on highway,
- Means of access – Construction,
- No occupation until access road is constructed,
- Residential Travel Plan,
- Parking areas to be provided prior to occupation,
- Vehicular visibility splays – 4.5m x 60m,
- Pedestrian visibility splays – 3.3m x 3.3m x 3.3m,
- Cycle storage provision for apartment block,
- S.278/TRO Agreement – Formation of vehicular access from Station Rd, including all associated highway alteration, all necessary mitigation measures, compliance with associated Road Safety Audit recommendations, provision of emergency vehicle access link, on-site Traffic Regulation Orders and measures to ensure safe operation (including provision of emergency vehicle link) if the site is first occupied prior to substantial completion of BCC's Station Road Improvement Scheme,

4.2. Regulatory Services – No objection, subject to conditions to secure contaminated land remediation and a verification report, mitigation measures set out within the noise survey, provision of vehicle charging points and a further air quality assessment and mitigation measures.

4.3. BCC Local Lead Flood Authority – No objection, subject to submission of a Sustainable Drainage As-Built Drawings and Details and Operation & Maintenance Plan condition.

4.4. Environment Agency – No objection, subject to condition securing contamination remediation scheme should contaminants be found on site during construction.

4.5. Leisure Services – No objection, subject to a financial contribution being provided towards public open space and play area in accordance with SPD formula - £217,575.

4.6. Education Infrastructure Team – Contribution required for provision of school places (nursery, primary and secondary) - £366,504.10

4.7. Severn Trent Water – No objection.

4.8. West Midlands Police – No objection. Applicant may wish to consider advice contained within Secure By Design New Homes

- 4.9. West Midlands Fire Service – No objection, subject to condition to secure appropriate emergency access road.
- 4.10. Press notice published. Site notices posted. Ward Members and neighbours notified. Comments received from 1 no. local resident on the following points;
- No objection to the proposal but only if the proposed road improvements on Station Road, Flaxley Road, Iron Lane, are completed first so as to avoid traffic congestion issues.

5. Policy Context

- 5.1. National Planning Policy Framework (2012); Birmingham Development Plan (2017); Birmingham Unitary Development Plan (Saved Policies) (2005); Places for Living SPG (2001); Car Parking Standards SPD (2012); Technical Housing Standards – Nationally Described Space Standards (2015); Public Open Space and New Residential Development SPG (2006); Affordable Housing SPG (2001), TPO 884.

6. Planning Considerations

*Principle of Development*

- 6.1. The application site comprises of a vacant unkempt site that is located in a sustainable location within surroundings which are predominantly residential, and the proposed development is broadly reflective of the residential character of the surrounding area. In accordance with policy TP9 of the BDP the site was previously declared surplus to requirements by the authority for use as allotments with no further requirement to provide further public open space within the ward as sufficient provision was already in place. As such, the site was disposed of and then identified as being suitable for residential development within the cities Strategic Housing Land Availability Assessment (SHLAA) and allocated as such within the Birmingham Development Plan.
- 6.2. Policies TP27 and TP28 of the Birmingham Development Plan relate to sustainable neighbourhoods and the location of new residential development. Policy TP27 states that all new residential development will need to demonstrate that it is meeting the requirements of creating a sustainable neighbourhood, characterised by: a wide choice of housing sizes, types and tenures; access to facilities such as shops, schools, leisure and work opportunities; convenient options to travel by foot, bicycle and public transport; a strong sense of place with high design quality; environmental sustainability and climate proofing through measures that save energy, water and non-renewable resources; attractive, safe and multifunctional public spaces; and long-term management of buildings, public spaces, waste facilities and other infrastructure.
- 6.3. The application site forms part of the Eastern Triangle (Policy GA8) in east Birmingham, whereby Stechford has been earmarked to provide an additional 1,000 new homes within a suitable location well served by local facilities and public transport options. The application site, the former Bulls Head Allotments, is specifically referenced within Policy GA8 for its redevelopment to provide new residential development. It is considered that the proposal accords with the aims of this policy and contributes to the growth agenda associated with the Eastern Triangle.

- 6.4. Policy TP28 goes on to state that new residential development should: be located outside flood zones 2, 3a and 3b; be adequately serviced by existing or new infrastructure which should be in place before the new housing for which it is required; be accessible to jobs, shops and services by modes of transport other than the car; be capable of remediation in the event of any serious physical constraints, such as contamination or instability; and be sympathetic to historic, cultural or natural assets. The application site is located within a sustainable location with good access to public transport, and a number of public services accessible within a reasonable walking distance. The site is unconstrained in respect of flood risk and other designations. The proposal comprises of a mix of dwellings, which seek to meet a range of affordable housing needs. The site was previously declared surplus to requirements by the authority as allotments and disposed of with the site then identified as being suitable for residential development within the cities Strategic Housing Land Availability Assessment (SHLAA) and allocated as such within the Birmingham Development Plan. The site was subsequently sold by BCC with a view to achieving residential development on the site.
- 6.5. Policy TP30 of the BDP indicates that new housing should be provided at a target density responding to its context. The density of the proposed development at 44 dwellings per hectare is considered acceptable on the grounds that the site is well served by public transport, with a number of bus and train services available within a short walking distance of the application site. Furthermore, the policy refers to the type and size of new housing, stating that new residential developments should seek to meet local housing needs and support the creation of sustainable neighbourhoods. The proposed housing mix is considered reasonable and appropriate in the context of the type and size of dwellings, and has been designed in such a way to address the established local needs demonstrated within the Strategic Housing Market Assessment. I consider that the application proposals are acceptable in principle, being compliant with relevant adopted planning policy.

#### *Affordable Housing and Planning Obligations*

- 6.6. The development site falls within a Low Value Area Residential Zone and will therefore be subject to a nil CIL charge. However, given the scale of the proposed development, seeking to deliver more than 15 dwellings, 35% affordable housing must be delivered as part of the scheme, in accordance with Policy TP31 of the Birmingham Development Plan. In accordance with Policy TP9 of the BDP, residential schemes of 20 or more dwellings should provide on-site public open space and / or children's play provision. Developer contributions could also be used to address the demand from new residents.
- 6.7. The application proposals seek to provide 53 no. dwellings and 6 no. apartments with a mixture of shared ownership (25 no. units), affordable rent to buy (16 no. units), market rent (6 no. units) and the rest being marketed for sale (12 no. units). In order to address the Registered Provider's financial arrangements to deliver the site, the Heads of Terms submitted alongside the planning application state that the development would provide 35% affordable housing (21 no. units) in order to deliver a policy-compliant scheme although in practice, the applicant has indicated that the scheme would exceed the 35% requirement. Furthermore, the applicant has indicated that a financial contribution of £217,575 towards the provision of offsite public open space would be provided in accordance with policy requirements for an offsite contribution. This has been discussed with the applicant and secured given that the site is surrounded by existing public open space in the form of the River Cole valley that abounds the northern boundary of the site and provides opportunities for use by future residents.

- 6.8. It is considered that the affordable housing provision alongside the policy compliant financial contribution would achieve considerable benefits for the local community whilst delivering a policy compliant scheme. I consider it acceptable, on this basis, that the Section 106 Agreement is pursued to secure a 35% affordable housing requirement (21 no. units) and full a financial contribution towards the maintenance and improvement of local public open space at Glebe Farm Recreation Ground within the Stechford and Yardley North Ward.

*Layout and Design and Impact on Visual Amenity*

- 6.9. The layout of the proposed development seeks to provide an active street frontage to both Station Road, with the provision of a 3 storey flatted development and to the internal access road throughout the site. The access road is to be adopted through the development, with shared surface and private driveways provided so as create a safe and secure environment, encouraging low vehicular speeds. Off street parking in the form of private driveways and courtyard style parking are proposed throughout the development to accommodate the parking demands of prospective residents.
- 6.10. The proposed dwellings and apartments block would address the proposed road frontages and would be designed with a simple, secure road format which loops through the development comprising of adopted and shared surface spaces. The proposal comprises of two storey dwellings that address corners and the internal streetscene in a positive manner and a three storey apartment block that fronts the busier Station Road and which provides a stepped approach into the wider site. The design of the dwellings and apartments across the whole site would be built from a honey coloured brick with pitched roofs finished in a slate roof tile with generously sized grey double glazed windows and is considered to be an appropriate and contemporary design solution. It is considered appropriate to ensure that sample materials along with refuse storage details for the flatted element of the scheme (plots 64-69) are secured by planning condition to ensure an appropriate standard of development throughout the site, a view supported by the City Design Officer.
- 6.11. The Council's City Design Officer has reviewed the scheme and provided comments both at pre-application and current application stage regarding streets being too dominated by cars and parking and lacked definition and green landscape to soften their appearance and that the proposal represented overdevelopment (i.e. too many units) resulting in the majority of garden sizes and therefore separation distances between dwellings being significantly undersized. Revisions have been undertaken in response to these comments which has resulted in a reduction in the overall total number of units and the rearrangement of the site layout and therefore dwellings to increase garden sizes and to improve the consistency of the streetscene. For those plots where garden sizes fall below required minimum sizes for the dwelling provided it is considered appropriate to removed permitted development rights for extensions to maintain adequate garden sizes. Furthermore, the reconfiguration has sought to provide more units with on plot parking and a reduction in communal parking provision, and where it is proposed, that it is smaller, softened with planting and set back away from the site boundaries. This is considered to result in a satisfactory residential scheme and is supported.
- 6.12. Due to the scale of the proposed development the provision of a pumping station to deal with waste water generated by the site and its future occupiers is required due to existing capacity restrictions and the lack of a direct access to existing sewage which is located on Mears Drive (across third party land). A number of site locations were considered at pre-application stage, with the proposed location adjacent to the

sites access with Station Road along its north western boundary. This area would not be developed due to the provision of the access point, which is fixed as part of the wider Station Road highway improvements and existing TPO trees which are to remain along the north western boundary. The majority of the pumping station would be located underground with a number of small cabinets and hard surfacing located at ground level to deal with monitoring and maintenance. The applicant, in consultation with the City Design Officer, has indicated that the pumping station would be secured with mesh fencing that would then be screened by native hedge planting on all elevations and grassed areas further softening the provision of such infrastructure which is supported. Furthermore, the specific type and colour of fencing to be provided can be adequately secured by a boundary treatment planning condition to ensure an appropriate standard of development.

- 6.13. The applicant has submitted a boundary details plan which has outlined the boundary treatments to be used between the plots (front and rear boundaries) along with definition between communal and private space with 1.8m high timber fencing and brick walling utilised. It is noted that the boundary treatments for the overall site, such as between the application site and existing dwellings along Mears Drive and boundaries along the River Cole Valley have not been provided. Also, no boundary treatments around the phase 2 development area have been provided. It is considered appropriate to secure such revisions and details by planning condition, so as to ensure that should phase 2 not progress as planned that phase 1 can be completed as an independent scheme and ensure an adequate standard of development is secured to both existing and future occupiers. Furthermore, it is considered appropriate to request that finished site levels are secured by planning condition so as to ensure that the finished scheme relates appropriately to existing surrounding land uses, a view supported by the landscape officer.
- 6.14. I consider that the amendments to the layout in response to the City Design Officer's comments results in significant improvements to the proposals, with regard to the increased garden sizes, the dwelling mix throughout the site, the provision of an adoptable road throughout the site which would improve access arrangements overall, and the increased level of public landscaping throughout the site. The proposals would have an overwhelmingly positive impact on the visual amenity of the site, which is currently vacant and in poor condition and that the introduction of residential development on this site, would help to further regenerate both the application site and surrounding area and its character.

#### *Landscape, Trees and Ecology*

- 6.15. The application proposals seek to incorporate areas of landscaping within the development, with areas of planting proposed on the exposed fences in the east and west of the application site to improve the appearance and soften the development scheme overall. Comments were provided by the Council's Landscape Officer which required amendments to the scheme. A revised site layout has been submitted by the applicant, which has introduced an increase in planting on exposed boundaries and between the proposed parking spaces. Details of planting types and species throughout the site have been provided within a soft landscaping scheme which is considered to adequately address such concerns.
- 6.16. The application proposals seek to retain a group of Lime Trees along the sites north western boundary which are subject to a Tree Preservation Order (TPO) with the site layout designed in consultation with the Tree Officer to ensure their retention. Due to the overgrown nature of the site, a number of trees located centrally within the site are to be removed with agreement from the tree officer provided, on the

proviso that they are replaced with mature Laburnum trees as close to the sites frontage as possible. A condition is attached in relation to the requirement of an arboricultural method statement to ensure that the retained trees are protected during construction works.

- 6.17. The applicant has commissioned an ecological survey of the site which identified potential for nesting birds and small mammals (fox, hedgehog etc.) although none were observed during the survey. Furthermore, the site lies in close proximity to the River Cole and Kingfisher Country Park which is designated as a Wildlife Corridor and Site of Local Importance for Nature Conservation (SLINC) area. The Council's Ecologist, considers that there is a strong likelihood that harm could be caused during site clearance operations and therefore recommends that a condition for a Construction Ecological Mitigation Plan is secured prior to works commencing. Furthermore, the Council's Ecologist considers that the proposed soft landscaping would provide a reasonable level of enhancement through tree and shrub plantings and that the mitigation measures contained within the submitted ecological report should be secured by condition within a scheme for ecological / biodiversity enhancement measures and bird boxes are reasonable and necessary. I agree with this approach.
- 6.18. The application site does not fall within a flood plain and is located in Flood Zone 1 and does not raise any specific concerns regarding flooding. The proposals do seek to provide a new pumping station with a 15m easement around it, adjacent to the site's main access from Station Road with no development proposed in this area, except for landscaping. The pumping station would deal with surface and foul sewage associated with the whole development site and then depositing it into the main drainage network. A Drainage Strategy and Flood Risk Assessment has been submitted in support of the application which demonstrates how the additional infrastructure in the form of a new sewage pumping station and would connect to existing facilities and how surface water drainage would be dealt with. The Lead Local Flood and Drainage Officer (LLFO) has been consulted on the proposal and engaged in discussions with the applicant during the life of the application and has raised no objections to the scheme subject to the provision of a planning condition to secure a Sustainable Drainage Operation & Maintenance Plan and the prior submission of a Sustainable Drainage Plan. Both the Environment Agency and Severn Trent Water have been consulted on the proposal and have raised no objection.

#### *Impact on Residential Amenity*

- 6.19. The application site has been vacant since the early 2000's and is unkempt and overgrown having also been the subject of anti-social behaviour. It is therefore considered that bringing an active use to the site and improving the security of the site through redevelopment for residential purposes would be beneficial to the immediate area. The proposed dwellings have been positioned in order to achieve adequate separation distances between the new scheme and existing dwellings and consideration has been given to proposed window positions and roof lines in relation to neighbouring dwellings.
- 6.20. When assessed against the Technical Housing Standards – Nationally Described Space Standard, the house types exhibit a shortfall in the required minimum gross internal floor areas. However, the dimensions of the proposed units for this scheme are based on the Housing Quality Indicator (HQI) system, which evaluates housing schemes on the basis of design and quality, and which incorporates required design standards for affordable housing providers who receive funding through the 2008 to



2011 National Affordable Housing Programme (NAHP) and 2011 to 2015 Affordable Homes Programme (AHP). The unit sizes of the proposed scheme meet HQI requirements and are acceptable to the future Housing Association and the HCA, who are providing Grant Funding for the development.

- 6.21. It is clear from the submitted floor plans for each of the house types that, whilst there is a marginal shortfall of 1.5sqm for the flats and 10sqm for each of the houses which is regrettable, a functional, well designed layout is achieved within each of the unit types and I consider that these would result in an acceptable living environment and residential amenity for future occupiers. In respect of the bedroom sizes, the majority of these meet the guidance set out within the Technical Housing Standards – Nationally Described Space Standard, and indicative furniture layouts are submitted to demonstrate an adequate and functional layout. However, it is noted that the single bedrooms in the three bed units are considerably undersized, achieving approximately 5.7sqm as opposed to the minimum 7.5sqm, providing room for only a single bed and item of furniture with restricted circulation space. Whilst this bedroom size does raise concerns in terms of its impact on residential amenity, the family living spaces of the living room and dining kitchen are considered to be adequate and would likely achieve an acceptable living environment. On balance, I consider that the proposed dwelling types would achieve an adequate living environment overall and prospective occupiers would have a reasonable level of residential amenity. Furthermore, I consider that the redevelopment of the site would achieve good quality residential accommodation and contribute significantly towards affordable housing needs in Birmingham.
- 6.22. Each of the houses proposed are to have private rear gardens with gardens the gardens varying in size from 40sq.m for 2 bed units up to a maximum size of 105sq.m for 3 bed units whilst for the apartments an equivalent of 110sq.m total of communal space is proposed (approx. 18sq.m per unit). It is noted that a small number of units along with the apartment block would have gardens that fall below the minimum of 70sqm of private garden space for family dwellings (3+ bedroom), 52sq.m for small dwellings (1-2 bedroom) and 30sq.m per apartment, as stipulated within Places for Living SPD. However, the gardens that are to be provided would be of a regular and usable shape, all of which would have a rear/side access to the public highway whilst the application site is located directly adjacent to the Cole River Valley which provides open green space for recreational purposes. As such, it is considered that subject to the provision of a condition restricted permitted development rights to ensure that the rear gardens are not encroached upon by future extensions, it is considered that the proposal would be acceptable.
- 6.23. Given the residential surroundings of the application site to the sites east and north east boundaries I have considered the residential amenity of neighbouring properties of Mears Drive. The rear elevations of the proposed dwellings are to be located at a minimum of 20.2m from the rear elevations of existing dwellings along Mears Drive. Whilst Places for Living SPG recommends a distance of 21m between building faces, I consider that the shortfall is marginal and would be unlikely to have an adverse impact on residential amenity. I also consider that the layout achieves good urban design principles and a reason for refusal would be difficult to defend on this basis. By regenerating the site from its current vacant, dilapidated state, I consider that the proposed scheme would contribute towards the reduction of crime and fear of crime through the removal of a derelict site and that the provision of new residential accommodation would ensure natural surveillance across the site towards Station Road. I consider that in this regard, the proposals would have a positive effect on neighbouring residential amenity.

- 6.24. The application has been submitted with a geo-technical report which recommends that an intrusive site investigation is undertaken to determine the ground conditions prior to commencing works on site. Given the sites vacant and dilapidated nature along with the close proximity of commercial uses (e.g. waste, vehicle washing, etc.) conditions are recommended by Regulatory Services for a contamination remediation scheme and a contaminated land verification report to secure adequate residential amenity for future residents of the application site which I consider to be reasonable and necessary.
- 6.25. The application has also been supported by an Air Quality Assessment (AQA) report which has been reviewed. It is noted that the assessment has identified that nitrogen dioxide concentrations are predicted to exceed the air quality objective at the façade of the proposed apartment building fronting Station Road (plots 64-69). Whilst mitigation measures are not specified within the AQA, it is understood that discussions between the applicant and Regulatory Services have been undertaken, with Regulatory Services recommending that further assessment and/or mitigation are required. I support the provision of such a condition.
- 6.26. The Noise Assessment report submitted with the application has been reviewed by Regulatory Services and it is noted that mitigation measures are required in the form of enhanced glazing and ventilation for the proposed dwellings and a Noise Barrier along the boundary with the existing car wash facility in order to reduce noise levels to acceptable levels for future residents. Whilst the site of the car wash forms part of the phase 2 development works, this has still yet to be confirmed with the car wash activities (or any other such activities undertaken on the adjacent site should phase 2 not progress as a residential use) currently on site. As such, I agree with the conclusions and mitigation measures of the report and recommend that the mitigation measures are secured by planning condition.
- 6.27. Regulatory Services recommends a condition to secure vehicle charging points for electric vehicles within the site in order to address ongoing air quality concerns across Birmingham, but particularly in the locality. It is understood that electric vehicles can be charged via mains electric with the requisite power converter. Given that the majority of the proposed dwellings would have frontage parking spaces, I would expect that vehicles can be charged in this manner without the need for dedicated vehicle charging points. I therefore consider that such a condition could only be applicable to the apartment block, which would be likely to operate a more informal parking allocation. As such, I have attached a condition to secure an electric vehicle charging point for the communal parking to the flatted development only (plots 64-69).

#### *Highway Safety*

- 6.28. The application site is located in a sustainable location, with good access to public transport serving the local neighbourhood centre and the wider Birmingham area with a large range of facilities and services available within walking distance of the site, including schools and recreation spaces. The application proposals seek to provide access throughout the site from Station Road, with the main internal access road designed to an adoptable standard, with an adoptable turning head within the central portion of the site leading onto a shared surface space and courtyard parking areas. The proposal seeks to deliver 144% parking provision with all three bed dwellings allocated 200% parking, alongside a large proportion of the two bed houses. Furthermore, due to the extended nature of the internal access road (in excess of 180m) which is a cul-de-sac from Station Road, an additional emergency access road has been requested by West Midlands Fire Service. The applicant has

indicated the location of the emergency access which would be provided in the south eastern corner of the site to the Station Road frontage which both the Transportation Officer and West Midlands Fire Service have agreed too. They have requested that full design and construction details be secured by planning condition.

- 6.29. In respect of the likely traffic to be generated by the proposed development, the Transport Statement submitted in support of the planning application sets out that peak flows on Station Road between 8am and 9am and also 5pm and 6pm. The daily traffic volumes along this section of Station Road are in excess of 35,000 vehicles which the proposed highway improvement works (fall outside of the current planning application) seeks to accommodate. The development itself is likely to generate an additional 50 no. vehicles during the peak hour flows and 350 no. daily. Based on the current situation at the application site, it is concluded that this would not have a severe impact on the traffic flows in the area, particularly when undertaken with the planned highway improvement works along Station Road/Iron Lane/Flaxley Parkway which will improve highway capacity in the area.
- 6.30. Transportation Development has been consulted on the proposals both at pre-application stage and during the life of the current planning application and who have advised that the proposed design and layout of the development is considered broadly acceptable with the officer concluding that a satisfactory level of development and minimal impacts to the highway network can be achieved through the provision of planning conditions related to the provision of satisfactory access to the site through both the general access and emergency access (a view supported by West Midlands Fore Service) at construction and completion stage, ensuring that parking is provided prior to occupation, securing a residential travel plan throughout the site, ensuring that works within the public highway are secured through a S.278 agreement, to secure sufficient visibility for both vehicles and pedestrians throughout the site and to ensure that measures to prevent mud on the highway are secured, I concur with this view.
- 6.31. It is noted that an objection has been received from a local resident who has raised concerns that the proposed development would take place at the same time as the planned road improvements to Station Road. Whilst this is a possibility, it is considered appropriate to attach a condition to secure a construction management plan to adequately plan for the construction works and how they would be impacted by the planned highway works so as to maintain highway safety and through flow of traffic.

## 7. Conclusion

- 7.1. The application proposals relate to the residential development of 59no. units on vacant land off Station Road, Stechford. The site has been vacant for a number of years and is in a dilapidated and overgrown condition and would form part of an established residential and commercial area and the principle of residential development is acceptable on the site.
- 7.2. The proposals would have an acceptable impact upon residential amenity and whilst the proposed dwellings are slightly undersized when assessed against the Technical Housing Standards – Nationally Described Space Standard, I consider that the dwellings would deliver a good quality living environment for prospective residents.
- 7.3. The proposals seek to deliver approximately 144% parking provision for the development and the applicant has demonstrated that this level of parking would be

unlikely to have an adverse impact upon traffic flow or lead to the creation of poor parking arrangements within the application site.

- 7.4. The proposals comprise of policy compliant affordable housing which would address an evident need in Birmingham and particularly in east Birmingham. For the purposes of the Section 106 Agreement, the development would deliver a 35% policy-compliant scheme alongside a policy compliant financial contribution towards off site public open space. This is considered to be an acceptable approach in the context of the proposals, and the proposed development would achieve considerable benefits for the local community. For the reasons set out throughout this Committee Report, I recommend that the application should be approved subject to the completion of a Section 106 Agreement, and planning conditions.

8. Recommendation

- 8.1. Approve subject to a Section 106 Legal Agreement.

That consideration of application number 2017/07055/PA is deferred pending the completion of a Section 106 Legal Agreement to secure the following:

- i) 35% affordable housing (21 units) for affordable rent;
- ii) a payment of £217,575 (index linked to construction costs from 15<sup>th</sup> February 2018 to the date on which payment is made) towards the provision, improvement and/or biodiversity enhancement of public open space, children's play and the maintenance thereof at Glebe Farm Recreation Ground within the Stechford and Yardley North Ward; and
- iii) Payment of a monitoring and administration fee associated with the legal agreement of £7,615.13.

- 8.2. In the event of the above legal agreement not being completed to the satisfaction of the Local Planning Authority on or before 29<sup>th</sup> March 2018, planning permission be REFUSED for the following reason;

- i) The proposal represents an unacceptable form of development as it would not achieve Section 106 Planning Obligations in the form of appropriate affordable housing and a financial contribution towards the maintenance and improvement of local public open space. This is contrary to Policies TP9 and TP31 of the Birmingham Development Plan 2031 Affordable Housing SPG, Public Open Space and New Residential Development SPD, and paragraph 50 of the National Planning Policy Framework.

- 8.3. That the City Solicitor be authorised to prepare, complete and seal the appropriate planning obligation via an 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 on or before 29<sup>th</sup> March 2018, favourable consideration be given to this application, subject to the conditions listed below.

- 
- |   |  |
|---|--|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Requires the prior submission of sample materials                      |
| 3 | Arboricultural Method Statement - Submission Required                  |
-

- 
- 4 Requires the prior submission of a contamination remediation scheme
  - 5 Requires the prior submission of a contaminated land verification report
  - 6 Provision of noise mitigation measures
  - 7 Provision of designated electric vehicle charging point(s) for apartment block
  - 8 Further air quality assessment/mitigation for apartment block
  - 9 Requires the prior submission of a construction ecological mitigation plan
  - 10 Requires the prior submission of a scheme for ecological/biodiversity/enhancement measures
  - 11 Requires the prior submission of hard and/or soft landscape details
  - 12 Requires the prior submission of boundary treatment details
  - 13 Requires the prior submission of a landscape maintenance plan
  - 14 Requires the prior submission of an external lighting scheme
  - 15 Requires the prior submission of level details
  - 16 Requires the prior submission of details of refuse storage
  - 17 Removes PD rights for extensions
  - 18 Requires the prior submission of Sustainable Drainage As-Built Drawings and Details and Operation & Maintenance Plan
  - 19 Requires the prior submission of a construction method statement/management plan
  - 20 Requires the prior approval of details to prevent mud on the highway
  - 21 Requires the prior installation of means of access
  - 22 Prevents occupation until the access road has been constructed
  - 23 Requires the prior submission of details of pavement boundary
  - 24 Requires the prior submission of a residential travel plan
  - 25 Requires the parking area to be laid out prior to use
  - 26 Requires vehicular visibility splays to be provided
  - 27 Requires the prior submission of cycle storage details
  - 28 Requires pedestrian visibility splays to be provided
  - 29 Requires the prior submission and completion of works for the S278/TRO Agreement
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30    Implement within 3 years (Full)

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Case Officer:        Mohammed Nasser

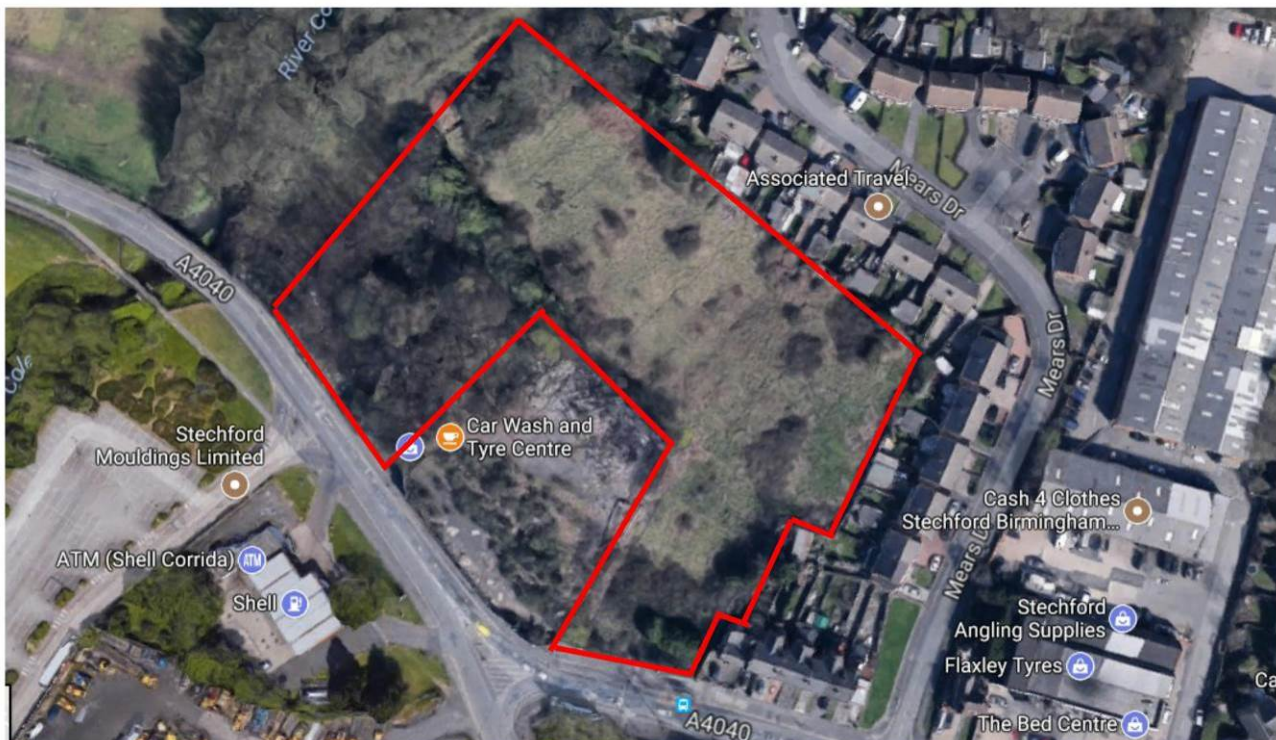


## Photo(s)

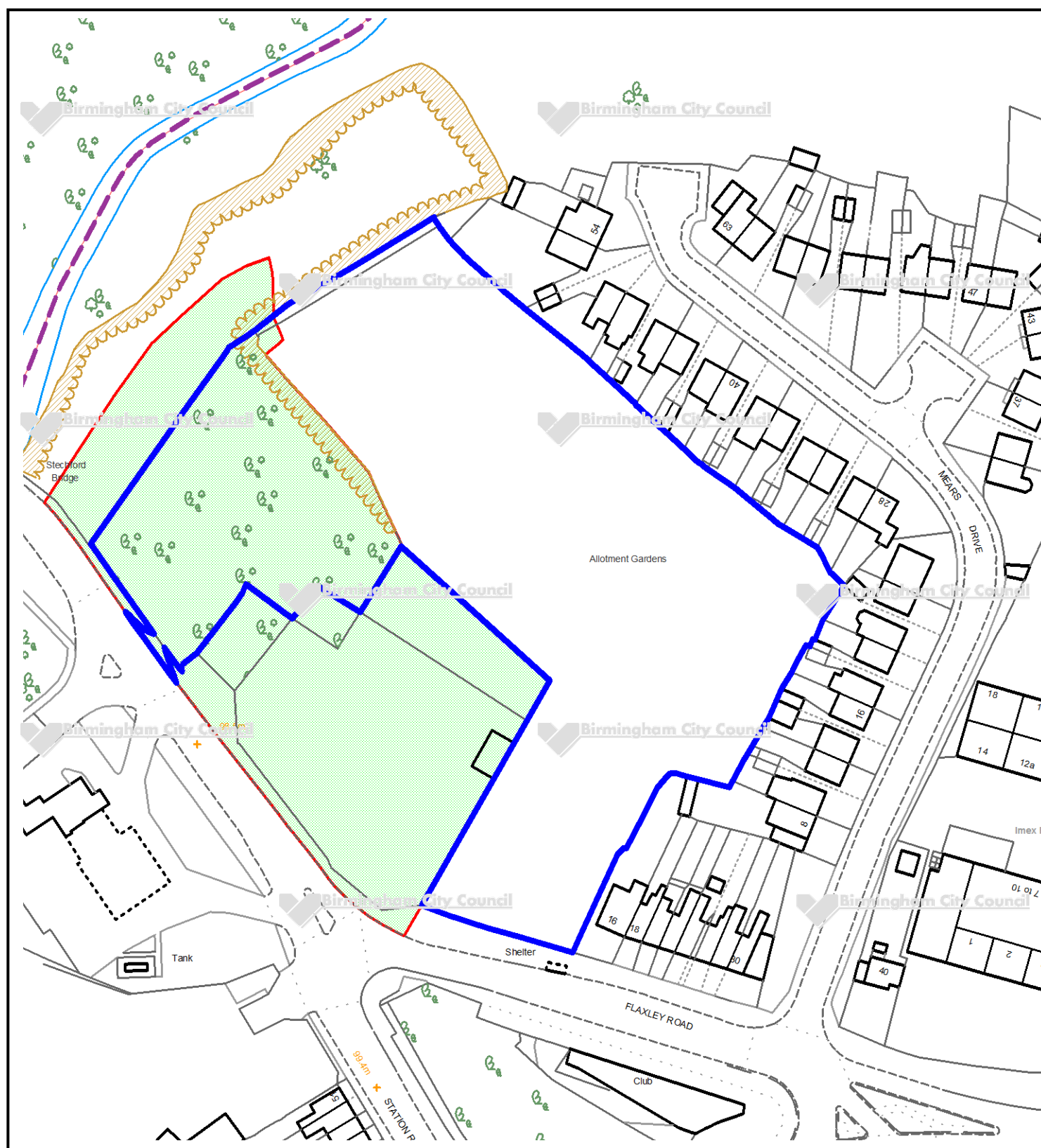
**Fig 1 – View of Site and Proposed Access from Station Road.**



**Fig 2 – Indicative Site Location – Application Site.**



## Location Plan



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|-----------------|------------|---------------------|---------------------------------|
| Committee Date: | 15/02/2018 | Application Number: | 2017/08163/PA                   |
| Accepted:       | 19/12/2017 | Application Type:   | Existing Lawful Use/Development |
| Target Date:    | 13/02/2018 |                     |                                 |
| Ward:           | Erdington  |                     |                                 |

27 Harrison Road, Erdington, Birmingham, B24 9AB

Application for a Lawful Development Certificate for the existing use as a 6 bedroom HMO (Use Class C4)

Applicant: UK Room Rents  
132 Watermarque, 100 Browning Street, Birmingham, B16 8GZ  
Agent:

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Recommendation

**Section 191 / 192 Permission Not Required (Certificate Issued)**

1. Proposal

- 1.1. This application seeks a Certificate of Lawfulness to certify that the change of use of residential dwelling (Use Class C3) to an existing lawful House in Multiple Occupation (Use Class C4) is permitted development not requiring planning permission.
- 1.2. The application is supported by existing and proposed floor plans, which show internal changes to provide two bedroom, communal lounge/ kitchen, w/c and boiler room on the ground floor; two bedrooms and communal bathroom at first floor and two further bedrooms within roof space level. The applicant has also provided 6 separate Assured Shorthold Tenancy as part of supporting information towards this application.

[Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site comprises of a two and half storey semi-detached property at No. 27 Harrison Road, Erdington. The property sits in a row of dwellinghouses to the southern side of Harrison Road with properties of similar design, size and character. There is small garden with small dwarf wall to the front.
- 2.2. The surrounding area is predominantly residential in character.

[Location Map](#)

3. Planning History

- 3.1. No relevant planning history.



#### 4. Consultation/PP Responses

- 4.1. Site notice displayed. Adjoining residents and Ward Councillors consulted. A petition received from Councillor Robert Alden on behalf of residents comprising of 24 signatures (no grounds specified) and two letter of objection received from neighbours objecting to the certificate of lawfulness for the following reasons:
- The applicant owns five properties on this road of which all are HMO's.
  - Sewage system unable to cope with extra drainage requirements from such uses.
  - Building materials still remain in-situ on street from previous building works on site.
  - This road used to be occupied by families and HMO's with young people in occupation have no care about their surroundings and increased litter.
  - Increased parking and traffic congestion.
  - Strain on community cohesion.
  - Over-concentration of such uses on the road. No objection to the use, but suggest that a limit should be imposed to the number of HMO's within the road.
- 4.2. Legal Services – As the property was in use as a residential dwellinghouse and converted to be occupied by 6 people (Use Class C4) with shared basic amenities would be permitted development and justify the grant of a certificate.

#### 5. Policy Context

- 5.1. Town and Country Planning Act 1990 (section 191) (as amended); Town and Country Planning (General Permitted Development) Order 2015 (as amended); Town & Country (Use Classes) Order 1987 (As Amended)

#### 6. Planning Considerations

- 6.1. This lawful development certificate is made under Section 191 of the Town and Country Planning Act 1990 for an existing use of the site in question and which is still in use on the date of the application.
- 6.2. National Planning Practice Guidance provides guidance on how applications for Certificates of Lawful Development should be assessed. In particular it states: "In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability."
- 6.3. Applications for Certificates of Lawful Use are not assessed against local planning policies but the evidence is reviewed against the following legislation which sets the framework for determining these applications. The main consideration for this application are whether the existing dwellinghouse (Use Class C4) is eligible for a permitted change of use as set out in Schedule 2, Part 3, Class L of the GPDO 2015 (Small HMOs to dwellinghouses and vice versa).
- 6.4. The Town and Country (Use Classes) Order 1987 (as amended) - 'Use Class C4: Houses in Multiple Occupation' includes small shared dwellinghouses occupied as their main residence by between 3 and 6 unrelated individuals who share basic

amenities such as a kitchen or bathroom. To be classed as an HMO, a property does not need to be physically converted or adapted in any way.

- 6.5. Schedule 2, Part 3 (Change of use), Class L of the Town and Country (General Permitted Development) Order 2015 relates to small HMOs to dwellinghouses and vice versa. Part 3, Class L permits the change of use of a building “from a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Class Order, to a use falling within Class C4 (house in multiple occupation) of the Schedule”. Development is not permitted by Class L if it would result in the use “as two or more separate dwellinghouses falling within Class C3 of the schedule of any building previously used as a single dwellinghouse falling within Class C4 of the schedule”. There are no further restrictions or qualifying criteria set out in Class L. The GPDO 2015 allows the change of use from single dwellings (Use Class C3) to small HMOs (Use Class C4) of up to 6 occupants without the need for planning permission.
- 6.6. The existing dwellinghouse (Use Class C3) was converted in August/ September 2017. A HMO Licence was issued on 27<sup>th</sup> October 2017. The property has been converted under permitted development for change of use to small HMO (Use Class C4). The property is occupied by six unrelated individuals who share basic amenities. Given the double beds shown in each room on the submitted plan, this information on numbers of occupiers has been included in the development description, planning application form and tenancy agreements supplied in support of the application. From the details submitted, there have been some internal changes. However, no external changes have been implemented. The application site or surrounding area is not subject to any Article 4 Direction to remove permitted development rights for such change of uses. Legal Department conclude that the existing change of use to C4 is a lawful change as set out within Town and Country Planning (General Permitted Development) Order 2015 (As amended) and a certificate should be issued.
- 6.7. I note objections and petition have been received from Ward Member and local residents on a number of grounds such as parking, litter, drainage, over-concentration of such uses within the area etc. These concerns, whilst noted, cannot be taken into consideration in the determination of this application for certificate of lawfulness, as the relevant tests is whether the proposal constitutes “permitted development” as set out within Town and Country Planning (General Permitted Development) Order 2015 (As amended). Views expressed by local residents and Ward Members on the planning merits of the case cannot be considered in the determination of this application for a Lawful Development Certificate.

## 7. Conclusion

- 7.1. On the basis of the above, the lawful development certificate should be granted because the change to small HMO (Use Class C4) is permitted development and certificate of lawfulness for the development should be issued.

## 8. Recommendation

- 8.1. Section 191 Permission Not Required.

Case Officer: Mohammed Akram

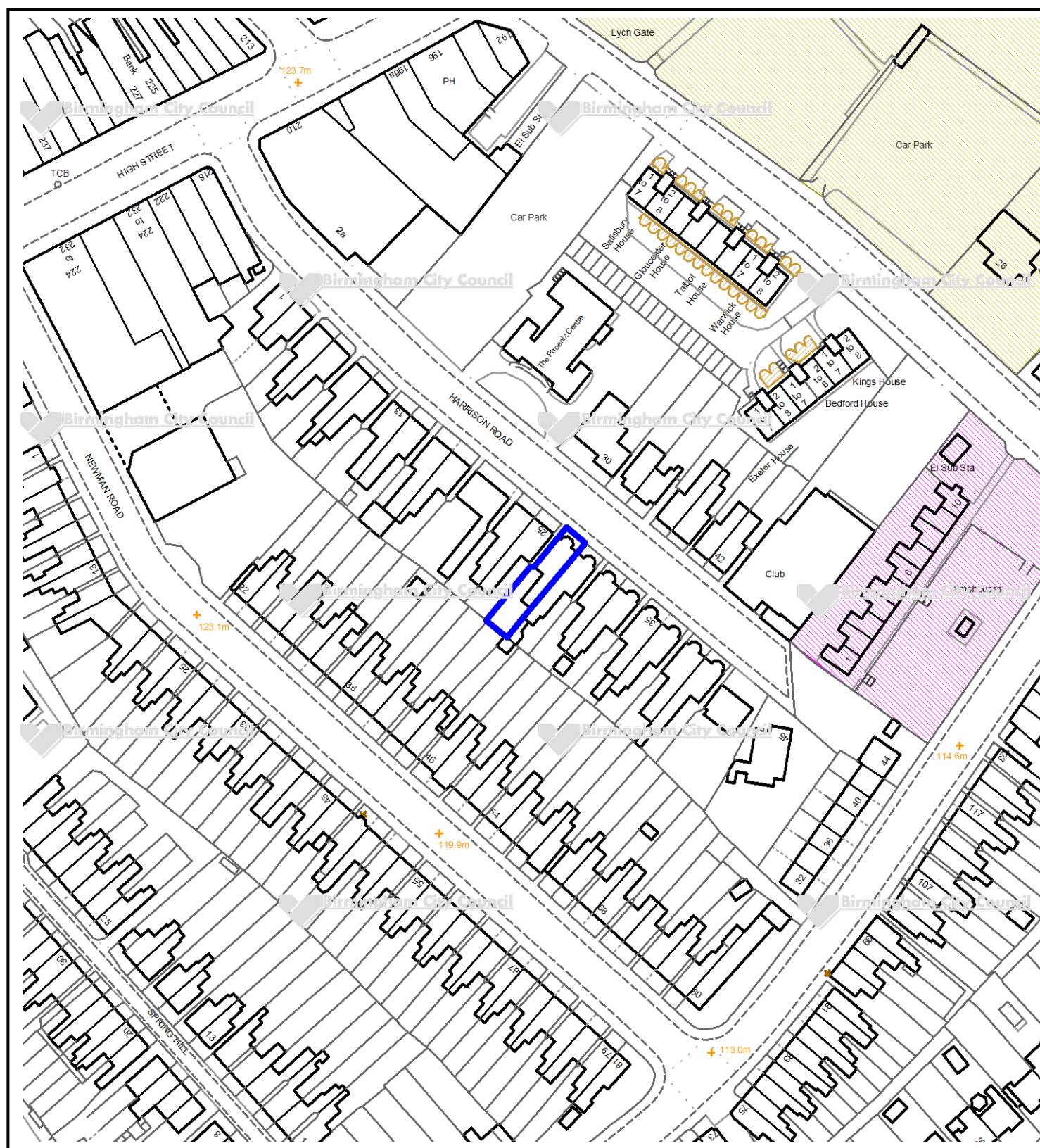
**Photo(s)**



Figure 1: Application site



## Location Plan



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|-----------------|------------|---------------------|---------------------------------|
| Committee Date: | 15/02/2018 | Application Number: | 2017/08958/PA                   |
| Accepted:       | 17/10/2017 | Application Type:   | Existing Lawful Use/Development |
| Target Date:    | 12/12/2017 |                     |                                 |
| Ward:           | Erdington  |                     |                                 |

668 Chester Road, Erdington, Birmingham, B23 5TE

Application for a Certificate of Lawfulness for the existing use as a 6-bedroom HMO (Use Class C4) in excess of 10 years

Applicant: Living Ventures  
Unit 14, Ridgacre Enterprise Park, Ridgacre Road, West Bromwich,  
West Midlands, B71 1BW

Agent:

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Recommendation

**Section 191 / 192 Permission Not Required (Certificate Issued)**

1. Proposal

- 1.1. Application for a certificate of lawfulness for the existing use of 688 Chester Road, Erdington, as a small house in multiple occupation for up to six people sharing communal facilities (C4) under the Town and Country Planning (Use Class) Order 1987 (as amended) in excess of 10 years.
- 1.2. The applicant has provided supporting information in the form of detailed floor plans, tenancy agreements, bank statements, licence agreements, insurance documents and utility bills in support of the application.
- 1.3. The submitted detailed floor plans indicate that two en-suite rooms of 13sqm and a communal kitchen of 20sqm are located to the ground floor, two en-suite rooms of 13 and 12sqm, a visitors W.C and communal lounge of 12sqm to the first floor and two en-suite rooms of 11 and 10sqm to the second floor/roof space.

[Link to Documents](#)

2. Site & Surroundings

- 2.1. Application site encompasses a two storey dwelling located within a terrace of 6 similar properties to the southern side of Chester Road, adjacent to the junction with Florence Road, to the west of the Wylde Green Neighbourhood Centre and east of Chester Road Railway Station. To the front of the properties lie small enclosed garden areas and to the rear lie large enclosed private gardens/amenity space, which is accessed via an undercroft between the property and neighbouring property at 670 Chester Road. A rear access for vehicles is located off Rogerfield Road, providing for off road parking.

- 2.2. The surrounding area is a mix of residential to all sides with small scale industrial units and offices to the east and the Wylde Green Neighbourhood centre to the north east/east.

### [Location Plan](#)

## 3. Planning History

- 3.1. 19.07.2017. 2017/04005/PA, Application for a Certificate of Lawfulness for the existing use as a HMO in excess of 10 years, refused.
- 3.2. 01.06.2016. 2016/00297/PA, Erection of single storey rear extension to existing houses in multiple occupation (HMO) to create two additional bedrooms, refused.
- 3.3. 06.05.1977. 45058000, Conversion to two self-contained flats, approved.

## 4. Consultation/PP Responses

- 4.1. Legal Services – Satisfied that the evidence provided in support of the application is sufficiently unambiguous to justify a grant of a certificate of lawful use on the balance of probabilities as a C4 HMO for up to 6 persons.
- 4.2. Site notice posted, neighbouring occupiers and Ward Councillors notified, with the following response:
- A petition of objection to the continued use of the premises as a HMO has been submitted by Ward Councillor Robert Alden with 41 signatures.

## 5. Policy Context

- 5.1. Town and Country Planning Act 1990 (as amended), Town and Country Planning (General Permitted Development) (England) Order 2015, Town and Country Planning (Use Classes) order 1987 (as amended).

## 6. Planning Considerations

- 6.1. **Background:** The lawful use of 668 Chester Road is that of 2 self-contained flats (C3), which was granted permission in 1977 under application reference 45058000. A subsequent application under reference 2016/00297/PA for erection of single storey rear extension to existing HMO to create two additional bedrooms was refused on the 1st June 2016. A further application 2017/04005/PA for a Certificate of Lawfulness for the existing use as a HMO in excess of 10 years was refused on 19th July 2017 as it was deemed the evidence submitted did not provide sufficiently precise and unambiguous evidence to demonstrate that the premises had been used as an HMO for 6 people for a continuous period of ten years or more.
- 6.2. Section 191 of the Town and Country Planning Act 1990 states that an existing use is lawful if no enforcement action may be taken against them because the time for taking enforcement action has expired.
- 6.3. National Planning Policy Framework (NPPF) Planning Practice Guidance relating to lawful development certificates (Paragraph 006) states that, in the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events

less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

- 6.4. Planning Use Classes are the legal framework which determines what a particular property may be used for by its lawful occupants. These are set out in the Town and Country (Use Classes) Order 1987 (as amended).
- 6.5. The applicant has stated that the property has been within Use Class C4 (Houses in Multiple Occupation) in excess of 10 years. The property consists of 6 en-suite bedrooms with footprints of between 10 and 20sqm, communal kitchen and communal lounge. Use Class C4 permits the use of a dwellinghouse (Use Class C3) as a small house in multiple occupation for up to six people, sharing communal facilities.
- 6.6. The onus is on the applicant to demonstrate on the balance of probabilities that the claimed use has taken place continuously for the requisite period prior to the making of the application. In support of the previously refused application 2017/04005/PA the only evidence provided was a HMO Licence dated 23<sup>rd</sup> April 2007, which was valid for a 5-year period to 2012, no subsequent HMO Licence was provided. Legal services assessed the submitted application and evidence and concluded that the mere fact that a HMO licence was granted is not evidence of the use actually occurring, and this only covers 5 years from 2007 to 2012 in any event. Therefore, the applicant had not satisfied the evidential burden and a certificate was not granted. Consequently, the applicant failed to provide sufficiently precise and unambiguous evidence to support the claim that the premises had continuously been in use as that claimed as a HMO in excess of 10 years.
- 6.7. In regards to the current application, the applicant has provided supporting evidence in the form of a HMO Licence dated 24<sup>th</sup> April 2007, licence application acknowledgement letters, HMO Licence dated 28<sup>th</sup> June 2014 to 24<sup>th</sup> September 2018, a selection of tenancy agreements, list of tenants, insurance documents, bank statements and water bill and plans. On viewing the submitted evidence in support of the current re-submission, Legal Services concluded that they are satisfied that the evidence provided is sufficiently unambiguous to justify the granting of a certificate of lawful use. A certificate can therefore be issued.

## 7. Conclusion

- 7.1. Based on the evidence submitted, on the balance of probabilities, it is considered that the lawful use of the property is that of Class C4 HMO and therefore a Certificate of Lawful Use should be issued in this instance.

## 8. Recommendation

- 8.6. That a lawful development certificate is granted.

Case Officer: Keith Mellor



**Photo(s)**



668 Chester Road 1

## Location Plan



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**Birmingham City Council**  
**Planning Committee 15 February 2018**

**Appeal Decisions Received from the Planning Inspectorate in January 2018**

| <b><u>CATEGORY</u></b> | <b><u>ADDRESS</u></b>                          | <b><u>USE</u></b>  | <b><u>DECISION</u></b>           | <b><u>TYPE</u></b> | <b><u>PROCEDURE</u></b> |
|------------------------|--|--|----------------------------------|--------------------|-------------------------|
| <b>Enforcement</b>     | 4 Holly Grove,<br>Laburnum Road,<br>Bournville | Without listed building consent, i. the removal of all ground and first floor windows to the front, side and rear elevations of the premises ii. the installation of inappropriate timber double glazed windows to front, side and rear elevations of the premises iii. the removal of doors to side and rear elevations of the premises.<br>2013/1701/ENF | Dismissed                        | Enf                | Written Representations |
| <b>Householder</b>     | 6 Shepherd Road,<br>Sheldon                    | Erection of two storey side extension. 2017/05755/PA   | Dismissed                        | Delegated          | Written Representations |
| <b>Householder</b>     | 34 Leigh Road,<br>Sutton Coldfield             | Erection of single storey front, side & rear extensions and double bay window column to side.<br>2017/02953/PA   | Dismissed                        | Delegated          | Written Representations |
| <b>Householder</b>     | 36 Second Avenue,<br>Selly Park                | Erection of single storey rear extension, dormer window to rear and roof lights to front.<br>2017/06459/PA   | Allowed<br>(see note 1 attached) | Delegated          | Written Representations |
| <b>Householder</b>     | 3 Beech Road,<br>Bournville                    | Installation of rear dormers. 2017/05245/PA  | Dismissed                        | Delegated          | Written Representations |
| <b>Householder</b>     | 46 Brighton Road,<br>Balsall Heath             | Installation of a footway crossing. 2017/07754/PA  | Dismissed                        | Delegated          | Written Representations |
| <b>Householder</b>     | 208 Addison Road,<br>Kings Heath               | Installation of a footway crossing. 2017/07074/PA  | Dismissed                        | Delegated          | Written Representations |

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| <b><u>CATEGORY</u></b> | <b><u>ADDRESS</u></b>                              | <b><u>USE</u></b>   | <b><u>DECISION</u></b>                | <b><u>TYPE</u></b> | <b><u>PROCEDURE</u></b> |
|------------------------|--|---|---------------------------------------|--------------------|-------------------------|
| <b>Advertisement</b>   | Land at Yew Tree/McNulty's, Brookvale Road, Witton | Condition 3 relating to the approval of replacement 48 sheet advertising display with 1 internally illuminated 48 sheet digital LED display.<br>2017/04525/PA   | Allowed<br>(see note 2 attached)      | Delegated          | Written Representations |
| <b>Advertisement</b>   | New Alexandra Theatre, Station Street              | Retrospective application for the display of 1 internally illuminated projecting sign.<br>2017/04342/PA   | Allowed<br>(see note 3 attached)      | Delegated          | Written Representations |
| <b>Residential</b>     | Cateswell Court, 27-29 Cateswell Road, Hall Green  | Erection of single storey rear extension, demolition of existing outbuilding and erection of single storey rear outbuilding to accommodate two additional self contained living units.<br>2017/03060/PA | Part Allowed<br>(see note 4 attached) | Delegated          | Written Representations |
| <b>Residential</b>     | 123 School Road, Moseley                           | Demolition of existing buildings and erection of a 3 storey building with 4no apartments with associated landscaping and boundary treatment.<br>2017/01600/PA   | Dismissed                             | Delegated          | Written Representations |
| <b>Residential</b>     | 4X4 Autocare, 83a Heeley Road, Selly Oak           | Demolition of the existing garage and workshop and erection of 1 no. residential dwelling with associated works.<br>2017/04157/PA   | Dismissed                             | Delegated          | Written Representations |
| <b>Residential</b>     | Land adjacent 2b Grove Avenue, Moseley             | Erection of two storey rear and first floor extension to existing garage to form residential dwelling.<br>2017/03347/PA   | Dismissed                             | Delegated          | Written Representations |

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Planning Committee 15 February 2018**

**Appeal Decisions Received from the Planning Inspectorate in January 2018**

| <b><u>CATEGORY</u></b> | <b><u>ADDRESS</u></b>                                  | <b><u>USE</u></b>  | <b><u>DECISION</u></b>           | <b><u>TYPE</u></b> | <b><u>PROCEDURE</u></b> |
|------------------------|--|--|----------------------------------|--------------------|-------------------------|
| <b>Enforcement</b>     | Outside 39 Great Charles Street Queensway, City Centre | Application for Prior Notification for installation of solar powered telephone kiosk.<br>2017/00328/PA | Allowed<br>(see note 5 attached) | Delegated          | Written Representations |

**Total - 14 Decisions: 9 Dismissed (64%), 4 Allowed, 1 Part Allowed**

**Cumulative total from 1 April 2017 - 109 Decisions: 86 Dismissed (79%), 20 Allowed, 3 Part Allowed**

## **Notes relating to appeal decisions received in January 2018**

### **Note 1: (36 Second Avenue)**

**Application refused** because: 1) The scale/design of the proposed development by virtue of design and scale would not preserve or enhance the character of the Selly Park Avenues Conservation Area. 2) The design of the proposed extension would be out of keeping with the design/character/appearance of the existing house. 3) The size of the proposed extension would be out of scale with the existing house and would dominate its appearance/the street scene.

**Appeal allowed** because the Inspector considered that although the proposed dormer would appear prominently, its scale and design and its relationship with the host dwelling would not be incongruous in its context and the uniformity of the street scene would not be affected. Also, the dormer would not harm the character and appearance of the immediate area or the wider Conservation Area. The Council did not object to the single storey rear extension or the front roof lights.

### **Note 2: (Land at Yew Tree/McNulty's)**

**Application approved** subject to conditions, including Condition 3 which limits the intensity of the approved illumination and requires details to be submitted for a dimmer control mechanism.

**Appeal allowed** because the Inspector considered that it was unnecessary for the Council to request details of a dimmer control and instead amended the condition to ensure the advert is equipped with such a mechanism.

### **Note 3: (New Alexandra Theatre)**

**Application refused** because the advertisement by reason of its location and scale would have an adverse visual impact on the surrounding area which is undergoing regeneration.

**Appeal allowed** because the Inspector considered that the advert's size does not appear disproportionate to the scale of the host building and there is no evidence to suggest that the advert would detract from the amenity of the area even if it is regenerated.

### **Note 4: (Cateswell Court)**

**Application refused** because 1) The siting, scale and design of the proposed outbuilding as backland residential development would not reflect the existing character of the wider area and would represent poor urban design. 2) The proposed outbuilding by virtue of its siting, scale and use would adversely affect the amenities of occupiers of Nos. 31 and 25 Cateswell Road by reason of character, noise and general disturbance and loss of outlook. 3) The proposed self-contained living units in the outbuilding would offer cramped and dark living conditions, poor outlook and noise conditions, and insufficient amenity space. The proposal would therefore provide inadequate living conditions for future occupiers.

**Appeal allowed** in respect of the proposed single storey rear extension, which the Council considered to be acceptable, but **appeal dismissed** for the proposed new outbuilding containing two self-contained living units.

**Note 5: (Outside 39 Great Charles Street)**

**Application refused** because 1) The proposed kiosk, by reason of its siting, scale and appearance would cause less than substantial harm to the character and appearance of the Colmore Row and Environs Conservation Area and the setting of the Grade II listed building at No.61 Newhall Street. 2) The proposed siting and appearance of the telephone kiosk would be obtrusive and create additional visual and physical clutter, creating a barrier to pedestrian movement and an adverse impact on the character of the street. It would undermine the aspirations of the City through its public realm programme as outlined in the Big City Plan and the Snow Hill Masterplan.

**Appeal allowed** because the Inspector considered the siting and appearance of the new kiosk is acceptable and would not harm the character and appearance of the area, the wider Conservation Area or the setting of the listed building at 61 Newhall Street.