

# Birmingham City Council

Planning Committee

24 September 2020

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Subject to 106 Legal Agreement	6	2019/09845/PA  37-42 Tenby Street Jewellery Quarter Birmingham B1 3EF  Demolition of existing buildings and site clearance and erection of a 4 storey development providing replacement premises for Charles Green, ground floor commercial units (Use Classes B1, A1, A2, A3/D2) and 37 one and two bed apartments (Use Class C3) with associated works.

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Committee Date:	24/09/2020	Application Number:	2019/09845/PA
Accepted:	06/12/2019	Application Type:	Full Planning
Target Date:	23/10/2020		
Ward:	Soho & Jewellery Quarter		

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

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

#### Recommendation

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

#### 1. Proposal

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



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

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



**Figure 2: Proposed Ground Floor Layout**

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

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



**Figure 3: Proposed elevations to Albion Street**



**Figure 4: Proposed elevations to Tenby Street**

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

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

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

1.10 [Link to Documents](#)

2.0 Site & Surroundings

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

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

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

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

2.5 [Site location](#)

3.0 Planning History

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

4.0 Consultation/PP Responses

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

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

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

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

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

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

4.9 Councillor Davies – Commented on the original plans and recommended refusal on the grounds that the development substantially breaches design guidance for the JQ Conservation Area, being of inappropriate mass and height. The characteristic height of the neighbouring buildings is 3-4 storeys and the 6 storey building of this type is destructive to the adjacent townscape and out of character for the Jewellery Quarter.

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

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

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

**Scale, mass, height and building line:**

- The JQ CAAMP states that the Council will require new development to follow the historic street frontage line. This side of Albion St presents a varying street profile which should be incorporated into the proposals to provide visual interest.
- New development is required to respect the historic pattern of plot boundaries within the conservation area. On Tenby St both the mass and scale are too large, creating a bulky mass that is a storey higher than the rest of the street and does not respect the variety of narrow plot widths.
- The JQ policies require new buildings to respect the scale and mass of traditional buildings within the locality. These proposals overwhelm the neighbouring traditional buildings including adjacent listed buildings. On Albion St the scale (height) is a clear storey above a predominantly 3 and even 2 storey street. On Tenby St it is a storey higher than the rest of the street.
- New buildings are required to respect the height of traditional buildings within the locality and this is stated as normally limiting new development to a four storey maximum. Despite the recent (mis)use of this to justify taller development at AE Harris the wording refers to a four storey maximum. They therefore urge the Council use this wording so that the 'normal limit' is four storeys but in certain locations the 'abnormal limit' should be three or even two storeys in order to 'respect the height of traditional buildings'.

**Over-provision of residential floor space:**

- The proposals are for less than 25% commercial uses whereas the JQCAAMP links any residential uses in the Industrial Middle to no more than 50%. We

support the Council's relaxation where it is a clearly demonstrated 'greater good' e.g. the restoration of a listed building and provision of affordable workspace. However these proposals cause more harm than the current building by virtue of its mass and scale and makes no effort to provide a wider benefit to the Quarter. All the ground floor of the street frontages should be commercial units.

**Materials & detail:**

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

**Amenity:**

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

4.11.1 The JQDT also make the following general observations:

- The design does not convey a clear concept – it alludes to three distinct buildings but doesn't successfully provide this demarcation and misses an opportunity to express the Charles Green premises on Tenby Street as one building.
- The proposed architecture does not recognise the significant character change between Albion Street as a 'primary' and Tenby Street as 'secondary' and could be reflected in the design approach.
- The observation made by the applicants that JQ corners have a larger scale in this Georgian part of the JQ is wrong. The Georgians turned corners in a simple understated fashion.
- The stepping up as Tenby Street rises is rightly shown but the detailing is too homogenous.
- It is important that an historic business such as Charles Green has a clear street presence which symbolises the JQ as being a place that still makes jewellery.
- Whilst the amendment to remove a storey is welcome, the application's claim that it is now 4 storeys is misleading – the inclusion of a mezzanine level with a typical storey height means that this development is 5 storeys. The elevations prove the proposals overwhelm adjacent listed buildings on Albion St and Tenby St.
- Guidance on building height must not be interpreted as 4 storeys plus a mezzanine.
- Virtually all this city block consists of pitched roofs. Although these proposals show a pitched roof to street-facing buildings, the rear element has a large expanse of flat roof which, at 5 storeys, will dominate the roofscape of the rear wings of neighbouring sites.
- The context of the listed buildings seems to be underplayed. 36 Tenby Street has a range of 2/3 storey shopping and the proposals for new shopping and 4 storey opposite is likely to cause significant harm.
- The mansard roof with 'eye brow' dormers is not part of the vernacular in this area. A continuous ribbon window in modern work such as the Orb opposite and the Badge Works adjacent is much more in keeping.

- The roof structure at the corner is not appropriate in the Jewellery Quarter.
- The Charles Green wing is a missed opportunity to present a modern industrial vernacular for the Jewellery Quarter.
- The amenity of the proposed offices opposite 36 Tenby Street is poor. The mezzanine adds to the building heights with little benefit.
- Would expect that the asphalt surface to the footway along the site's curtilage to be replaced with blue brick pavers.

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

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

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

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

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

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

4.14 Ward Councillors, MP, residents associations, local residents and businesses notified of the original and amended proposals, site/press notices displayed. 38 letters received in response to the original plans include the following objections:

- The site is in the Industrial Middle where new residential development is not normally permitted.
- Contradicts the City Council's Jewellery Quarter Conservation Area Management Plan, which states that 'the council will not normally permit the demolition of buildings in the Jewellery Quarter Conservation Area'
- Contrary to guidance on building heights in the JQ Conservation Design Guide as the new buildings do not respect their urban context in height and scale

- Development does not maintain the hierarchy of the historic street pattern or respect traditional building heights in this locality.
- The taller buildings mentioned by the applicant are not characteristic of the area and should not be used as a guide for new developments.
- A development of this height and uses would have a detrimental impact on the surrounding area and detracts from the rich history of the area.
- The proposals are a gross over-development of the site. Replacing the existing building with a more architecturally appropriate 3 storey building in keeping with its neighbours would be more appropriate. The proposed plans and massing are simply too large
- Building heights are completely inappropriate for both Tenby Street and the Albion Street. Adjacent buildings are dwarfed and the scheme needs to be at least one storey lower and preferably 2/3 storeys.
- The pitched roof adds significant height to the building on corner of Albion Street/Tenby Street.
- The height of the buildings proposed will rise to 6 storeys, including the mezzanine level. All adjacent buildings are only 3 storeys with relatively low pitched roofs.
- The drawings supporting the application which seek to justify the proposed height are misleading.
- The design is modern and bland and will change the historic nature and feel of the local area.
- The applicant is seeking to squeeze the maximum possible number of flats into the scheme. To do so they have had to include diagonal windows on the rear elevation, in order to get natural light into some flats.
- The flats are inhumanly small with no outdoor space. The courtyard only serves bin and storage areas Quality of life for residents would be unacceptable
- There appears to be no accommodation suitable for families.
- The building would loom over my property in The Orb and look directly into my flat and those of my neighbours.
- The proposed building heights will greatly affect existing residents enjoyment of their apartments and balconies and obstruct sunlight
- The apartments opposite the site on Tenby Street are only 8-10 metres away and the development would be overbearing and take away light and privacy
- Development creates significant overlooking issues and a loss of privacy into the existing homes.
- Overlooking and loss of light to properties at the Badge Works, 35 Tenby Street
- There should be a proper assessment of the impact the development would have on light of neighbouring properties as the windows facing the site provide the only source of light. It should also take account the impact of the approved building at the rear of 33-36 Albion Street.
- The height of the corner block and its large window in the gable end will cause a severe loss of light and privacy to the dwellings on the opposite side of Albion Street which are only 2 storeys in height.
- The ground floor commercial uses in The Orb opposite the site will lose natural light and have an adverse impact on staff well-being.
- Whilst the existing building may have little architectural merit, it seems hard to justify the demolition of a building that is of a relatively young age and the carbon embodied in the process of doing so.
- Undertaking the works will also involve a significant level of disruption to local businesses and residents.
- Adverse impact on local businesses due as parking will be a massive problem
- Negative effect on neighbouring homes, workplaces and/or on residents within the locality and a total breach of "Places for Living" standards adopted by BCC in terms of separation distances between windows

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

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

- Do not feel concerns regarding the original application have been addressed and all our previous objections are still valid.
- The loss of commercial floor space further exacerbates the issue of the concentration of residential accommodation within what has traditionally been a commercial area contrary to the JQ Management Plan.
- Proposals do not meet the JQ policies re new development as they are 5 storey, considerably taller than their surroundings, will not sit comfortably within the roof line of adjacent buildings
- The buildings are still far too high for their context and are a gross over development of the site.
- The application is falsely described in terms of being 4 storey. With the mezzanine levels and roof structures they are 6 storey on the corner of Albion and Tenby Streets. This is well above the 3 stories of the older adjoining buildings or equivalent to 4 with modern storey heights.

- The proposed buildings sit on the pavement frontage line whereas the flats opposite have some sets backs from the building line and large balconies and the top floor is set well back from the facade below. Any roof level accommodation needs to be scaled and set back as at the Orb.
- It is suggested that this density is needed to achieve financial viability. Such reasoning is surely false, as the current building is in good order and the occupiers are staying on site. It is about financial gain - a balance is needed.
- The proposal will dwarf a whole host of the current neighbours, provides no amenity space and simply packs flats and replacement commercial space into too tight a space.
- There is only a modest height reduction of the corner block of 1.7 metres and the buildings would still dwarf their surroundings and the scale is not appropriate for this context and has a negative impact on the settings of nearby listed buildings.
- There is still a serious impact on apartments within the Orb in terms of loss of light, overlooking, impact on use of resident's balconies, overbearing impact, loss of sunlight views and property values.
- The scale of the proposed building on Tenby Street still severely impacts on Units 1-4 at 36 Tenby Street which are single aspect with windows facing the site. The new building is over twice the height of the current one.
- No effort has been made to increase the distance between the new works and the properties to the rear of 36 Tenby Street (Units 1-4) and the mezzanine floor, shown as offices means workers would be able to look directly into the ground floor and first floor of Units 1-4.
- There still needs to be a significant reduction in height and scale across the site particularly to the side wall and 'wing' adjacent to units 1-4, 36 Tenby Street
- The rear wing referred to as single storey but has a mezzanine floor.
- The revised proposals have not addressed previous objections regarding loss of light, privacy, views and overbearing impact on neighbouring properties
- Severe impact on visual amenity as only view and outlook comes from windows facing Tenby Street which would be transformed to views of walls and windows in all directions.
- Development would impede views into and out of the JQ contrary to guidance
- The current site provides parking for the current business (which is fully utilised) and this will be lost, creating additional highways pressures. The almost complete site coverage with a very dense building is at the cost of amenity space and transportation considerations
- There is still no on-site parking or space for deliveries. The current lack of parking in the area causes issues for residents and businesses and this must be reassessed. Parking provision could follow JQ design guidance which recommends parking be accommodated below ground or in a small enclosed courtyard area.
- The large floor to ceiling windows which were to be occupied by commercial units are now to be residential and residents would have no privacy.
- The proposed building is ugly and it's clear that its height would dwarf the adjacent buildings in Tenby Street and Albion Street. This is not appropriate in a Conservation Area where there are listed buildings adjacent to the development.
- There is very little difference between the two proposals in terms of overall visual impact, scale and building heights
- Should proposals of this size and bulk be accepted in the Jewellery Quarter, this could provide further impetus for other similar proposals of an unacceptable scale and character.
- In a COVID-19 context, the proposed flats are too small and inadequate for any working from home. They lack internal storage and there is no access to outdoor space. The dwelling sizes and layout needs to be rethought
- Object to the 'potential location of AC unit' as it is very close to our windows.

- The floor plans show the new plant room for Charles Green opposite my property and will be noisy and disruptive
- Concern that residents and business are not aware of the new plans as properties are unoccupied due to coronavirus
- Would welcome a visit from the planning committee to see all the issues the development would cause to local residents/business.

4.16 A lengthy letter has also been received from a barrister representing residents of two of the Grade II Listed live work units within the shopping wing at the rear of 36 Tenby Street. This makes the following points:-

- a. This is an application for full planning permission not for outline permission and if permission is granted, then it will be on the basis of the proposals and plans as submitted. These are unacceptable and should be refused.
- b. The changes made do not appear to have taken into consideration the concerns already raised which still stand.
- c. The application is in significant conflict with Development Plan Policy, and the NPPF. Section 38(6) Planning and Compulsory Purchase Act 2004 requires development to be in accordance with the Development Plan or for material considerations to justify departure. Full weight should be given to DP policies.
- d. The case for the Applicant in part involves enabling the existing business to remain within the Jewellery Quarter. The case for viability has been inadequately disclosed and justified, and does not comprise a sufficient material consideration to overcome the extensive conflict with Development Plan and National Policy.
- e. The development conflicts with Legislation and Policy. In the NPPF there are conflicts with paragraphs relating to promoting healthy and safe communities, achieving well-designed places, conserving and enhancing the natural environment particularly the Agent of Change principle and conserving and enhancing the historic environment; paragraphs. In the Birmingham Development Plan 2031 (2017) key policies which are not met by the development include PG3: Place Making, TP8: Biodiversity and Geodiversity, TP12: Historic Environment, TP27: Sustainable neighbourhoods and TP30 regarding the type, size and density of new housing. There are also conflicts with policies within the Jewellery Quarter Design Guide 2005 and Jewellery Quarter Conservation Area Management Plan 2002.
- f. There is an over-provision of residential space (contrary to Policy TP30). This is exacerbated by the revised iterations and the concentration of residential accommodation within this traditionally commercial area, contrary the City Council Character Appraisal and Management Plan for the Conservation Area (2002) part 2.2 which links any residential uses in the Industrial Middle to no more than 50% and is reinforced by NPPF paragraph 130.
- g. The proposal continues to be of inappropriate scale, mass and height, despite the negative feedback throughout the whole consultation phase.
- h. The design information within the application is misleading as the proposals include a mezzanine level which adds another floor, and there has been only a modest height reduction of the corner block of 1.7 metres. The characteristic height of neighbouring buildings is 2 – 3 storeys, and certainly not more than 4.
- i. In the conservation area building heights are limited to a maximum of four storeys. The development should be at least one storey lower and preferably 2/3 storeys to respect the hierarchy of the historic street pattern. The precedents chosen by the Applicant are inappropriate for this site and its location and would repeat the mistakes of the past.
- j. The objectors concerns have not been addressed by any of the amendments and it is very important to them that the proposal is further reduced There still needs to be a significant reduction in height and scale across the site particularly to the side wall and 'wing' adjacent to units 1-4, 36 Tenby Street.

- k. Note that the city design officer considers the ground floor design is disappointing, that the window panels appear overly large on the elevations and the roofscape facing Albion Street could do with simplifying by removing some of the window panels, simplifying and realigning the openings as they appear misaligned. Despite these reservations the Officer recommends approval subject to conditions and amendments but it is not clear how amendments might be achieved as this is a full application for approval. The conditions would not have the effect of preventing the development from going ahead. If the proposal is not satisfactory as submitted, then it should be amended appropriately before a grant of permission not after.
- l. The proposals will have a significant negative effect in amenity terms on neighbouring homes and workplaces. There has been very limited consultation by the developer on this issue and no reference by them to the impact including overlooking and the loss of privacy. The information and evidence that is available to the LPA is insufficient and the Committee will be misled
- m. The proposed distance between the homes at 36 Tenby Street and the development contradicts the distances set out in the 'Places for Living'. Units 1-4 at 36 Tenby Street are single aspect with their only outlook from windows facing the site. The new building is over twice the height of the current one, and the proposed scale would severely impact the living amenity of the existing neighbours.
- n. The distance between the new works and the properties to the rear of 36 Tenby Street (Units 1-4) is unacceptable and in a total breach of 'Places for Living' standards adopted by BCC in terms of separation distances between windows.
- o. The large ground floor windows facing the street which were to be occupied by commercial units are now to be residential and residents would have no privacy.
- p. Habitable rooms are proposed within the proposed development will have direct views into habitable rooms within Units 1-4, 36 Tenby Street.
- q. The mezzanine floor for the offices means workers would be able to look directly into the ground floor and first floor of Units 1-4, 36 Tenby Street
- r. The proposals make no reference that the properties that comprise 36 Tenby Street which are live/work homes and developed in a listed building.
- s. There is no amenity for proposed residents and the flats are unacceptably small with no outdoor space. The quality of life for residents would be unacceptable. This is contrary to the NPPF para 127 which requires that developments... *"create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users"*.... Amenity space is an important part of the community's aspirations for Jewellery Quarter living and there is none here.
- t. The Agent of Change principle, (NPPF paragraph 182), would also apply to the proposed commercial units and the residential proposals as it states "Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.
- u. The proposal moves existing plant to directly opposite the objectors' properties. BCC Environmental Health Team has already issued noise nuisance enforcement in relation to the kitchen extraction equipment at Ana Rocha Bar, in near identical circumstances. This has not been taken into account. The Charles Green plant is for industrial processes and putting plant even closer and directly in front of a residential property will have negative impact on the environment.

- Adequate sound proofing, or relocation to a less intrusive area is the very least that should be implemented by way of mitigation.
- v. Insufficient information has been given about whether the proposed commercial units which will give rise to noise. The application and consultation is based on use classes Class A and Class D but this is outdated, as a result of the (Use Classes) (Amendments) and has not been taken into account. It means that permitted development will, from September 2020 be permitted between a greater numbers of types of uses, and much harder to control.
  - w. Parking has not apparently been addressed at all. On street parking and the resident/business permit scheme are already at capacity.
  - x. The objectors' properties have windows over two/three stories, which face directly towards the Charles Green site, are the only source of light and have been in situ for many decades. Accordingly have acquired a prescriptive right of light over the Charles Green site. The proposed development would block a significant proportion of this light currently coming through the large windows which are a feature of these listed buildings. A number of other neighbouring properties on Albion Street, Tenby Street and potentially Frederick Street are also likely to be affected.
  - y. The consultation response from the Environmental Protection Officer does not address these environmental and amenity issues adequately. He has not considered the changes to the use classes order and which will need to be explained to the Planning Committee before they make their decision. He also states there are deficiencies in the noise report and a proper and adequate Noise Report should be done, addressing all elements, the impact of the new Use Classes Regulations 2020, as well as the Agent of Change principle.
  - z. The objectors reject the officer's conclusions that none of the issues are insurmountable and consider the suggested conditions are insufficient and is an inappropriate way granting this permission. The proposed conditions are inadequate and inappropriate and should be reviewed having regard to new Use Classes Regulations as it is not lawful or appropriate to attempt to control permitted development through a condition which is ineffective, inappropriately worded, and vulnerable to legal challenge. The recommended noise condition would also not be worded as a true condition precedent and would not control the development adequately. This is contrary to the Agent of Change principle. It should be insisted that noise mitigation is demonstrated effectively in the application itself before a grant of permission. The Noise Report does not even address the issues – let alone suggest suitable mitigation.
  - aa. In determining this application the LPA must comply with the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess, and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. 37-42 Tenby Street is located towards the heart of the Jewellery Quarter Conservation Area and within the Industrial Middle Zone. The site is close to, and therefore in the setting of, a number of a high number listed buildings which exemplify the architectural heritage of the Quarter including Grade II listed No.36 Tenby Street and Grade II listed Nos.33-36 Albion Street which abut the proposed development. The proposed new development will overshadow and dominate a significant number of these identified listed buildings through excessive proximity and height.
  - bb. Historic England in their response has noted the significance of the location: *“representing a unique part of Birmingham's heritage” and the fact that “its distinct development pattern, character and appearance contribute to an outstanding historic environment, distinguished for its international significance”*. Also that *“the*

*application is contrary to Birmingham City Council's policies for use within the Industrial Middle of the conservation area*". They do not consider the current scheme addresses their fundamental concerns raised at pre-app regarding the height and scale of the development in the context of the character and appearance of the conservation area and adjacent listed buildings and their justification for this view is clearly set out. (see para's 4.4 -4.7.3). This is a very powerful consultation response it has not been withdrawn and the comments were maintained after the amendments in May 2020. The LPA clearly should not disregard the formal position of Historic England in reaching conclusions about its statutory duties under sections 66 and 72.

- cc. Historic England's position is confirmed by other heritage experts. The Victorian Society and continue to object to this application as is currently presented. (see paras 4.8-4.8.1) The JQDT Planning Consultation Committee has also maintained their objections throughout the iterations of the plans (see paras 4.11-4.11.3). They too confirm the pattern of the Applicant failing to consult on these important expert bodies on the heritage implications of the proposals, which is highly unsatisfactory.
- dd. Ranged against such powerful and consistent expert consultation responses, from three different bodies, the comments of the Conservation Officer are not adequate or credible. She has not taken into account the consultation response of Historic England, not identified all the relevant listed buildings, nor is there any analysis of how the Statutory Duty should be applied in this case. There is no comment about how the decision maker should address the NPPF policy approach or the planning balance generally, which is unsatisfactory. There is no analysis, based on standard heritage methodology or guidance as to how to assess the significance of the heritage assets or analysis of her assessment of the degree of harm. This is the wrong approach. The Officer fails to quantify or analyse the harm in heritage guidance terms or NPPF terms, and this is a significant failing in her consultation response.
- ee. The conservation officer in considering building heights notes that the maximum is limited to 4 storeys in this location. She states there is "some scope" for "some sites" in the Jewellery Quarter to consider more height, but she does not confirm in terms that she considers this site to be one of them or that the proposals currently before the LPA achieve that potential; nor does she justify her view in heritage terms. This is inadequate to discharge the statutory duty. She also does not categorically confirm that proposals are acceptable, in design terms and much less in heritage terms or explain her conclusions that the level of harm now reduced to a degree that it can be better weighed against the heritage benefits of this scheme. This is very lukewarm endorsement for such an important and sensitive heritage site, and it is not good enough in legal terms, in order to satisfy the statutory duty.
- ff. Ecology is another area where the LPA is under statutory duties, and any failure to observe them correctly will result in a planning permission which is ultra vires. The Council's ecologist has not identified all the relevant case law, legislation and policy, which is a serious deficiency in the consultation response, and the LPA, should require expert analysis of the case law relative to the facts of this case.
- gg. As the preliminary ecological appraisal identified a maternity pipistrelle roost within the building a Natural England European Protected Species (EPS) Mitigation Licence will be required to enable the proposed development to proceed and the LPA must consider the three tests in Regulation 55 of The Conservation of Habitats and Species Regulations 2017 before determining the planning application that affects the Protected Species. The Officer has not addressed Test 1 and 2 (see para's 6.67-6.77), it is not apparent that the LPA has received any expert advice on these two tests and it is difficult to follow how the proposal, as made, could meet these tests.

- hh. To comply with its statutory duty in ecological terms, the Council needs to demonstrate that a decision has been reached in a manner that takes account of, and is consistent with, the requirements of the Regulations. The LPA does not have sufficient evidence and information in order to be able to satisfy the first two tests. The Applicant has only submitted a preliminary ecological appraisal and an addendum setting out “generic recommendations for the mitigation/compensation measures that would be required to avoid harm to bats and ensure compliance with the legal protection. This is not adequate to comply with the law as set out in the case law that the Ecology Officer has failed to consider. She envisages the need for further nocturnal surveys to be completed during the 2020 can be covered via conditions but this approach is challenged by the objectors as unlawful, contrary to the Regulations and case law confirms that it is not legally possible to condition this in these circumstances.
  - ii. The LPA has a statutory duty under Reg 9(3) of the Conservation of Habitat and Species Regulations to have regard to the requirements of Directive 92/43/EEC (21 May 1992) on conservation. It is for the LPA to determine whether the proposed development is likely to offend against Article 12(1) of the Habitats Directive, and whether a licence is likely. The LPA has not been given enough information in this case to be able to do this, and the consultation response from the Ecology Officer does not give enough information about the legal consequences.
  - jj. Although the ecologist comments that if the first two tests can also be met, an application for an EPS licence would probably be successful and it would therefore be possible to consent the planning application in accordance with the LPA’s obligations in relation to the Conservation of Habitats and Species Regulations 2017 (as amended). This is not correct, and is challenged as a matter of law. No sufficient evidence or material has been provided, particularly no expert advice has been provided to the Council for them to be able to discharge their duty in relation to the first two tests. A decision based on current information and evidence would also be legally challengeable. The LPA should require much more detailed evidence in relation to survey material and satisfaction of the first two tests before any permission could be granted. This cannot be cured by condition.
  - kk. The barrister concludes the application is not ready to be determined by the LPA. Significant areas of evidence and revisions to plans are necessary and the Committee has not been provided with sufficient evidence and information to be able to satisfy their statutory duties in respect of heritage assets and protected species. She considers that proceeding to a Decision at this point is highly likely to result in legal error, exposing the determination to legal challenge. Furthermore, the Application is inadequate upon its merits in that it conflicts significantly with policy, including NPPF, and DP policy which should be given paramount weight in the planning balance unless superseded by material considerations. Those material considerations are not forthcoming in this case, and the viability case is not made out. For all these reasons, the Objectors maintain the strongest opposition to the application and initially invite a deferral of any decision to correct all the deficiencies highlighted failing which, an outright refusal is the only viable option.
- 4.17 One letter of support has been provided from a consortium of 6 businesses based within the Jewellery Quarter. They comment that the proposals will make a positive contribution to the Jewellery Quarter’s unique economy by supporting the area’s continued viability as a world-renowned centre of jewellery manufacture. By delivering modern commercial space, along with new apartments, the proposals will allow Charles Green & Sons to remain within the Jewellery Quarter, its home for nearly 200 years. If Charles Green & Sons are not able to remain in the Jewellery

Quarter this would seriously undermine both Birmingham City Council and Birmingham Assay Office's commitment to it. Along with Deakin & Francis, Charles Green & Sons is the oldest remaining business and a critical part of the Jewellery Quarter's heritage. The proposals will benefit the Jewellery Quarter by:-

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

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

## 5.0 Policy Context

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

## 6 Planning Considerations

### 6.1 **Land Use Policy**

- 6.2 Section 38(6) Planning and Compulsory Purchase Act 2004 requires Local Planning Authorities to determine planning applications in accordance with the Statutory Development Plan, unless material considerations indicate otherwise. The Development Plan comprises Birmingham Development Plan 2031 and the saved policies of the Birmingham Unitary Development Plan 2005. Other adopted supplementary planning policies are also relevant such as the Jewellery Quarter Conservation Area Appraisal, Management Plan and Design Guide as is the National Planning Policy Framework.

- 6.3 Policy PG1 of the Birmingham Development Plan (BDP) states that significant levels of housing, employment, office and retail growth is required to meet the needs of its growing population. The BDP identifies the application site as being within the City Centre Growth Area where the focus will primarily be upon re-using existing urban land through regeneration, renewal and development. Policy GA1.3 relating to the Quarters surrounding the city centre core states that development must support and strengthen the distinctive characteristics, communities and environmental assets of each area. For the Jewellery Quarter it seeks to create an urban village supporting the areas unique heritage with the introduction of an appropriate mix of uses and radically improved connections to the City Centre Core.

- 6.4 The NPPF contains a presumption in favour of sustainable development and seeks to significantly boost the supply of homes and also to create the conditions in which businesses can invest, expand and adapt. Significant weight is to be given to the need to support economic growth and productivity, taking into account, both local business needs and wider opportunities for development. The NPPF recognises heritage assets as an irreplaceable resource and should be conserved in a manner appropriate to their significance.
- 6.5 The Jewellery Quarter has a Conservation Area Character Appraisal and Management Plan SPG which divides the conservation area into eight sub areas. The application site is shown as being within the Industrial Middle characterised by industrial uses largely related to the jewellery and small metal trades with some commercial and retail uses. The document seeks to protect the industrial heart of the Jewellery Quarter from new residential development which could dilute the character of the conservation area. Thus Policy 2.2 of the JQ Management states that the Council will not normally permit new residential uses, whether by conversion of existing buildings or new build in the areas defined as the Golden Triangle and the Industrial Middle.
- 6.6 The application site has been used for employment purposes for many years and the existing building was purpose built for the current occupants Charles Green and Son in about 1969/70. They are a sixth generation family owned jewellery company which has been manufacturing jewellery in The Quarter since 1824 and currently employ 30 people. The retention of the existing business, in new smaller premises, forms part of the application proposals. However the application also involves the erection of 37 apartments and although a small commercial unit is also proposed, the development would be predominantly residential. It would provide 2,154 sq.m (76%) of living accommodation compared to 693 sq.m (24%) of business floor space. Residential development (other than live work units) would not normally be supported in this part of the Conservation Area in order to maintain the areas unique industrial heritage and the density and integrity of the surviving industrial premises which are considered to make a powerful contribution to the character of this heritage asset. The development therefore conflicts with policy 2.2 of the JQ Management Plan and would impact on the existing wholly industrial use of this site.
- 6.7 From a policy perspective the applicant comments that the residential units proposed are the minimum required in order to provide a deliverable development and even then requires additional financial support which the applicant has secured in the form of a debt facility from the West Midlands Combined Authority and a grant from the GBSLEP's Unlocking Stalled Housing Sites Programme. They advise that Charles Green and Son are facing a number of commercial pressures due to a smaller workforce and the building no longer being fit for modern manufacturing and business practices. However they wish to ensure that the business remains on the existing site and the proposed development seeks to resolve the challenges face by including a purpose built commercial unit for the businesses. This would be rented by the company at a rent below normal market values. They consider the retention of a jewellery manufacturing business should be given significant weight in the planning balance. The applicant also considers that whilst the Jewellery Quarter was historically a manufacturing area of the City Centre it is experiencing significant levels of development, the majority being residential which signifies the evolving nature of the area and greater influence that residential development now has.
- 6.8 Planning policies support the retention of the existing jewellery business on the site particularly due to its long historic association with the Jewellery Quarter. However it has been an important element of the JQ Character Appraisal and Management Plan

SPG that in order to preserve the significance and industrial character of the Conservation Area residential development should not normally be permitted in the Industrial Middle and Golden Triangle parts of the Conservation Area. The explanatory text to policy 2.2 from the Management Plan states that the provision of new residential development in the Jewellery Quarter has resulted in the loss or change of use of industrial buildings and has significantly enhanced potential property values. It threatens the continued industrial use of manufacturing premises and reduces the amount of workspace available to the traditional industries in the Quarter. The text also states that the density and integrity of the surviving industrial premises in the Golden Triangle and Industrial Middle makes a powerful contribution to the character of the Jewellery Quarter such that it is considered inappropriate to permit any change of use of industrial or commercial premises to residential usage.

- 6.9 A number of the responses received from consultees and local residents/businesses have generally welcomed the retention of the existing business but not at any cost. Concerns have been expressed not only about the scale and amount of residential development proposed but also that the replacement premises are largely hidden from public view. The character and appearance of the Conservation Area, as a designated heritage asset, needs to be given great weight as set out in paragraph 132 of the NPPF. The development would lead to an overall loss of industrial space from the site and as 76% of new build would be residential this would result in harm to the industrial character of the conservation area.
- 6.10 The Conservation Officer has also commented that whilst the retention of the Charles Green business on site and the introduction of some ground floor commercial premises give this application some weight with regards to commercial use, the mix of residential to commercial use appears to be unbalanced in favour of residential. The Heritage Statement suggests that the residential element of this development is required to facilitate the retention of a jewellery manufacturer within the Quarter, however based on the predominantly residential element of the scheme she considers this would cause less than substantial harm to the character and appearance of the JQCA. This harm will need to be weighed against other material considerations and any public benefits resulting from the development which are set out further below.
- 6.11 **Demolition**
- 6.12 The proposals would require the demolition of the existing workshop that occupies the site which dates from about 1969/70. As it is within a Conservation Area Policy TP12 of the BDP applies which states that great weight will be given to the conservation of the City's heritage assets. The JQ Conservation Area Appraisal and Management Plan states, in para 1.1, that demolition of buildings will not normally be permitted and the NPPF requires the conservation of heritage assets in a manner appropriate to their significance.
- 6.13 The existing building is a two storey flat roofed brick structure which is not listed or locally listed. It is of a utilitarian design, the parapet has been covered by a modern white uPVC fascia and the original windows have been also been replaced with uPVC. The applicant's heritage statement assesses the significance of the building and concludes that the contribution it makes to the Conservation Area and adjacent listed buildings is negligible and that its very limited architectural merit has a negative effect on the townscape along Tenby Street and Albion Street.
- 6.14 The conservation officer comments that the principle of the demolition of the existing building is supported. She also considers that the building is of little architectural

merit and currently has a negative impact on both the character and appearance of the JQCA and to the setting of the identified listed buildings. The Heritage Statement identifies that the demolition of the existing building would not have a harmful impact on the character and appearance of the conservation area, or on the setting of the nearby listed buildings. The conservation officer agrees with findings of the Heritage Statement subject to the replacement building(s) preserving the setting of the identified listed buildings and preserving or enhancing the character and appearance of the JQCA.

- 6.15 The Victorian Society, Historic England and JQ Development Trust also raise no objection in principle to the demolition. Several of the objectors to the application mention that JQ policies do not normally permit the demolition of buildings and there are also comments that the current building is in good order and as the occupiers are staying on site so why is it being demolished. Also that it seems hard to justify removing a relatively modern building given the carbon embodied in the process of doing so. It is however considered that the existing building does not contribute to the significance of the Conservation Area, beyond its industrial character and occupation by one of the few remaining jewellery manufacturers. Its demolition and replacement would therefore be acceptable in principle.

#### 6.16 **Layout**

- 6.17 Policy PG3 of the BDP states that all new development will be expected to be designed to the highest possible standards which reinforces or creates a positive sense of place and safe and attractive environments. Policy TP12 requires the great weight to be given to the conservation of the City's heritage assets which are to be valued, protected, enhanced and managed for their contribution to character, local distinctiveness and sustainability. The Council will seek to manage new development in ways which will make a positive contribution to its character. The NPPF in Para 124 states that good design is a key aspect of sustainable development and creates better places to live and work and Para 127 states that planning policies seek to ensure developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture and layout, are sympathetic to local character and history, including the surrounding built environment and maintain a strong sense of place. The JQ Management Plan requires the design of new development to respect the traditional scale, form and density of the historic street pattern of the Jewellery Quarter and the JQ Design Guide states that new development should respect the local street hierarchy, dense urban grain and building lines.

- 6.18 The site layout proposed would provide a building across the full width of the site frontages although at ground floor level there would be a narrow vehicle entrance onto Tenby Street and a pedestrian entrance on Albion Street. At the rear of the main building a one and two storey wing is proposed occupying the full depth of the plot where it lengthens adjacent to the northern boundary. The building would be located to the back of the footpath on both road frontages and this has been questioned by the JQDT as Albion Street has a more irregular street profile with some buildings being set back. The historical plan for the site however shows development to the back of the footway and this is the arrangement with the current building apart from a splayed corner at the road junction which would now be infilled. Whilst built form would occupy most of the site this dense urban grain is characteristic of the Jewellery Quarter. The layout would also be similar to the adjacent listed building at 36 Tenby Street which also has a principle building fronting the street with a long shopping wing to the rear. The development would mean that there would be very limited

external space other than a small courtyard area and this has been criticised. However this tight layout is considered to be characteristic of the conservation area.

- 6.19 The conservation officer notes the development will re-introduce a back-of-pavement street frontage to both Albion Street and Tenby Street, reinstate a tight urban grain to this corner site and infill the current gap site on Albion Street. With subservient rear wing(s) and buildings which address the hierarchy of the streets she considers the scheme will restore a built form reflective of historic character and which is currently lost through the existing development thereby preserving the setting of the listed buildings and enhancing the character and appearance of the conservation area.
- 6.20 A number of the objections have raised the point that the mix of residential to commercial use appears to be unbalanced in favour of residential and therefore harm will be caused to the character and appearance of the JQCA. On many new developments within the Jewellery Quarter commercial units are normally sought at ground floor level on frontages in order to provide a suitable balance of uses, to reflect the character of the conservation area and to also ensure that there is activity to street. Originally 5 commercial units were proposed as part of this development fronting Albion Street and Tenby Street as well as the replacement building for Charles Green. However a number of amendments have been made to the layout to reduce building heights which has reduced floor space. This has affected the viability of the site and led to the removal of all but one of the commercial units from the street frontages. A small commercial unit of 65 sq.m is still proposed at the junction of Albion Street and Tenby Street but the 4 other commercial units proposed have been converted to duplex apartments and the new premises for Charles Green had been reduced in area. Overall this has reduced the amount of commercial floor space proposed by 574 sq.m from 1,267 sq.m to 693 sq.m. This would be 34.5% less than the 1,011 sq.m of commercial floor space currently on site.
- 6.21 The lack of active uses to the street frontage is regretted. Although duplex units are proposed with living rooms at street level this would not be as active as commercial uses. In addition the replacement building for Charles Green has a more limited presence to street with only the access, main entrance and one reception area window provided on the Tenby Street frontage. The amendments have provided more metal panelling to the entrance including to the gates enclosing the access way to provide a more industrial appearance which are an improvement. However the replacement premises for the company is largely in the rear wing on land currently used for car parking. The development has been designed in this way so that the business can continue to operate from the site while the new building is being constructed. The applicant advises that the development would be delivered in two phases with Phase 1 providing the office space and workshops for Charles Green and to facilitate this small amount of the existing structure fronting Tenby Street would be demolished. On completion Charles Green would decant from their existing premises into the newly built facility and although this would only deliver about half of their new workspace it has been designed so that they can operate from it whilst Phase 2 is being completed.
- 6.22 The presence of industrial activity in the Jewellery Quarter makes a powerful contribution to the character of the conservation area. The Industrial Middle locality was defined to reflect its industrial character with uses largely related to the jewellery and small metal trades as well as some commercial and retail uses. Although there are a number of residential uses nearby including live work units the loss of the sites industrial appearance would further dilute the character and cause some harm to the character of the conservation area. This loss of industrial character, considered to be less than substantial harm, needs to be balanced against other material

considerations including any planning benefits that would result from the development.

### 6.23 Scale and Design

6.24 Policy PG3 of the BDP requires all new development to reinforce or create a positive sense of place and local distinctiveness, with designs that responds to site conditions and the local area context including heritage assets and Policy TP27 expects new housing to contribute to making sustainable places, characterised by a strong sense of place with high design quality so that people identify with, and feel pride in, their neighbourhood. The NPPF seeks to ensure new developments are visually attractive as a result of good architecture and layout, are sympathetic to local character and history, including the surrounding built environment. The JQ Management Plan requires the design of new development to respect the scale, mass and density of the historic pattern and form of the existing traditional buildings within the area. The JQ Design Guide outlines principles for good design including guidance on scale, form, grain, street/plot hierarchy and materials. In terms of building heights it states that new buildings should maintain the subtle variety of roofline characteristic of the area which limits height to a maximum of four storeys although in some contexts three or even two storeys will be more appropriate.

6.25 It will be seen from the consultation/pp responses that there have been a considerable number of objections to the proposed buildings heights. Originally the development included a further floor of apartments to the corner section of the building at the junction of Tenby Street and Albion Street and two further floors of residential accommodation above the new building for Charles Green in the rear wing. These have been removed from the proposals and other amendments have been made to the design to provide variety to the elevations through the choice of materials and detailing, the dormer designs amended with roof lights being used on the Albion Street frontage and the ground floor treatment has been modified including increased depth to the reveals.



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

6.23 Although the building heights have been amended it is acknowledged that the blocks on the street frontages include a partial mezzanine level within the ground floor so that accommodation is provided over 5 floors. Taller ground floor elements are a feature of the Jewellery Quarter and the Design Guide encourages diminishing proportions from the ground storey upwards, however the resultant building would be significantly

higher than the buildings on either side and slightly taller than the modern 5 storey Orb development opposite. This would be in conflict with JQ policy regarding building heights in that the development would exceed 4 storeys and also the scale of the traditional buildings in the locality. Historic England, the Victorian Society and JQDT all note the amendments made to the application but still consider the building heights to be excessive and that they would overwhelm the neighbouring traditional buildings and are at least storey above the rest of the street. Similar views have also been expressed by local residents who note the amendments on the street frontages have only reduced buildings heights by 1.7 metres.

- 6.24 The design of the buildings have also been criticised on the basis that they do not follow the historic street frontage line on Albion Street, do not follow historic pattern of plot boundaries or variety of narrow plot widths and there is not a clear concept or three distinct buildings. There is also concern that the architecture does not recognise the significant character change between Albion Street as the primary Street and Tenby Street as being more secondary and that the more prominent and taller corner building is wrong for this location which requires a more simple understated approach. A number of residents also consider the building designs to be unattractive and unsuitable for this sensitive location
- 6.25 In terms of scale the conservation officer notes that building heights in this part of the JQCA are limited to a maximum of 4-storeys. In relation to the original proposals she considered that the scale of the development, at up to 5 tall storeys, would cause less than substantial harm to the character and appearance of the conservation area and to the setting the identified listed buildings. The Heritage Statement provided by the applicants also concluded that negligible harm would be caused through scale which in NPPF terms equates to less than substantial harm. She notes that amended plans show a reduction in scale to both the Albion Street and Tenby Street buildings with the corner building reduced to 4-storeys and the Tenby Street rear wing reduced to single storey, albeit a high single storey. The Albion Street building (abutting the listed building) now responded to the domestic scale of Albion Street and the neighbouring listed building(s) at 3-storeys and displayed the variety in height and roof form which is characteristic of the JQCA.
- 6.26 The conservation officer is aware that Historic England's comments from 22nd May welcomed the amendments to scale and consider this to have a lesser impact on the conservation area and the setting of neighbouring listed buildings. However she notes that they still feel that the development introduces a considerable scale to Albion Street. Also that the Victorian Society in its revised comments on 23rd July note the improvement to the scale of the development. The conservation officer however considers that her initial concerns with regards to scale have been successfully addressed. Although the corner building is a tall 4-storeys and the ground floor storey is tall across the development (and incorporates a partial mezzanine level) the variation in height of one, three and four storeys is reflective of JQ height not only in terms of policy but also historically. She therefore considers the scale of the development therefore preserves the character and appearance of the conservation area and the setting of the listed buildings. Although harm through scale is acknowledged in the Heritage Statement this was prior to the amendments to scale and she considers the scale to be acceptable and no longer harmful.
- 6.27 In terms of the design of the proposals the conservation officer advises that notable design amendments have been made since her original comments and the design of the development now shows good articulation of brickwork with variety to elevations and windows between the different 'blocks'. She considers the design amendments create an impression of individually designed buildings and express elements of the

differing characters of Tenby Street and Albion Street through several design responses, including the combined top shops to Tenby Street, pitched roof forms and the introduction of a chimney-like structure to the side elevation on Albion Street. Although the latest comments from Historic England and the Victorian Society do not consider some elements of the design entirely typical or suitable city council officers have worked with the agent to secure a number of design improvements. The final design would reintroduce a number of architectural features which are characteristic of the conservation area and she is satisfied that the design as presented would not be harmful to the character and appearance of the conservation area or to the setting of the listed buildings. Conditions should ensure high quality detailing and materials.

- 6.28 The city design officer also considers the amendment to the height, scale and mass are a progression from the original proposal and in line with the JQ design guidance that new development should not generally attempt to match the height of adjacent buildings precisely but maintain the subtle variety of roofline characteristic of the area. The reduction of the height of the rear wing from the original four storeys is also considered an improvement. With regard to the design he considers the ground floor window panels appear overly large on the elevations, the roofscape facing Albion Street needs to be simplified by removing some of the window panels and on other elevations the windows and panels should be simplified and realigned to sit more comfortably. The brick recess details are however felt to be an improvement to the elevations and would provide relief and break up the massing on the façade. The city design officer recommends conditions to ensure brick recesses, projections, patterns and materials are of high quality and he agrees with the JQDT that the proposed roof should be a blue grey slate and not a slate like material.
- 6.29 Although the city design officer considers some elements of the design require further refinement he does not object to the scale, mass and form of the development. Although the officer feels some further minor amendments would improve the design such as the removal of some of the window panels, I consider the design as proposed is acceptable. The proposal would fit comfortably within the surrounding area and would offer an improvement as compared to the existing building. Further, through the amendments, the developers has, in my view, responded positively to provide an acceptable design solution. The application plans include a number of bay sections of the elevations showing the details of the materials proposed, bricks bonds etc and the exact materials choices can be covered through conditions.
- 6.30 **Dwelling Mix**
- 6.31 Policy TP27 of the BDP states that new housing in Birmingham is expected to contribute to making sustainable places and demonstrate that it is meeting the requirements of creating sustainable neighbourhoods which are characterised by a wide choice of housing sizes, types and tenures to ensure balanced communities catering for all incomes and ages. Policy TP31 seeks 35% affordable housing on schemes of 15 dwellings or more and where this percentage cannot be provided it states that the viability of the proposal will be assessed. The NPPF guidance on affordable housing (annex 2) states that where discounted market sales housing is proposed it should be sold at a discount of at least 20% below local market value, with eligibility to be determined with regard to local incomes and local house prices and provisions should be in place to ensure housing remains at a discount for future eligible households.
- 6.32 The application proposes 18(49%) x 1 bed and 19(59%) x 2 bed apartments and includes 4 duplex units. Although the small size of the apartments has been criticised, and the 1 beds at 41- 45 sqm and would only meet the size for single

person occupation, they would all comply with the standards within the nationally described space standards. The 2 bed units also provide a range of sizes between 61-103 sq.m

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

**6.34 Impact on Heritage Assets**

- 6.35 In determining this application the LPA must comply with the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess, and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Case Law has now firmly established that the “special regard” and “special attention” duties of the LB Act requires that the decision maker should afford “considerable importance and weight” to the desirability of preserving a listed building along with its setting and preserving or enhancing the character or appearance of a conservation area. It has also been established that “preserving” means “doing no harm” for the purpose of interpreting the LB Act duty.

- 6.36 The paragraphs above cover some of the issues in respect of the impact of the development on the JQ Conservation Area in terms of the demolition, mix of uses layout and the heights, scale and design of the new building. It will noted that there are a number of objections from local residents and businesses to the loss of the industrial character of the site, the amount of residential development, scale, height and design of the new development and although some support the retention of the existing business overall they consider that the proposals would cause harm to the significance of Jewellery Quarter Conservation Area. Historic England have also expressed similar concerns and objections have been raised by the Victorian Society that the development would have a negative impact on the character and appearance of the conservation area and the setting of the adjacent listed buildings in Albion Street and Tenby Street. In addition the JQDT consider the application proposals pose significant harm to the character of the Conservation Area thereby failing to meet the requirements of statutory legislation, national and local policy. I agree that the proposed change in the character of the site from industrial to predominantly residential one and scale of the development would result in harm to the character of the conservation area but quantify this as being less than substantial harm in the terms of para 196 of the NPPF.

6.37 The NPPF in paragraph 189 states local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. Paragraphs 193 and 194 state that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, Paragraph 196 states this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Policy TP12 of the BDP also states that great weight will be given to the conservation of the City's heritage assets and that development affecting a designated or non-designated heritage asset or its setting, will be expected to make a positive contribution to its character, appearance and significance. The applicants have submitted a Heritage Assessment which has considered the impact of the development on the conservation area and other heritage assets including the listed buildings close to the site. Having regard for the information provided, officers consider that the requirements of paragraph 189 are satisfied and that the Council are in receipt of sufficient information to assess the heritage impacts associated with the development.

#### 6.38 *Conservation Area*

6.39 In terms of the impact on the conservation area the applicant's assessment considers that there would be heritage benefits arising from the development namely:-

- Retention of Charles Green and Son, one of the oldest and few remaining jewellery manufacturers in the Jewellery Quarter, on the site and the creation of premises suitable for their modern business requirements which contributes to sustaining the authenticity of the Jewellery Quarter Conservation Area and its historic interest;
- Removal of the existing low quality building which detracts from the architectural quality and historic townscape character of the conservation area;
- Enhancing the sense of enclosure along Albion Street; and
- Expression of the historic building plots on the Site.

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

6.40 The existing building, is on an amalgamation of several smaller historic plots and as such, the building does not reflect the grain of the Industrial Middle which is characterised by narrow plot frontages to the street. The building's design and uniform height is inconsistent with the historic character of the Jewellery Quarter and a discordant element within the townscape along Tenby Street. On Albion Street the gap in the built form diminishes the characteristic sense of enclosure along that street. The proposals however would reinsate built form across the site frontages, provide new buildings of an appropriate scale and design which have the appearance of

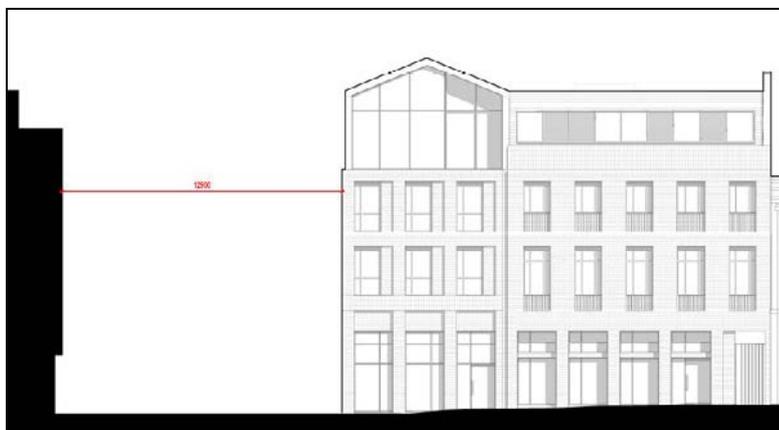
three individual buildings on the street frontage. The development also proposes that the existing jewellery manufacturing business would be retained which would contribute to sustaining the authenticity of the Jewellery Quarter as an area of bespoke jewellery manufacturing. However it is considered that the overall loss of commercial floor space from the site and the generally residential character of the development means that there will still be some harm caused to the character and appearance of the conservation area. Although at the lower level of harm this must be categorised as less than substantial harm in NPPF terms.

- 6.41 In Historic England's revised response to the amended plans they highlighted some concerns and recommended further engagement with the Council's conservation officer. Whilst they welcome the changes they comments that the proposed building will still introduce a considerable scale to Albion Street and a corner building and gable end which is not entirely typical or characteristic of the area. Their response suggests that Historic England are still of the view that the development would give rise to impacts on the conservation area and the setting of neighbouring listed buildings and thus they still appear to be identifying heritage harm and encouraging further refinements.
- 6.42 The Council's conservation officer has considered the latest amendments to the height of the rear wing and its relationship with 36 Tenby Street. She concludes that the development is acceptable subject to conditions and that the benefits of the scheme (i.e. the heritage benefits) outweigh the less than substantial harm caused to the character and appearance of the Conservation Area. However, that is a planning balance judgement and as the conservation officer still identifies harm to the conservation area, there is a presumption against the development which must be given considerable importance and weight. In addition it cannot be said that the development preserves the conservation area and thus it would be contrary to Section 72 of the Listed Building Act and Policy TP12 of the BDP. Whilst there are heritage benefits that can be factored into the planning balance as set out in paragraph 196 of the NPPF, the presumption against development still applies.
- 6.43 *Impact on Listed Buildings*
- 6.44 In relation to the impact on other heritage assets including the listed buildings adjacent to the site the applicants heritage report concludes that the proposed development's height would have a negligible impact on those listed buildings closest to the site, namely, 36 Tenby Street, 33-36 Albion Street, 62-65 Albion Street and 58-61 Albion Street all listed grade II and 54-57 Albion Street grade II\* listed. The report comments that the listed buildings along Albion Street and Tenby Street are already experienced alongside existing five storey modern developments (the Orb and Regent House). Whilst these buildings do not positively contribute to the significance of the conservation area or the listed buildings, they do form part of the existing context and the settings of the listed buildings. The significance of the listed buildings principally resides in their age, historic interest associated with their former function and the development of the typology; as evident in their architectural character and features. However even 'negligible' harm falls within the "less than substantial harm" category in NPPF terms and accordingly" this harm must still be afforded considerable importance and weight.
- 6.45 The conservation officer comments that the applicants Heritage Statement identifies a number of listed buildings in and around the development site which have the potential to be affected by the proposed development. She identifies these as being No.36 Tenby Street and Nos.33-36 Albion Street which will both abut the proposed development, Nos.30-31 Tenby Street, Nos.28-29 Tenby Street, No.20 Tenby Street,

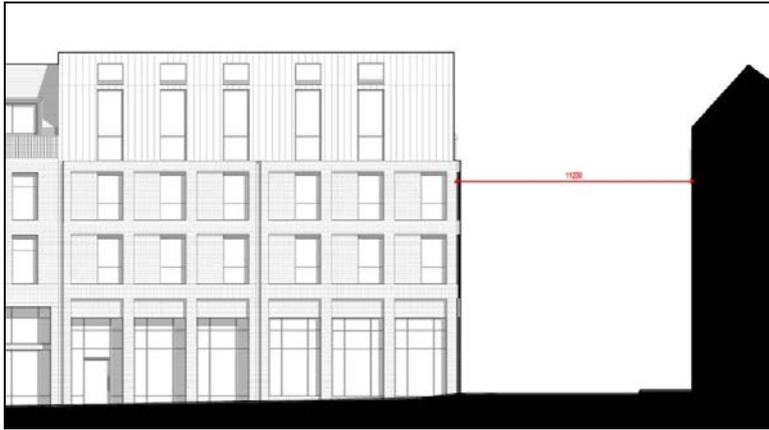
Nos.58-61 Albion Street and Nos. 62-65 Albion Street and that the application site will also form part of the setting of the grade II\* Nos.54-57 Albion Street. A number of other listed buildings exist in the nearby area and surrounding streets making this development site highly heritage sensitive. The conservation officer considers the heritage statement uses a generally acceptable methodology to assess the significance of the heritage assets and the impact of the development on these assets and concludes negligible harm to the setting of the listed buildings (as identified) which in NPPF terms this equates to less than substantial harm. Whilst this harm would be negligible, this is still sufficient to engage the presumption against development and must still be afforded considerable importance and weight. Thus, I am consider the development would be contrary to Section 66 of the Listed Building Act.

- 6.46 One of the objections received comments that the consultation responses take note of certain listed buildings whilst others do not. I have considered all listed buildings within the vicinity of the site and formed that the view that the development proposal would give rise to less than substantial harm to the both the conservation area and the listed buildings.
- 6.47 In conclusion in respect to heritage assets, the development will give rise to less than substantial harm to the conservation area and also listed buildings (including their setting). This is contrary to the statutory duties contained within s.66 and s.72 of the Listed Building Act. This harm must be afforded considerable importance and weight and engages the presumption against the development and also gives rise to conflict with policy TP12 of the BDP. Any harm to, or loss of, the significance of a designated heritage asset whether substantial harm, total loss or less than substantial harm to its significance requires clear and convincing justification. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the NPPF states this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.48 **Residential Amenity**
- 6.49 The new apartments proposed fronting Albion Street and Tenby Street would be between 11.2 and 12.9 metres from the buildings opposite. The duplex apartments have been designed with full height living rooms fronting the street with the bedrooms being on a partial mezzanine set back from the frontage to maintain privacy. The apartments at the rear would look onto the narrow courtyard area and over land at the rear of Nos 33-36 Albion Street on which there is a partly completed basement car park and the steel frame to a 3 storey block of live work units which were approved under reference 2015/037723/PA in 2015. The approved block of live work units lies close to the site boundary and therefore the apartments at the rear have angled windows to the living rooms to give more light and a better outlook.
- 6.50 To ensure there would be no conflict between the proposed residential and commercial uses conditions are recommended by Regulatory Services to require sound insulation, limits on equipment noise for the commercial unit and a noise and ventilation assessment for the development. Objections have been received that the plant for the Charles Green building would be directly in front of live work units at 36 Tenby Street (see ground floor plan in figure 2). The plant would be enclosed and there is also a boundary wall between the two sites. The conditions recommended by Regulatory Services also require sound insulation for any plant/machinery and limit the noise levels that can be emitted which are recommended. These are considered to ensure that neighbours amenity is adequately protected.

- 6.51 Objections have also been raised that residents would not be adequately protected from noise and disturbance due to the changes made to the Use Classes Order which came into force on 1 September. The applicant has sought Use Classes B1, A1, A2, A3 and/or D2 for the commercial floor space but the changes would allow greater flexibility of uses as set out in the committee Briefing Note on the PD changes which was considered at the 13 August 2020 meeting. There are transitional arrangements until 31 July 2021, so live planning permission submitted before 1 September 2020 can be determined using the old use classes. Uses B1, A1, A2 and A3 and several D2 uses such as gymnasiums and indoor recreation would fall within a new E Class but some D2 such as cinemas and concert halls are now sui generis. It is not considered that there would be undue disturbance to nearby residents if the commercial floor space was used for any of these purposes having regard to the recommended conditions, the size, position and configuration of the two units.
- 6.52 Regulatory Services have however recommended further conditions so that if any of the commercial space is used for A3 or D2 use these uses should not commence until a further noise assessment and noise mitigation with details of any extract ventilation/odour control equipment is provided. This is designed to ensure that there are further controls if for example any hot food is produced on site such as with a restaurant use. It is recommended that the condition specifically mentions production of hot food rather than any specific use class. Regulatory Services also recommend conditions to limit hours of opening hours of 8am and 11pm and deliveries of 8am – 8pm. The applicant has requested a 7am start to allow the Charles Green site to operate under its current hours of use which is considered to be acceptable. With these conditions it is not considered there would be an adverse impact on existing or proposed residents due to the presence of the commercial floor space.
- 6.53 A number of objections have also been raised from local residents, concerned at the proximity of the development to their dwellings and the potential loss of light, overlooking and overbearing impact. The distances between the proposed development and the properties opposite the site are 12.9 metres on Tenby Street and 11.2 metres on Albion Street. Whilst this is below the back to back distances recommended in Places for Living there is already a 2 storey building on the site opposite these properties. It is acknowledged that the proposed building would be about 7.7 metres higher, however these separation distances across streets are similar to those between existing developments in the Jewellery Quarter some of which are 4/5 storeys in height such as The Orb development. Although residents consider the development would be overbearing and they would lose light and privacy it is not considered that this would be to an unacceptable degree given the character and tight grain of the area and city centre location.



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



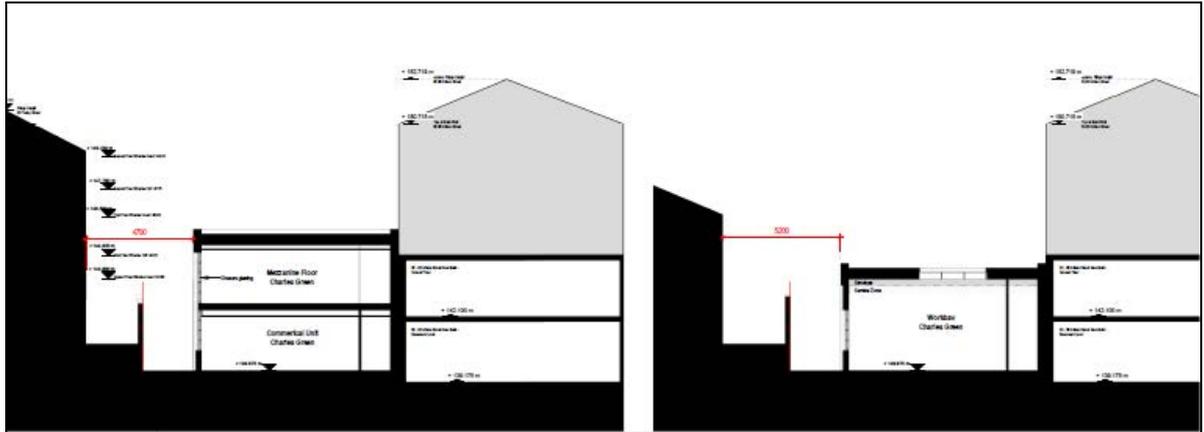
**Figure 7: Separation distance across Albion Street - 11.2 metres.**

- 6.54 At the rear of 33-36 Albion Street the incomplete 3 storey live work building has been designed with its outlook towards the main listed building and the vehicle access to the basement car park provides some separation between the two sites. There would be a window in the side elevation of the live work building at first floor level looking toward the application site. There are however two other large windows on the front elevation of the building serving the living room and light would already have been limited due to the position of the existing building on the site.
- 6.55 The impact of the development on the four live work units at the rear of the listed building at 36 Tenby Street has been a concern as the shopping wing they occupy is only between 2.7 and 2.8 metres from the boundary and has its only outlook from windows facing the application site. It is proposed to locate the replacement building for Charles Green opposite the shopping wing with an access in between the two buildings giving a separation distance of between 4.7 and 5.4 metres. Originally the application proposed 2 floors of apartments above the new works building but the first set of amendments removed this from the proposals and subsequent amendments have improved separation distances and reduced building heights.



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

- 6.56 The plans have now reduced the extent of the mezzanine space above the Charles Green workshop so that the rear section of the new wing would now be single storey and 1.5 metres lower than previously proposed. The office windows within the mezzanine area would be glazed with obscure glass and at the ground floor level the windows would be largely screened by the existing boundary wall between the two sites as illustrated in figure 9 below.



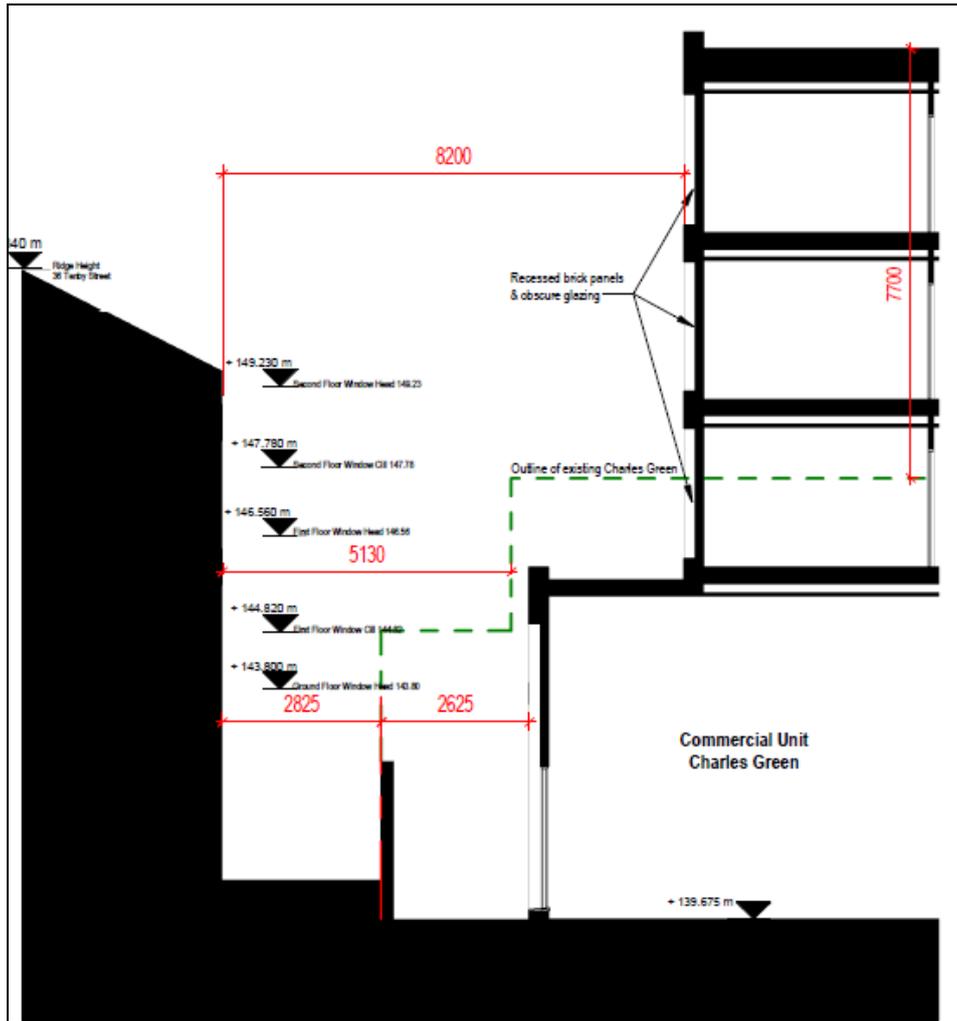
**Figure 9: Separation distances to rear wing at 36 Tenby Street of 4.7 and 5.2 metres**

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



**Figure 10 – Rear of proposed Tenby Street elevation**

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



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

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

**6.60 Transportation Matters**

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

station. Although there is an objection to the lack of cycle parking the application provides 48 spaces which are considered to be adequate for the 37 apartments and commercial floor space. No objection is therefore raised to the application on highway grounds.

#### 6.62 **Sustainability/ Ecology and Drainage**

- 6.63 Policy TP1 of the BDP set out the policies designed to reduce the city's carbon footprint. Actions are to be taken to help achieve this including supporting the delivery of the principles of sustainable neighbourhoods in residential development, requiring new developments to reduce CO2 emissions and water consumption, promoting and supporting low and zero carbon energy sources, promoting the use of CHP schemes and district heating and promoting sustainable transport systems including cycling and walking. Policy TP6 states that to minimise flood risk, improve water quality and enhance biodiversity and amenity all development proposals will be required to manage surface water through Sustainable Drainage Systems (SuDS). Policy TP8 states that development which directly or indirectly causes harm to...*"species which are legally protected, in decline, are rare within Birmingham or which are identified as national or local priorities will only be permitted if it has been clearly demonstrated that the benefits of the proposal outweigh the need to safeguard the designated site, or important habitat, species or geological feature"*.
- 6.64 A Sustainable Construction and Energy Statement has been submitted with the application to demonstrate the measures incorporated into the development proposals to deliver a sustainable development which include:-
- A fabric first approach to design and construction in accordance with the energy hierarchy to reduce energy use and carbon emissions in line with the latest Building Regulations.
  - Provision of measures to tackle the impacts of climate change, including use of water efficiency measures, overheating assessment, and use of SuDS to manage surface water.
  - Specification of sustainable materials and sustainable procurement practices to ensure that local, sustainably sourced materials and labour are prioritised.
  - Provision of secure waste storage for residents and businesses with serrated bins to facilitate recycling
  - The development of a Residential Travel Plan to promote the sustainable location and use of sustainable modes of transport
  - Provision of measures to mitigate and enhance site biodiversity through the provision of bird and bat boxes and consideration of suitable landscape planting.
- 6.65 A Preliminary Ecological Appraisal (PEA), informed by an extended Phase 1 Habitat Survey and ecological records search, completed in November 2019 were submitted with the application. The site survey included a Preliminary Roost Assessment (PRA) which recorded evidence of roosting bats behind roller shutter doors under the archway which provides access from Tenby Street. The initial evidence suggested a maternity roost of Pipistrelle species and to provide confirmation of the roost's status, a series of bat roost characterisation surveys were completed in June and July 2020. A maximum of two common pipistrelle bats were recorded emerging from the roost feature behind the roller shutter door during the dusk surveys. No bats were recorded re-entering the roost during dawn survey. Based on the nocturnal survey results and assessment of bat droppings build-up, the bat roost is considered to be a day roost used by small numbers of non-breeding common pipistrelle bats.
- 6.66 The Councils ecologist agrees with the assessment from the applicant's ecologist that following the further survey work the bat roost is a day roost used by small

numbers of non-breeding common pipistrelle bats, rather than a maternity colony, as was initially assumed. Natural England (NE) guidance in the Bat Mitigation Guidelines (Mitchell-Jones 2004) categorises non-maternity roosts used by small numbers of common/widespread bat species as being of low conservation significance. Loss of such roosts is predicted to have a low impact at the site level on the population of that species or on individuals. Mitigation/compensation for impacts on roosts of low conservation significance can be flexible in terms of provision of bat boxes, access to new buildings etc., however the aim should be to locate the replacement roost as close as possible to the roost to be lost, and provide for similar conditions in terms of size orientation/aspect and height.

- 6.67 The submitted PEA Addendum, Supplementary Ecology Information (SEI) and Bat Survey Results report, explain that a NE European Protected Species (EPS) Mitigation Licence will be required in order to enable demolition of the building to proceed. As the bat roost has been categorised as being of low conservation status, the demolition can take place under a NE Bat Mitigation Low Impact Class Licence (BMLICL) which is a more streamlined process for approving and undertaking works affecting bats on sites where there is a low impact compared to with the process of applying for an individual EPS Mitigation Licence if the presence of a maternity roost had been confirmed following the recent nocturnal surveys. A BMLICL can be used in situations to:
- Disturb and capture up to three “common or widespread” bat species
  - Damage or destroy up to three “low conservation status” roosts (i.e. feeding, day, night and transitional roosts)
- 6.68 The recently submitted Bat Survey Results report proposes the following to mitigate and compensate for the loss of a non-breeding day roost by:
- Pre-commencement toolbox talk for demolition contractors to be given by the Registered Consultant or other suitably qualified ecologist prior to commencement of demolition works.
  - Pre-works endoscopic inspection to inform method of demolition of bat roost feature and surrounding area.
  - Dismantling by hand of the bat roost feature and the surrounding area during the active season (April-October) to prevent disturbance for potentially hibernating bats, under the supervision of the Registered Consultant. Method/approach to demolition to be agreed with the Registered Consultant prior to commencement of works.
  - In the event a bat is found, it will be placed in a suitable enclosure, monitored by the Registered Consultant or other suitably qualified ecologist, and released on site at dusk the same day.
  - Providing three integral bat bricks in the new building. The exact locations of these replacement roost features would be agreed by planning condition as recommended. One of the bat bricks would be installed in a position which mimics as closely as possible the conditions of the current roost feature and the two remaining bricks would be positioned in optimal locations on south-facing aspects of the new building.
  - New lighting would be designed to avoid illumination of the new roost locations and potential flight lines to the features. These requirements relating to installation of bat boxes and lighting would be controlled by condition.
- 6.69 The above mitigation/compensation measures are similar to those set out in the SEI, which were designed to mitigate and compensate for impacts associated with loss of a maternity roost. However, there are some changes that reflect the revised characterisation of the bat roost as a day roost used by small numbers of non-breeding common pipistrelles rather than a common pipistrelle maternity roost. These

changes are consistent to guidance issued by Natural England relating to mitigation and compensation requirements. The key revisions are:

- Revised timing of demolition works – no longer a requirement to avoid the sensitive maternity period (May-August). Demolition now proposed to take place between April and October, therefore avoiding the hibernation period when disturbance to individual bats would cause greater harm.
- No requirement for a temporary maternity roost to provide alternative roosting opportunities until the new permanent arrangements are available. Non-breeding bats use a variety of day roosts during the active season, therefore it can be anticipated the individual bats using the day roost at Tenby Street will make use of alternative day roosts in the surrounding area during the period when the roost at Tenby Street is unavailable.
- No requirement for post-development monitoring of the new roost features.

6.70 Where the presence of a European Protected Species (EPS), in this instance common pipistrelle *Pipistrellus pipistrellus*, is confirmed, the Council, as a local planning authority, must consider the three tests in Regulation 55 of The Conservation of Habitats and Species Regulations 2017 before determining planning applications that may affect EPS (ODPM Circular 06/2005, paragraphs 99, 112 and 116). Regulations 55(2) and 55(9) define the circumstances where derogation is allowed for an affected EPS and a licence could be issued by Natural England.

- Test 1: the derogation is in the interests of preserving public health or public safety or other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.
- Test 2: there is no satisfactory alternative.
- Test 3: the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

To comply with its statutory duty, in determining the planning application the Council needs to demonstrate that a decision has been reached in a manner that takes account of, and is consistent with, the requirements of the Regulations. This means the Council needs to consider the proposal to demolish the existing building and construct a new building in light of the three tests. Development that does not avoid harm to EPS and/or does not satisfy the three tests will be in conflict with the Regulations. If the Council fails to have regard for these issues, any planning consent granted for such a project may be in breach of the duty placed on LPAs by the Regulations.

6.71 With regard to Tests 1 and 2 the demolition of the existing building would have economic benefits by allowing the existing jewellery business to be retained on site in modern premises suitable for their needs. This would ensure its long term future can be retained within the Jewellery Quarter thereby sustaining the authenticity and economy of the Jewellery Quarter as an area of bespoke jewellery manufacturing. The applicant advises that Charles Green and Son are facing a number of challenges with their current premises due to a smaller workforce and the building no longer being fit for modern manufacturing and business practices. They wish the business to remain on the existing site but in modern bespoke manufacturing premises. They however need to continue to operate on site whilst the new facilities are being provided and the nature of their work means that this could not be achieved by altering or keeping the existing building which was built about 50 years ago when jewellery manufacturing was very different and is therefore underutilised. The retention of a jewellery manufacturing business on the site would support the character of the Industrial Middle and protecting the existing 30 jobs within the jewellery trade. Due to the location of the roost in a likely wall cavity accessed via a

missing/damaged brick behind the shutter doors it could not reasonably be retained in its current position. The wall forms an integral part of the wider building which would need to be demolished in order to facilitate the construction of the proposed development. The applicants ecologist advises that Pipistrelle species are crevice dwelling species and readily adopt new roost sites, hence there can be confidence that, if designed and sited appropriately, it should be possible to accommodate the species elsewhere within the replacement building.

- 6.72 The Council's ecologist comments principally to the third test, deems that the development should have no detrimental effect on the favourable conservation status of an EPS. The Bat Survey Results report sets out the mitigation and compensation measures required to avoid harm to bats and ensure compliance with the legal protection as already summarised above. She is satisfied that these measures are appropriate to mitigate adverse impacts on bats and to provide compensation for loss of the roost feature of low conservation status. The measures are consistent with guidance issued by Natural England to address impacts on bat roosts of low conservation status. Implementation of the measures set out in the Bat Survey Results report will need to be secured by condition. Additional conditions will be required to agree details relating to exact positioning of the three integral bat bricks and to prevent lighting from illuminating the new roost locations and flight lines to the roost features. She is satisfied the three bat bricks can be installed at suitable locations as specified by the project ecologist in the recently submitted Bat Survey Results report.
- 6.73 The Council's ecologist is of the view that that demolition of the existing building, resulting in loss of a bat roost of low conservation status, would not have a detrimental effect on the favourable conservation status of an EPS (common pipistrelle), provided the mitigation measures described in the Bat Survey Results report are implemented. Therefore, the third test would be met. She also agrees with the assessment set out in the SEI that there is no reasonable alternative as the location of the current day roost, cannot reasonably be retained in its current position. Common pipistrelle is an adaptable, crevice roosting bat species which readily takes advantage of new roost sites and if suitably designed, it should be expected that individual bats will discover and adopt replacement roost features incorporated into the design of the new building.
- 6.74 Following the assessment of the scheme against the 3 tests it is considered that they can be met and an application for an EPS mitigation licence would probably be successful and that the action authorised would not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range. Indeed, I regard it to be extremely likely that a licence will be provided. Therefore, it would possible to consent the planning application in accordance with the LPA's obligations in relation to The Conservation of Habitats and Species Regulations 2017 (as amended). The conditions recommended by the Councils ecologist to secure implementation of the required bat mitigation and compensation measures are recommended as are other conditions to require nest boxes suitable for this black redstarts and other urban bird species, that green infrastructure is provided on site to create a biodiversity net gain and compensation for the small areas of tall herb/ruderal habitat that will be lost, a suitably designed biodiversity roof and lighting scheme for biodiversity.
- 6.75 Objections have been on behalf of several residents that the LPA does not have sufficient evidence and information in order to be able to satisfy the first two tests and the applicant has only submitted a preliminary ecological appraisal and an addendum. Further surveys have recently been undertaken which have been

considered by the Council's ecologist and mitigation measures are proposed to avoid harm to bats and ensure compliance with the legal protection. The case law mentioned by the objector has been considered and officers consider that the present application can be sufficiently distinguished from the examples provided. Moreover, I am satisfied that there is sufficient information to properly assess the ecological impacts of the development. Accordingly, the Council are satisfied that its statutory duties have been complied with and that there will be no unacceptable impact upon protected species as a result of the development.

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

**6.77 Other matters**

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

**6.79 Planning Obligations**

6.80 Policy TP31 of the BDP requires 35% affordable dwellings on site of 15 dwellings or more and TP9 seeks either on site public open space at 2ha per 1000 population or contributions towards off site provision for developments of 20 or more dwellings. The applicant has submitted a financial assessment with the application that comments that the development is unviable in that it would not make a sufficient developer return. In order to resolve the viability deficit, it advises that the applicant has secured a debt facility and grant from the GBSLEP's Unlocking Stalled Housing Sites Programme and the terms of the grant requires the provision of the 7 discounted market sale units for key workers as set out in para 6.33. The development is also in a high value area for CIL which has been calculated to be about £156,000.

6.81 The viability report has been assessed by the Councils consultants who have concluded that the scheme (taking into account the grant) would produce a suitable developers profit with the inclusion of the 20% key workers housing provision and CIL payment. They consider that there is still sufficient headroom for a contribution of £85,000 together with the requested a £4,000 to offset SuDS. Originally the developers had offered to make the £85,000 contribution for off-site public realm improvements but following negotiations two (5%) of the dwellings have been offered

as low cost market dwellings at a 20% discount of open market value in perpetuity. In addition the applicant has agreed to a requirement that the Charles Green & Son unit be provided at a discounted rent to the company for a period of 15 years at a maximum rent of £10 per square foot (index linked). This would give some certainty that the existing jewellery quarter business would remain on the site. However in the event that Charles Green & Sons vacate the building within the 15 year period the applicant has agreed that the building would be offered to another jewellery manufacturer or be used as affordable workspace at the maximum rent of £10 per square foot (index linked). This revised Section 106 offer would meet the necessity tests set out in the CIL Regulations. The applicant has agreed that a construction employments plan can be provided and secured via a condition.

#### 6.82 **The Planning Balance**

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

#### 6.84 *Heritage Benefits*

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

#### 6.85 *Economic Benefits.*

- Rejuvenating a long-term existing business by providing it with a bespoke property
- Retention of jobs involved with the Jewellery Trade.
- Proving affordable workspace for rent to Charles Green and Son for at least 15 years.

- In the event that Charles Green and Son Ltd the building within the 15 year timescale it would be safeguarded for use by another jewellery manufacturer or for use as affordable workspace.
- Provision of an additional commercial unit for a mix of uses
- Increasing spending power for the local economy, through the additional number of persons occupying the site helping to sustain shops and other businesses in the Jewellery Quarter.

6.86 *Design*

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

6.87 *Affordable Housing*

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

6.88 *Sustainability*

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

6.89 *Ecology*

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

6.90 The retention of the existing jewellery manufacturing business is a very important element of the proposals and although it is not possible to ensure that the business will be on site for the long term the new offer that the new premises will be made available to Charles Green and Son for 15 years at an affordable rent provides some certainty in this regard. In addition if for some reason Charles Green & Sons vacate the site within the 15 year period the building would then be offered to another jewellery manufacturer or be used as affordable workspace thereby ensuring that commercial uses are retained in some form on the site for this time period. The most recent amendments have also given the company's entrance to the street its own identity to distinguish it from the neighbouring apartments. The other alterations made to the application have reduced buildings heights from those originally proposed and improved the relationship of the development with 36 Tenby Street as well as providing 2 low cost market sale dwellings.

6.91 It is acknowledged that there is a significant amount of local concern regarding the application as well as from Historic England and the Victorian Society. However there is support from several other businesses within the Jewellery Quarter who consider that it is important to the areas unique economy and reputation as a world-renowned centre of jewellery manufacture that modern commercial space along with new apartments are delivered in order to allow Charles Green & Sons to remain within the

Jewellery Quarter its home for nearly 200 years. They consider that if the company are not allowed to remain in the Jewellery Quarter this would seriously undermine the commitment of other remaining business and that the Jewellery Quarter will only remain special if it evolves to meet the demands of a dynamic, modern city whilst respecting the heritage of the area. Therefore provided that applicants complete the Section 106 agreement to make the new premises available to Charles Green and Sons for at least 15 years at an affordable rent (or other jewellery manufacturer/as affordable workspace) and with the other requirements set out in paragraph 8.1 below this scheme can, on balance, be supported and the 'less than substantial harm' to heritage assets in line with paragraph 196 of the NPPG is outweighed by the public benefits.

## 7.0 Conclusion

7.1 The development proposal would be contrary to the development plan, having regard to section 38(6) of the Planning and Compulsory Purchase Act 2004. Moreover, it would give rise to less than substantial harm to heritage assets. These are factors that significantly weigh against the development. However, the proposals have been amended to address a number of the concerns raised by officers and consultees including height reductions and design and layout changes. The existing jewellery manufacturing business on the site requires more modern accommodation to survive and if it were lost it could leave a prominent site within the heart of the Jewellery Quarter vacant with the loss of jobs and an important local business. The applicant's viability appraisal shows that in order to provide a viable redevelopment of the site a mixed use development including apartments is required which even then would still require financial support. The density and integrity of the surviving industrial premises in the Industrial middle makes a powerful contribution to the character of the Jewellery Quarter conservation area and therefore the retention of the business is an important element of the proposals and is considered to carry significant merit and would set it apart from other sites in the Industrial Middle.

7.2 Although the concerns regarding the scale of the new buildings, their design, dwelling mix and impact on neighbouring properties are acknowledged, in my judgement the scale and residential led nature of the development are necessary to deliver a viable project and the benefits it offers in regenerating this site and retaining the existing jewellery business in the core of the Conservation Area. Overall and considering all the factors at play in my judgement this scheme can on balance be supported as the public benefits offered in favour of the development are of sufficient weight as material considerations to justify departure from the development plan and overcome the identified harm and the presumption against development.

## 8.0 Recommendation

- 8.1 That application 2019/09845/PA be APPROVED subject to the prior completion of a Section 106 Legal Agreement to secure the following:
- a) That the replacement unit for Charles Green & Son will be provided to the company at a maximum rent of £10 per square foot (index linked) for a minimum period of 15 years.
  - b) That the replacement unit for Charles Green & Son is completed and made available for their use prior to the occupation of any residential floor space on the site
  - c) That in the event of Charles Green & Sons do not occupy the building or vacate it within the 15 years that the building be retained and be offered to another jewellery manufacturer or be made available for use as affordable workspace at

the maximum rent of £10 per square foot (index linked) for a minimum period of 15 years.

- d) The provision of 2 open market sale dwellings at a 20% discount on normal market rents in perpetuity.
- e) The payment of £4,000 (index linked) to offset SuDS
- f) Payment of a monitoring and administration fee associated with the legal agreement of 3.5% of the value subject to a maximum of £10,000.

8.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the 23 October 2020, planning permission be refused for the following reasons:-

- In the absence of a legal agreement to secure the retention of the existing Jewellery Manufacturing business on the site or affordable commercial floor space the proposal would be give rise harm to heritage assets and is thereby contrary to policy 2.2 of the Jewellery Quarter Conservation Area Character Appraisal and Management Plan SPG, Policies GA1.3 of the Birmingham Plan and TP12 of the Birmingham Development Plan and the National Planning Policy Framework.
- In the absence of a legal agreement to secure any on-site affordable market sale dwellings the proposal conflicts with Policy TP31 of the Birmingham Development Plan and the National Planning Policy Framework.
- In the absence of any legal agreement to secure contributions towards off site SuDs improvements the development is contrary to Policy TP6 of the Birmingham Development Plan and the National Planning Policy Framework.

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

8.5 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority by the 23 October 2020 planning permission for application 2019/09845/ be APPROVED, subject to the conditions listed below:-

- 
- 1 Requires the prior submission of a phasing plan
  - 2 Requires the prior submission of a construction employment plan.
  - 3 Requires the prior submission of a construction ecological management plan
  - 4 Requires the prior submission of a demolition method statement and management plan
  - 5 Requires the prior submission of a construction method statement/management plan
  - 6 Prevents demolition prior to a redevelopment contract being entered into
  - 7 Requires the prior submission of an additional bat survey if demolition does not take place by 1 July 2021
  - 8 Requires the prior submission of a sustainable drainage scheme in a phased manner
  - 9 Requires the submission of a Sustainable Drainage Operation and Maintenance Plan
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- 10 Requires the implementation of the of contamination remediation scheme on a phased basis
  - 11 Requires the submission of a contaminated land verification report
  - 12 Requires the prior submission of a Noise Mitigation Scheme
  - 13 Requires full architectural and specification details
  - 14 Requires the submission of sample panels of all brickwork
  - 15 Requires the submission of sample materials
  - 16 Requires the prior submission of details of any roof top plant, structures, lift overruns, machinery and/or solar panels.
  - 17 Requires the submission of boundary treatment details in a phased manner
  - 18 Requires the submission of details for biodiversity roofs
  - 19 Requires the implementation of the submitted mitigation/enhancement plan
  - 20 Requires submission of a landscape and ecological management plan
  - 21 Requires the prior submission of details of bird/bat boxes
  - 22 Requires the submission of a lighting design for biodiversity
  - 23 Requires the submission of a CCTV scheme
  - 24 Requires the submission of a lighting scheme in a phased manner
  - 25 Requires the submission and completion of works for the S278/TRO Agreement
  - 26 Requires the provision of cycle parking prior to occupation
  - 27 Requires a further noise mitigation scheme for any hot food use
  - 28 Requires sound insulation for Plant/Machinery
  - 29 Limits the noise levels for Plant and Machinery
  - 30 Requires the prior submission of noise insulation (variable)
  - 31 Limits the hours of use of the commercial units to 07.00 - 23.00.
  - 32 Limits delivery time of goods to or from the commercial premises to 7am-8pm
  - 33 Requires the glazing at ground floor level to the commercial unit to be clear and not obstructed.
  - 34 Removes PD rights for new windows
  - 35 Requires the submission details obscure glazing for specific areas of the approved
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building

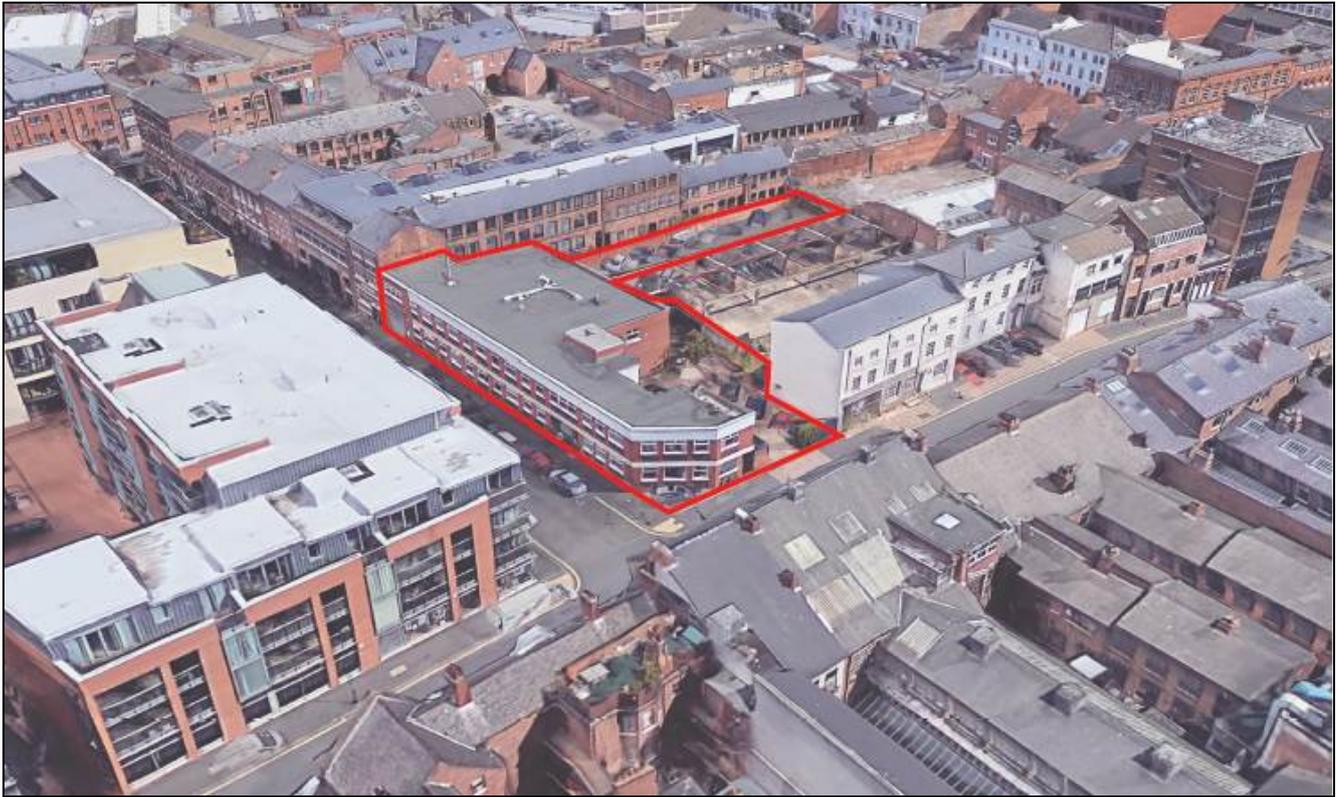
36 Requires the scheme to be in accordance with the listed approved plans

37 Implement within 3 years (Full)

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Case Officer: Lesley Sheldrake

## Photo(s)



**Photo 1: Aerial view of the site and surroundings**



**Photo 2: View of existing building on Tenby Street frontage**



**Photo 3: View of site from Albion Street frontage**



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



Photo 5 : Wider view along along Tenby Street



Photo 6: Wider view along Albion Street

# Location Plan



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# Birmingham City Council

## Planning Committee

24 September 2020

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Conditions	7	2020/04025/PA  Erdington Academy Kingsbury Road Erdington Birmingham B24 8RE  Erection of two storey school building to provide a total of eight additional classrooms
Approve – Subject to 106 Legal Agreement	8	2019/09234/PA  Land to the rear of Longmore House 100 Tindal Street Balsall Heath Birmingham B12 9QL  Partial demolition of buildings to the rear of Longmore House and erection of new buildings to provide 25no. new apartments including landscaping, parking and associated works
Approve – Conditions	9	2020/05187/PA  Land adjacent 567 Stratford Road Birmingham B11 4LS  Erection of single storey unit for retail use

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Committee Date:	24/09/2020	Application Number:	2020/04025/PA
Accepted:	02/06/2020	Application Type:	Full Planning
Target Date:	01/09/2020		
Ward:	Gravelly Hill		

Erdington Academy, Kingsbury Road, Erdington, Birmingham, B24 8RE

Erection of two storey school building to provide a total of eight additional classrooms

Recommendation

**Approve subject to Conditions**

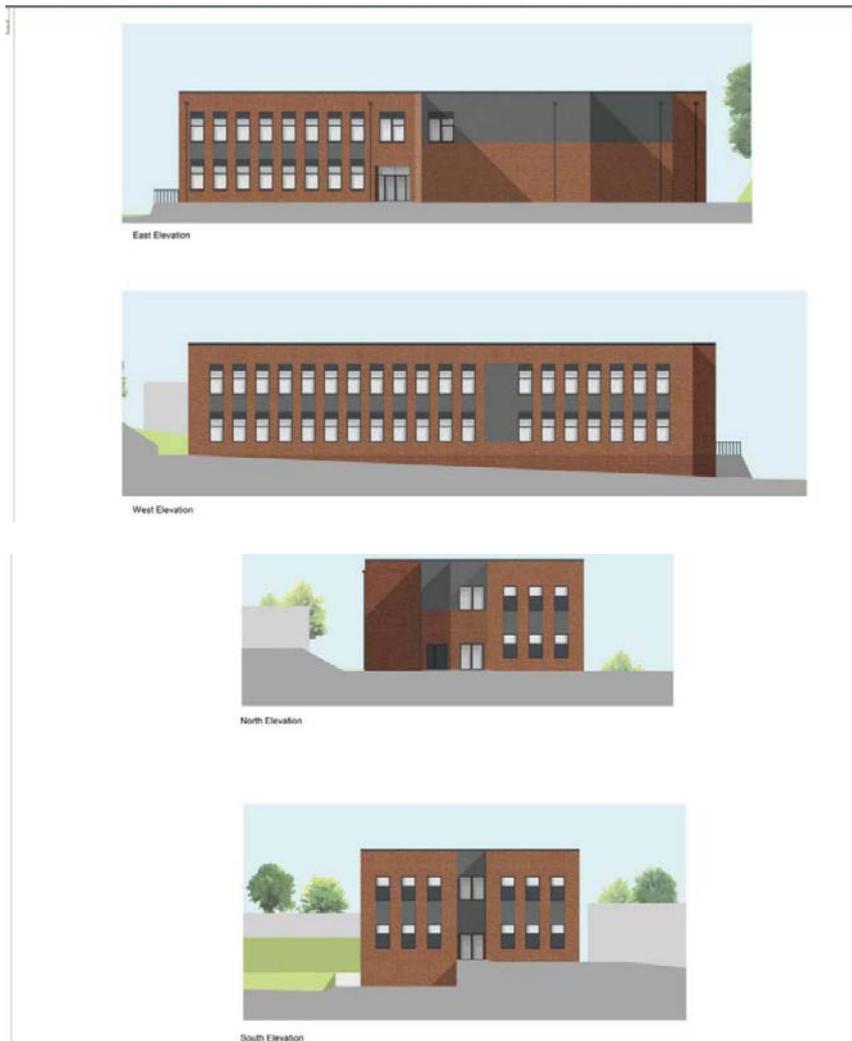
1. Proposal

- 1.1 This is an application for the erection of a two storey building at Erdington Academy to provide eight classrooms as the pupil intake is due to increase by 270 pupils over the next five years. The applicant has advised that the existing buildings are at full capacity.
- 1.2 A temporary haul road is to be created at the site to the proposed development during the anticipated 12-month build period. Access will be via an existing maintenance access gate on Kingsbury Road. The road will run through part of the existing playing field at the school.

Site plan



## Elevations:



## [Link to Documents](#)

### 2. Site & Surroundings

- 2.1. The school site is approximately 4.5 hectares and lies on the southern side of Kingsbury Road. The eastern half contains the school buildings and a multi-use games area (MUGA); the western half is formed by playing fields and sports pitches. The school is bounded on all sides by the rear gardens of residential properties.
- 2.2. The site of the proposed building is at the western end of the complex of school buildings and is an incidental area of green space (previously used as a shot putt circle). Five mature trees were removed from the area of the proposed building prior to the submission of the application (the trees were not protected by a TPO). The site is at the top of an embankment and is at a higher level than the MUGA to the south, residential properties on Parkdale Close to the south west, and the playing fields immediately to the west. Part of the development is to take place on the site of a former moat (Pype Hall and Moat, dating from the 16<sup>th</sup> century).

## [Site Location](#)

3. Planning History

3.1. None relevant to the assessment of the application.

4. Consultation/PP Responses

4.1 Sport England – No objections subject to the imposition of the conditions set out in the Assessment section below.

4.2 Transportation Development – Information submitted with the application advises that there will be no change in terms of staff numbers and that the Academy will continue to promote the use of other more sustainable forms of transport to the site, including walking and cycling and the use of public transport such as local bus and train services. No objection subject to a condition requiring the submission of cycle parking details.

4.3 Regulatory Services – No objection subject to a condition limiting noise levels from plant and machinery within the building.

4.4 Lead Local Flood Authority (LLFA) – No objection. The site of the proposed building is adjacent and slightly straddles an existing pluvial (surface water) flow route across the school, with areas shown at low risk (1 in 1000-year), medium risk (1 in 100-year) and includes high risk areas (1 in 30-year).

The Flood Risk Assessment states that the finished floor levels should be raised to 150mm above surrounding ground levels to allay the risk to the building and to mitigate the risk of pluvial and sewer flooding. The existing surface water flow route should be maintained to not interrupt flows. Surrounding levels should also be carefully managed to ensure no displacement of flood flows or exacerbation of risk on-site or elsewhere. Additionally, the drainage plan shows lengths of pipework on-site within the private system as being silted up and these should be jetted, cleared and damaged manholes rectified as part of any approval, to help improve the efficiency of the on-site drainage, to reduce any off-site impacts.

The proposed building will be drained via an attenuation tank. The proposed discharge rate of 5 litres per second is acceptable to the LLFA. Confirmation should also be sought from Severn Trent Water that this discharge rate is acceptable and that approval would be given for sewers to be built to an agreed standard (and subsequently be adopted by STW).

4.5 Severn Trent Water – No adverse comments.

4.6 Education Infrastructure - This expansion is part of the Local Authority's 'Basic Need' programme to provide additional secondary places in order to meet our statutory duty in providing sufficient school places for the City's children. We are therefore fully supportive of this planning application.

4.7 Neighbour notification letters were sent to 267 properties, site and press notices posted and Ward Members notified.

4.8 One letter of support has been received from a resident of Bromford Lane.

4.9 Letters of objection have been received from 7 properties on Parkdale Close, in addition to a joint letter of objection from the occupants of 6 properties. The following concerns have been raised which are material to the assessment of the application:

- Loss of privacy resulting from overlooking of properties;
- Noise disturbance and potential for anti-social behaviour;
- Overshadowing;
- Adverse impact on outlook;
- Loss of trees from the site;
- Increased risk of flooding of the properties resulting from the development and previous removal of the trees at the site;
- The development is taking place on the site of a historic moat;
- Increased traffic generation.

4.10 Councillor Mick Brown has objected to the proposal on the grounds that it will result in a loss of privacy for residents of Parkdale Close and will exacerbate existing flooding problems.

4.11 Councillor Brown and residents have requested that a site visit be carried by Members to assess the impact of the development on Parkdale Close properties.

## 5. Policy Context

5.1 National Planning Policy Framework (NPPF) 2019  
Birmingham Development Plan (BDP) 2017  
Saved 2005 UDP Policies  
Car Parking Guidelines SPD  
Places For Living SPG

## 6. Planning Considerations

6.1 The determining issues in the assessment of the application are:

- Principle;
- Traffic generation/highway safety;
- Design/layout;
- Residential amenity;
- Flood risk;
- Sustainable Construction/Energy Generation;
- Heritage issues

### Principle of development

6.2. The principle of improving or expanding schools to provide sufficient school places is in accordance with both the NPPF (paragraph 94) and Policy TP36 (Education) of the BDP.

6.3 Whilst local and national policy protects sports facilities Sport England has advised that the development would not reduce the sporting capability of the site. The proposed haul road and associated compound would result in the temporary loss of use of part of the existing playing fields. Sport England has recommended that either

or both of the following conditions be imposed in order to secure the playing field improvements and/or community use of the school's sports facilities:

- The submission of a scheme detailing measures to be implemented to improve the quality of the existing playing fields;
- A community use agreement for use of the existing facilities at the site.

- 6.4 Sport England has also recommended a condition requiring the submission of information setting out how the area of the haul road and compound is to be reinstated to playing field use.
- 6.5 The applicant has confirmed that, of the two bullet point conditions referred to above, the requirement for improvements to the playing fields would be acceptable. This condition should therefore be imposed if permission is granted.

#### Traffic Generation/Highway Safety

- 6.6 The Car Parking Guidelines SPD requires the provision of an additional 18 parking spaces in association with the proposed increase in pupil numbers.
- 6.7 Existing access and pick up/drop off arrangements at the school are to remain unchanged and it is not considered that the development would necessitate any alterations in this respect.
- 6.8 There are 76 existing parking spaces at the school and no increase is proposed. A Transport Statement has been submitted which advises that the increase in pupil numbers will result in an additional 30 two-way vehicle trips during the AM school peak period and 15 additional two-way trips during the PM peak. The Statement concludes that this would not have a material impact on the operation of the local highway network. The NPPF advises that development should only be refused on highway safety grounds if the impact on the road network would be 'severe' – it is not considered that the proposed development would have such an impact.
- 6.9 Should permission be granted it is recommended that a condition be imposed requiring the submission of a Travel Plan, in order to promote opportunities for walking and cycling and the use of public transport as an alternative to private car use.

#### Design/Layout

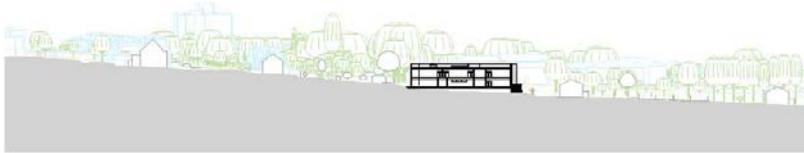
- 6.10 The scale of the proposed building would be similar to that of the existing buildings. The walls would be clad in red brick with aluminium window frames and render panels. The development will improve the appearance of the site and in this respect complies with the aims of the Places for Living SPG and BDP Policy PG3 (Place Making) and Saved UDP Policy 3.14 (The Design of New Development) which require that all new development should demonstrate high design quality and enhance the City's environment.

## Residential Amenity

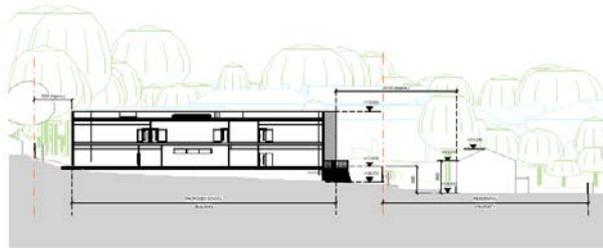
### Site sections:



Site Section A-A  
Scale: 1:500



Site Section B-B  
Scale: 1:500



Site Section B-B With Survey Level Information  
Scale: 1:500

### Plan showing relationship with Parkdale Close:



- 6.11 In assessing the impact of the development on outlook and privacy on properties at Parkdale Close, the following guidelines set out in the Places for Living SPG are relevant:

- 5m per storey set back where new development with main windows overlooking existing private space is proposed;
  - 12.5m between windowed elevations and opposing 1 and 2 storey flank walls. Where a flank wall would be situated at a higher level than a windowed elevation, the separation distance should be increased by 1m for every 1m change in ground level.
- 6.12 The proposed building would be set at a level 3.8m higher than the properties on Parkdale Close and would be sited 7m at its closest point to the rear garden of the nearest property (no.33) and 9m from the garden of the next property to it (no.35). Distance separations from the building to the rear boundaries of the other properties on Parkdale Close then increase accordingly.
- 6.13 The southern elevation of the proposed building consists of solid spandrel panels with clear glazing above – the glazing would be 2m above finished floor level on both floors. The solid panels and height of the glazing would prevent any overlooking in a downward direction towards Parkdale Close, thereby ensuring that there would be no loss of privacy. Should permission be granted it is recommended that a condition be imposed requiring obscure glazing to be installed in the fire escape door and staircase window in this elevation, to minimise the potential for overlooking of the residential properties. A gate is to be installed at this end of the building to prevent access, which will ensure that pupils cannot congregate within this part of the site. A fence is also to be installed between the site of the development and the garden of 33 Parkdale Close which will stop pupils from accessing the area of the playing field directly to the rear of the gardens.
- 6.14 The southern elevation of the building effectively constitutes a ‘flank wall’, given that it would not contain any windows from which views can be gained. At its closest point the building would be approximately 19.5m from the nearest window at 33 Parkdale Close, increasing to over 20m to the part of the building which is directly at the rear of the garden. As such, even allowing for the 3.8m difference in levels between properties on Parkdale Close and the building, the development complies with the above guidelines. Tree planting is proposed on the southern side of the building which will help to ‘break up’ the mass of the building and soften its appearance when viewed from Parkdale Close.
- 6.15 The windows on the western elevation of the building would look towards the playing fields. There would be a degree of overlooking of the rear gardens on Parkdale Close, however given the distance separation to those gardens and the orientation of the building relative to them it is not considered that a loss of privacy would occur to a degree which may warrant refusal of the application. The building would lie to the north and north east of Parkdale Close properties, as such no overshadowing would result from the development.
- 6.16 In relation to the above, Committee should note that the applicant has repositioned the building 2m further to the east and 2m further north from the proposal as originally submitted in order to address the concerns of objectors relating to its siting.
- 6.17 The northern elevation of the building contains an identical fenestration arrangement to the southern elevation; as such there would be no overlooking of properties on Kingsbury Road to the north. The building would be sited approximately 46m from the rear of the nearest property, significantly in excess of the SPG guideline figure in respect of safeguarding outlook. Some overshadowing of the long rear gardens may occur, however this would only be towards the bottom end of those gardens – there

would be no overshadowing of the 'main' part of the garden or the dwellings given their distance from the site of the proposed building.

- 6.18 With regard to objectors' concerns relating to potential for noise disturbance there is no evidence to suggest that the development would increase noise from existing activities at the school (including the use of the MUGA) to a level that may materially impact on the existing amenities of residents. Similarly, the development in itself would not necessarily exacerbate any existing anti-social behaviour problems experienced by residents. With regard to tree removal and the impact on outlook and potential flooding, these trees were removed from the site of the proposed development before the application was submitted – as such any potential benefit they may have previously offered cannot be taken into consideration in the assessment of the application. The proposed tree planting referred to in paragraph 6.15 (details of which are to be sought by condition) will to a degree mitigate the impact of the loss of the trees.
- 6.19 In view of the above it is considered that the proposal complies with BDP Policy TP36 in that it would not conflict with adjoining residential uses.

#### Flood Risk

- 6.20 The overall school site lies within Flood Zone 1. As referred to in the consultation response from the Lead Local Flood Authority, the site of the proposed building is adjacent and slightly straddles an existing pluvial (surface water) flow route running north to south through the school, which is largely low risk (1 in 1000-year) but does incorporate small areas of medium risk (1 in 100-year) and high risk (1 in 30-year).
- 6.21 The applicant has advised that any water running off the site of the proposed building, which may otherwise run towards Parkdale Close, will now be diverted into a new drainage system in the form of an attenuation tank on the eastern side of the proposed building. This will reduce the amount of surface water which could be directed, due to the topography of the site, in a southerly direction. A drainage plan has been submitted showing the position of the tank and, with regard to the comments of the LLFA, a discharge rate of 5 litres per second. Severn Trent Water has not expressed any objection to the details shown on the plan. The plan is included within the 'plans list' condition (Condition 2) requiring the development to take place in accordance with the submitted details.
- 6.22 A Flood Risk Assessment has been submitted which advises that the site is at medium risk of surface water and sewer flooding and sets out measures (referred to in the consultation response from the LLFA) to be incorporated within the development to ensure that any existing flooding is not exacerbated. The Assessment concludes that the development will not increase flood risk to the wider catchment area as suitable measures will be in place to management surface water runoff discharging from the site. Should permission be granted it is recommended that a condition be imposed requiring the development to take place in accordance with the details set out in the Assessment.

#### Sustainable Construction/Energy Generation

- 6.23 BDP Policy TP3 (Sustainable Construction) seeks reduce CO2 emissions and create adaptable buildings. Developments are required to meet BREEAM standard 'Excellent' unless it can be demonstrated that the cost of achieving this would make the development unviable. Information has been submitted setting out measures to

be incorporated into the development to ensure that it is designed and constructed in a sustainable manner, in accordance with the BDP.

- 6.24 In relation to Policy TP4 (Low and Zero Carbon Energy Generation), the applicant has advised that there are no existing low and zero carbon energy generation networks within reasonable proximity of the site that the development could connect to. The applicant has also advised that, as a publically funded project with fixed costs, the project budget does not include any allowance for the additional cost associated with making the scheme BREEAM Excellent compliant or providing renewable energy generation. As such the applicant proposes to achieve BREEAM 'Good' standard.

#### Heritage Issues

- 6.25 Part of the development site is recorded on the City's Historic Environment Record as the site of a post-medieval moated house. A 'Heritage Note' has been submitted to assess the potential for archaeological remains of 'Pype Hall Moat' to have survived and, if so, consider their significance. The Heritage Note advises that, given the past land uses and 20<sup>th</sup> century landscaping that has taken place (in the form of ground reduction and levelling to form terraces), it is highly unlikely that significant, well preserved archaeological remains associated with the moat will have survived. Should permission be granted it is recommended that a condition be imposed requiring archaeological observation and recording during development works.

#### 7. Conclusion

- 7.1 The proposed development would be of an appropriate design and scale, providing improved educational facilities within the City, and would not conflict with adjoining uses. As such the proposal complies with the relevant policy documents referred to in Section 5 above.

#### 8. Recommendation

- 8.1 Approve with conditions.

- 
- 1 Implement within 3 years (Full)
  - 2 Requires the scheme to be in accordance with the listed approved plans
  - 3 Limits the noise levels for Plant and Machinery
  - 4 Requires the submission of sample materials
  - 5 Flood Risk Assessment
  - 6 Requires the prior submission of a construction employment plan.
  - 7 Contamination Remediation Measures
  - 8 Development in Accordance with Lighting Plan
  - 9 Requires the prior submission of a construction method statement/management plan
-

- 
- 10 Submission of Playing Field Improvements Details
  - 11 Reinstatement of playing fields
  - 12 Requires the submission of a school travel plan
  - 13 Obscure glazing
  - 14 Ecological Survey
  - 15 Requires the submission of boundary treatment details
  - 16 Requires the prior submission of investigation for archaeological observation and recording
  - 17 Fire Escape Door to Remain Closed
  - 18 Requires the prior submission of level details
  - 19 Requires the submission of tree planting details
  - 20 Requires the submission of cycle storage details
- 

Case Officer: Faisal Agha

**Photo(s)**



Photo taken from rear of 37 Parkdale Close towards the site of the development



Photo taken from playing fields looking eastwards towards the site of the proposed building



Photo taken from the site of the proposed building looking south towards the MUGA and Parkdale Close

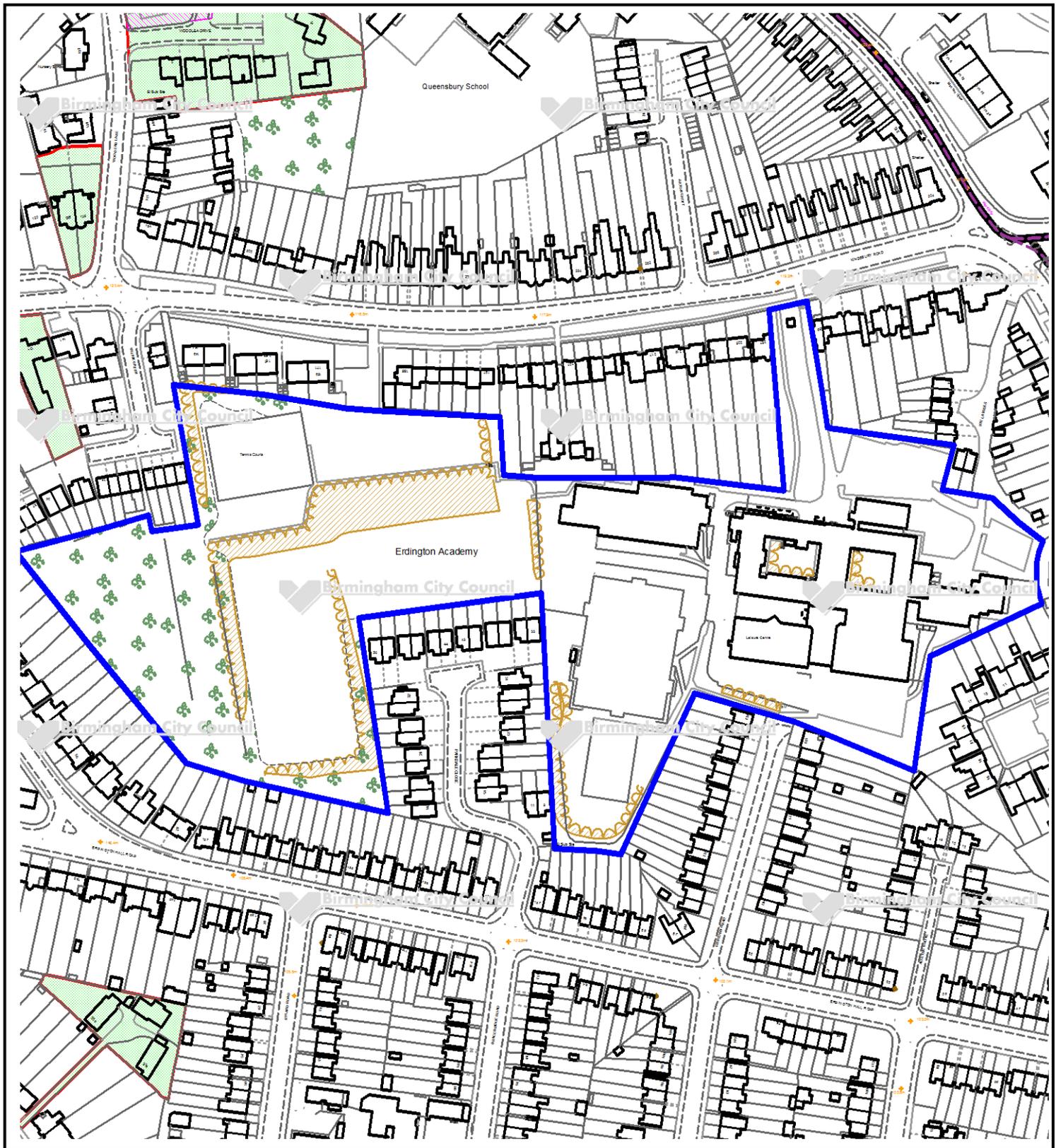


Photo taken from the site of the proposed building looking westwards towards the playing fields and Parkdale Close



Photo taken from playing field showing no.s 33, 35 and 37 Parkdale Close

## Location Plan



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Committee Date:	24/09/2020	Application Number:	2019/09234/PA
Accepted:	10/12/2019	Application Type:	Full Planning
Target Date:	24/09/2020		
Ward:	Balsall Heath West		

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

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

Recommendation

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

1. Proposal

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

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



Proposed Site Plan



Proposed Elevations

[Link to Documents](#)

## 2. Site & Surroundings

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

### [Location](#)

## 3. Planning History

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

#### 4. Consultation/PP Responses

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

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

4.2. Moseley Society:

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

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

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

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

## 5. Policy Context

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

## 6. Planning Considerations

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

### **Background and Principle of Development**

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

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

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

### **Design and Visual Amenity**

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

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

### **Residential Amenity**

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

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

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

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

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

### **Affordable Housing**

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

### **Public Open Space**

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

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

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

### **Pedestrian and Highways Impact**

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

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

### **Drainage and Flooding**

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

### **Other matters:**

- 6.40. Ecology: Policy TP8 (Biodiversity and Geodiversity) and the BDP 2017 requires all development, where relevant, to support the enhancement of Birmingham's natural environment. Measures should be appropriate to the nature and scale of the development proposed. The site is considered to currently have negligible ecological value, given its highly urbanised location and lack of vegetated habitats and the proposed development provides an opportunity to incorporate ecological enhancement measures to improve biodiversity within the local area. Following discussions with the applicant and the City's Ecologist, the scheme seeks to provide a green biodiversity roof on the flat roof of block 1 which has a size of approximately 175 square metres. The City's Ecologist has confirmed they support the proposed inclusion of a biodiversity roof which would deliver SuDS and ecological benefits and provides an opportunity to achieve a biodiversity net gain from the development. The details of the biodiversity roof would be agreed at a later stage and therefore a condition is recommended in this regard. I concur with this view and impose the conditions accordingly.
- 6.41. Community Infrastructure Levy - The proposal would not attract a Community Infrastructure Levy (CIL) contribution.
- 6.42. Energy and Sustainability – Policy TP3 (Sustainable Construction) of the BDP 2017 sets out a number of criteria which should be considered to demonstrate sustainable construction and design. In addition, Policy TP4 (Low and zero carbon energy generation) requires new development to incorporate low and zero carbon forms of

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

## 7. Conclusion

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

## 8. Recommendation

- 8.1. Approve, subject to conditions and pending the completion of a Section 106 Legal Agreement.
- 8.2. The Legal Agreement to secure the following:
- On-site affordable housing provision of 3no. units, namely 1no. one-bedroom apartment; 1no. two-bedroom apartment; and 1no. studio apartment (12%) as Low Cost Home Ownership tenure at 20% discount on market value.
- 8.3. That the City Solicitor be authorised to prepare, seal and complete the appropriate agreement.
- 8.4. In the event of the above legal agreement not being completed to the satisfaction of the Local Planning Authority on or before 23<sup>rd</sup> October 2020, planning permission be REFUSED for the following reason:
- The proposal represents an unacceptable form of development as it would not achieve a Section 106 Planning Obligations in the form of appropriate affordable housing. This is contrary to policies TP31 and TP47 of the BDP 2017, Affordable Housing SPG and NPPF 2019.

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

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

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25 Requires the prior submission of details of proposed photovoltaic installations

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Case Officer: Laura Pohl

**Photo(s)**

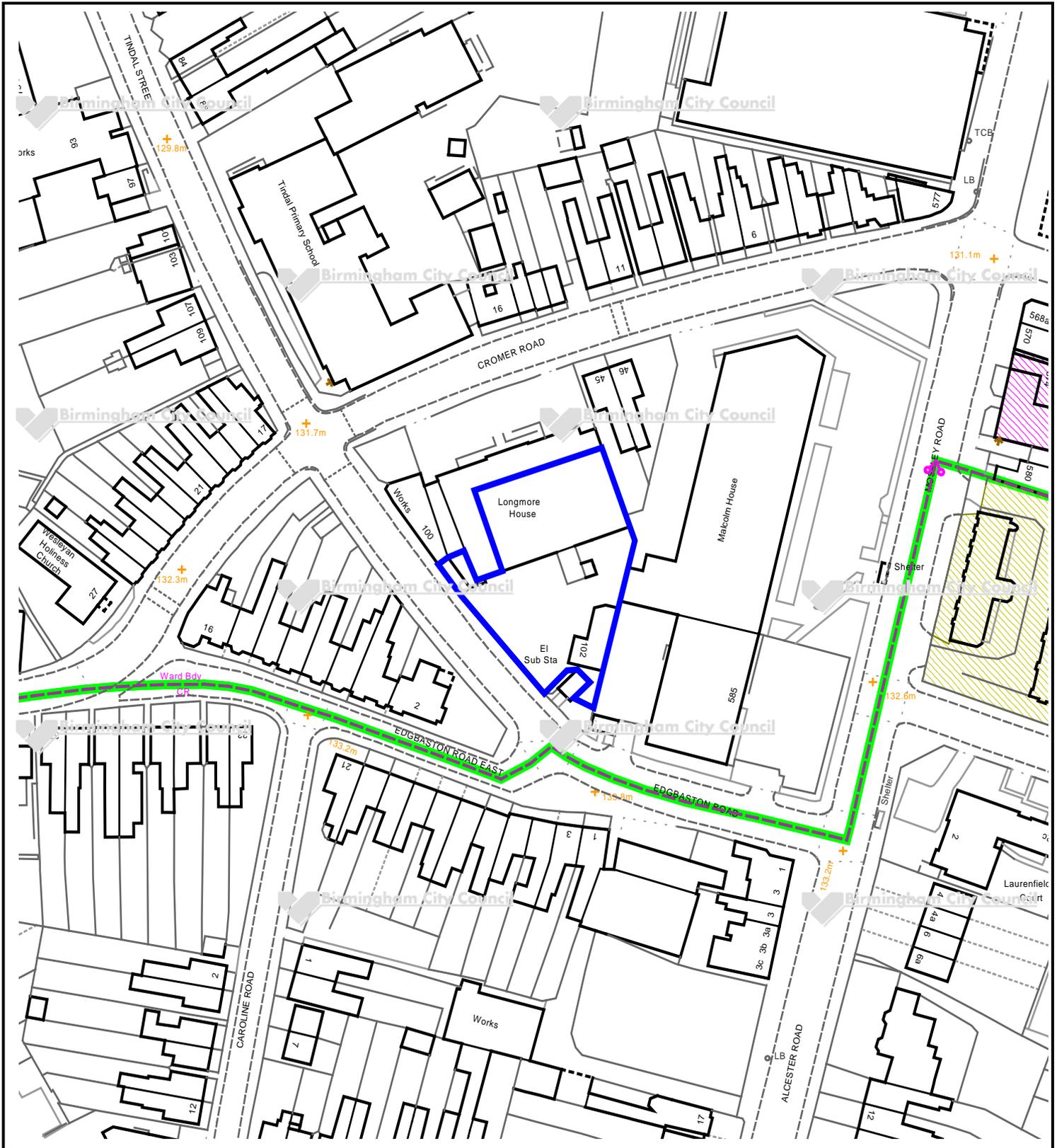


Image 1: View into site from Tindal Street towards rear of Longmore House



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

# Location Plan



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Committee Date:	24/09/2020	Application Number:	2020/05187/PA
Accepted:	17/07/2020	Application Type:	Full Planning
Target Date:	25/09/2020		
Ward:	Sparkhill		

Land adjacent 567 Stratford Road, Birmingham, B11 4LS

Erection of single storey unit for retail use

Recommendation

**Approve subject to Conditions**

1. Proposal

- 1.1. This planning application seeks permission for the erection of a single storey building to be used as a retail unit on a corner plot of land adjacent to 567 Stratford Road at the junction of Stratford Road, Showell Green Lane and Ivor Road, in Sparkhill.
- 1.2. The current planning application is a resubmission of a previous proposal which was approved in 2016; however the proposal remained unimplemented and has now expired.
- 1.3. The proposed building would provide approximately 71sq.m of internal floorspace and would provide a staff room, W.C, storage area, customer serving area and refuse store with access into the building gained from a glazed door located on the building's Stratford Road frontage.
- 1.4. The building would have a glazed shop front with curved windows following the line of the building along the Stratford Road frontage and Showell Green Lane frontage with facing brick columns dividing the display windows and signage above each glazed display window.
- 1.5. Whilst the building would have a flat roof this would be screened from view at ground level by a raised parapet in facing brickwork to match the rest of the proposed building and designed in a manner to match adjacent buildings in the locality.
- 1.6. The proposed building would measure 4.8m in height from ground level to the top of the roof parapet and 4.1m to the flat roof level.
- 1.7. This application will need to be determined at Planning Committee, because a petition from local occupiers was received with more than 20 signatures in relation to the proposal.
- 1.8. Please see below the Existing elevations of application site:



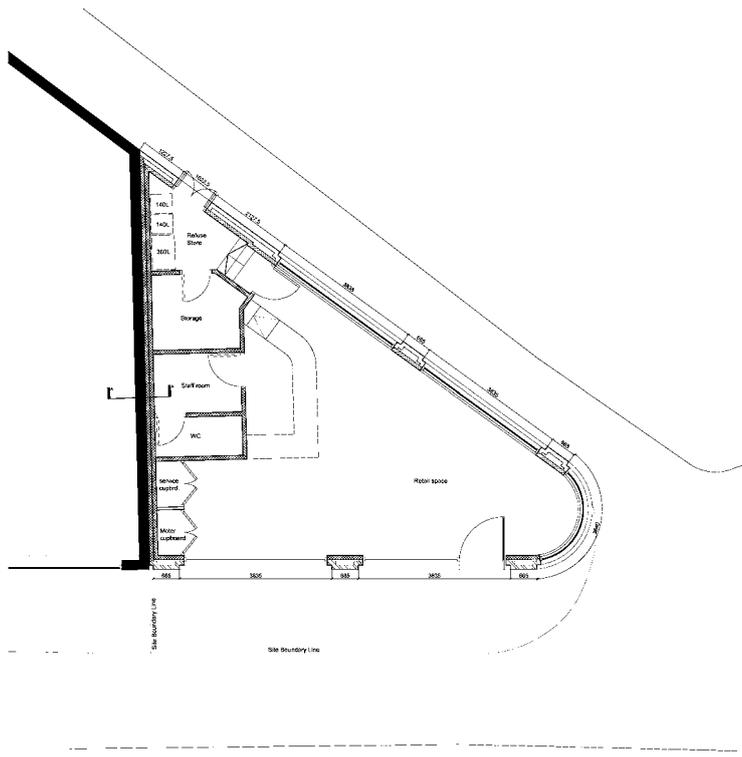
1.9. Please see below for the Proposed Elevations of proposal:



1.10. Please see below for Proposed West Elevation:



1.11. Please see below for Site Layout Plan:



1.12. [Link to Documents](#)

2. Site & Surroundings

2.1. The application site relates to a hard surfaced vacant plot of land adjacent to 567 Stratford Road, Sparkhill which occupies a prominent corner position at the junction of Stratford Road, Ivor Road and Showell Green Lane.

- 2.2. The application site is located within the primary shopping area of the Sparkhill Neighbourhood Centre and a mixture of commercial and residential activities along a busy arterial route (Stratford Road) that serves south east Birmingham.

### Site Location

## 3. Planning History

- 3.1. 2016/04272/PA – Planning Application – Erection of a single storey unit for use as a hot food takeaway (A5 use class) at Land Adjacent to 567 Stratford Road, Sparkhill, Birmingham, B11 4LS – Withdrawn – 01/07/16.
- 3.2. 01/09/2016 - 2016/05838/PA – Erection of single storey unit for use as A1 retail – Approved with conditions, however permission was not implemented.

## 4. Consultation/PP Responses

- 4.1. Residents Associations, local residents and ward members consulted.
- 4.2. Two objections have been received on grounds of loss of light, no parking provision and the proposal being contrary to policy and out of character to the local area.
- 4.3. A petition has been received comprising of 21 signatures from local business owners, residents and the local community objecting to the proposal on the following points;
- The parking at the bottom of Showell Green Lane is always occupied, and the red lines along Stratford Road allow no parking and there is no available parking at the proposed site.
  - Highways Department will not approve any reduction in visibility at the junction of Showell Green Lane and Stratford Road.
  - Pedestrian safety will be in danger, especially for the elderly and mothers with young children and infants in pushchairs.
  - The proposed building would ruin the outlook of the corner site and would not suit the local architectural heritage of the neighbourhood.
- 4.4. BCC Transportation Development - No objections subject to conditions for cycle storage details and an amended door layout required on Showell Green Lane.
- 4.5. Regulatory Services - no objections subject to conditions for limit opening hours, roller shutter details and a condition for limiting noise levels.

## 5. Policy Context

- 5.1. National Planning Policy Framework (2019), Adopted UDP 2005 (saved policies), Birmingham Development Plan (2017), SPG Places for All (2001), SPG Places For Living (2001), SPD Car Parking Guidelines (2012), Shopfronts Design Guide SPG, Shopping and Local Centres SPD.

## 6. Planning Considerations

### *Principle of Development*

- 6.1. The proposal relates to a vacant site that is currently open to the streetscene and occupies a corner plot and is currently surrounded by other commercial and residential uses.
- 6.2. The site is also within a sustainable location and within the boundary of the Sparkhill Neighbourhood Centre. As such I consider that the principle of retail development to be acceptable in this instance and in accordance with Shopping and Local Centres SPD, Car Parking Guidelines SPD, Birmingham UDP 2005 and the Birmingham Development Plan 2017.
- 6.3. The other main considerations in the assessment of this application are the impact upon the surrounding visual and residential amenities and potential impacts upon the surrounding highway.

### *Visual Amenity*

- 6.4. Places for All (2001), states that “the main access to buildings should be from the public realm with well-defined entrances at frequent levels. More entrance points encourage more life onto the street. This can make places feel more safe and secure”.
- 6.5. In addition, the document states that ‘frontages’ should be as active as possible, particularly at ground level and that main windows, such as those of shop fronts should be public facing.
- 6.6. It is considered the proposal would be acceptable in this regard with the provision of an access door from the Stratford Road frontage along with large glazed window units on the public facing frontages of Showell Green Lane and Stratford Road and as such accords with Places for All in this regard.
- 6.7. The proposal seeks to provide a single storey building on a piece of hard surfaced land that is currently vacant and occupies a prominent corner position at the junction of Stratford Road and Showell Green Lane.
- 6.8. At present no. 567 Stratford Road provides a gable end wall with elements of glazing and signage, but offers little in the way of good design and streetscape and instead detracts from this prominent location.
- 6.9. The applicant has engaged in discussions with the LPA within the context of previous planning application which was approved under planning reference 2016/05838/PA. The discussions were held in order to firstly establish the principle of a building in this location and secondly, the design and detailing.
- 6.10. In the first instance the LPA explored the options of encouraging the applicant to develop the site to a similar size and scale as the existing character within the street scene and to provide continuity in design and scale along the parade.
- 6.11. Such an approach was initially explored by the applicant but became apparent that a two and half storey building in his location would not be possible due to the provision of a number of existing windows at first and second floor level on the buildings side (gable end) elevation that provide natural light to residential accommodation that needed to be retained.

- 6.12. As such, the option of a single storey unit was considered to be an acceptable design solution for this scheme. Whilst a single storey building is not always an ideal design solution, it is considered that the proposal which makes efficient use of the site within the context of the identified constraints would make a positive contribution to the character of the area.
- 6.13. In this case, the proposed single storey building at a level (2.5m) below the existing first and second floor residential windows, would not adversely impact upon overlooking or outlook.
- 6.14. The building would be constructed with a flat roof that would be screened by a brickwork parapet. Whilst the proposed parapet screens the flat roof from ground level it also provides an element of design interest to the roof area and when viewed against the existing gable end wall through the provision of coping and cornice brickwork detailing which is considered to be a suitable design solution in this location. Furthermore, the flat roof lends itself to be used to aid biodiversity and provide ecological benefits, the applicant has agreed to provide a green/brown roof. The details of the green roof would be agreed at a later stage and a condition is recommended in this regard.
- 6.15. The building has been designed to use all of the available site and as such is of a curved nature with the eastern edge (when viewed from Stratford Road) of the building proposing a curved glazed window element that is considered to address the corner at Showell Green Lane and Stratford Road satisfactorily whilst also providing an active frontage through the continuation of glazed windows to both roads at the junction as possible.
- 6.16. The Council's City design Officer was consulted on the application and raised some initial concerns over the proposed height, preferring a two-storey building at this prominent corner location. However, considering the existing windows, and exploration of all alternative options for the site, a two-storey scheme could not be achieved. It is however noted that the same proposal was approved in 2016 where it was considered that the single storey unit would be acceptable in terms of its character. Whilst the previous permission has expired, I do not consider there has been a material change in the assessment that would now warrant refusal of the application. The City Design Officer has subsequently advised that should the proposal be granted permission a number of conditions should be attached for hard surfacing materials, sample materials, levels and architectural details. I concur with this view and will be attaching the conditions accordingly to ensure that the best possible development is achieved on site.
- 6.17. The proposal is considered to appropriately incorporate design detailing from nearby buildings through the continuation of the horizontal shop front heights of the existing parade of commercial units along with the provision of brick pillars and brickwork detailing between the glazed window units which helps to set the building in the context of existing buildings in the locality.
- 6.18. Subject to the imposition of a planning condition ensuring detailed bays study to clarify the façade detailing, appropriate materials, such as the facing brickwork, are used in its construction and that appropriate security shutters are provided in accordance within the Shopfront Design Guide SPG the proposal would positively enhance this prominent corner plot and accord with Places for All SPG.

*Neighbour amenity*

- 6.19. The proposal would not have a detrimental impact on the neighbouring residential units as it represents the provision of a new building at ground floor level only, whilst neighbouring residential accommodation is at first and second floor levels above existing, adjoining retail space. In fact, the provision of a green roof would improve the outlook for the existing residential occupiers.
- 6.20. The proposed building would be located centrally within an established neighbourhood centre that provides a variety of services at all times of day and is located adjacent to a busy public highway that is an arterial route in the south of Birmingham.
- 6.21. It is noted from the plans that the elevation drawings of the existing gable end fail to display the existing side glazed shop window and single leaf access door that were evident during site visit and which have also been raised by local residents, community and business owners.
- 6.22. However, the application has been assessed with the existing gable end elevation (with the current window and doors in situ) in mind and the proposal would abut the gable end wall of no. 567 and would necessitate the removal of the ground floor side window and door, a concern voiced by the objections received. The removal of this window would still leave the building's main shop front window and door onto the Stratford Road frontage in place and would provide the ground floor accommodation of no. 567 with natural light.
- 6.23. The removal of the side window and door and the attachment of the proposed building to the gable wall of no. 567 would be the subject of a separate party wall agreement which would require further discussions and agreements between the relevant land owners and which falls outside of the remit of the planning system, and therefore this planning application.
- 6.24. Regulatory Services have raised no objection to the proposal subject to the provision of a planning condition restricting the hours of operation of the unit to between the hours of 09:00 and 19:00 Monday to Friday, 09:00 – 18:00 Saturdays and 10:00 and 17:00 Sundays. I concur with this view and will be attaching the condition accordingly as well as other conditions relating to roller shutters and limiting noise levels.
- 6.25. Subject to the conditions detailed above I do not consider that the proposal would have any detrimental impact on residential amenity.

#### *Highway and Transport*

- 6.26. The application site is situated within a sustainable location and within the Springfield Neighbourhood Centre which is well served by good public transport links.
- 6.27. Concerns have been raised by objectors to the proposal that insufficient parking is proposed and that the siting of the proposal would adversely impact upon highway visibility at the junction with Showell Green Lane and Stratford Road.
- 6.28. The Car Parking Standards SPD provides maximum parking standards guidance for retail proposal and in this case would result in a maximum parking provision of between 4 no. and 5 no. spaces, dependent upon comparison or convenience retail end use.

- 6.29. However, given the site's location within an existing, established neighbourhood centre surrounded by existing retail and service units along with the availability of in centre parking provision and the likelihood of associated movements to and from the retail use forming part of shared-purpose trips, the lack of dedicated onsite parking provision is not considered to be significant issue in this case, a view shared by Transportation Development.
- 6.30. Also, the proposal would not exceed any boundary or encroach on the public highway, and therefore no footway width reduction surrounding the application site at the junction of Showell Green Lane and Stratford Road would result from the proposal. Given the left turn only and one way road system along Showell Green Lane towards and onto Stratford Road, it is considered that the proposal would not adversely impact upon overall highway visibility at this junction.
- 6.31. Transportation Development have stated that they have concerns regarding the doors shown on the submitted plans for the proposed refuse store, which fronts onto the Showell Green Lane frontage and how they appear to open outwards over public highway.
- 6.32. Given the narrow footway width in this location, Transportation Development are of the view that such provision is not considered to be acceptable and that a revised door setup should be employed. As such, a suitable planning condition to secure amended door details is recommended.
- 6.33. Furthermore, they have also recommended that cycle storage is secured by planning condition. I concur with this view and will be attaching the conditions accordingly.

## 7. Conclusion

- 7.1. The application seeks planning permission for the erection of a single-storey retail unit on the corner of Stratford Road and Showell Green Lane. The site is also within a sustainable location and within the boundary of the Sparkhill Neighbourhood Centre and subject to the imposition of a planning condition ensuring that appropriate materials are used in its construction and that appropriate security shutters are provided in accordance within the Shopfront Design Guide SPD the proposal would positively enhance this prominent corner plot within the neighbourhood centre.

### Recommendation

- 7.2. Approve, subject to conditions

- 
- |   |  |
|---|--|
| 1 | Implement within 3 years (Full)  |
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | Requires the submission of sample materials                            |
| 4 | Requires the submission of roller shutter details                      |
| 5 | Limits the noise levels for Plant and Machinery                        |
-

- 
- 6 Requires the submission of details of refuse storage
  - 7 Limits the hours of operation - Mon-Fri 09:00-19:00, Sat 09:00-18:00 and Sun 10:00-17:00
  - 8 Requires the submission of cycle storage details
  - 9 Requires the submission of hard surfacing materials
  - 10 Requires the submission of architectural details
  - 11 Requires the prior submission of level details
  - 12 Requires the submission of details of green/brown roofs
- 

Case Officer: Vajid Mahmood

**Photo(s)**



Parade of shops along Stratford Road

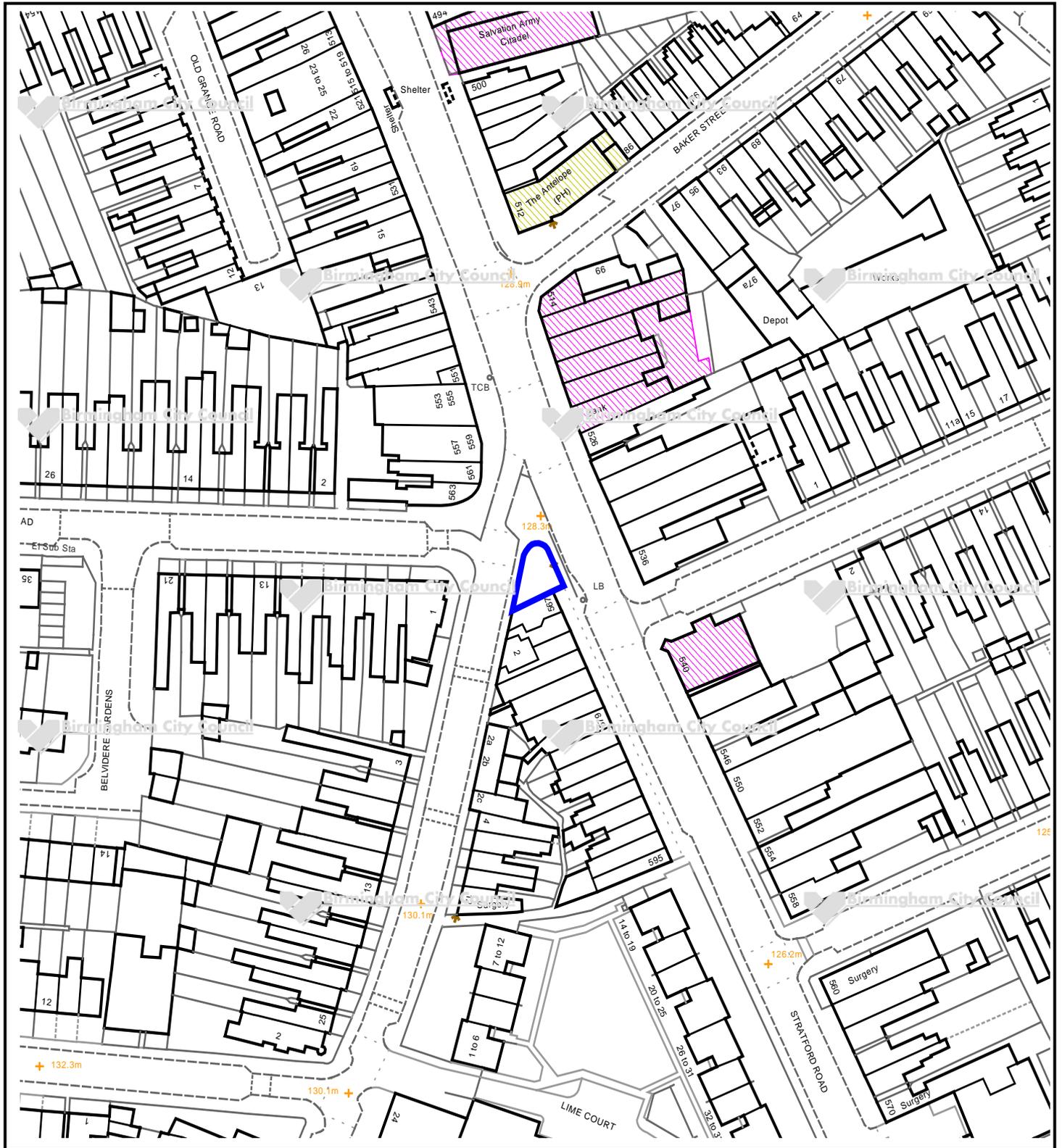


Neighbouring site - No.567 Stratford Road



Application site from Showell Green Lane

# Location Plan



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# **Birmingham City Council**

## **Planning Committee**

**24 September 2020**

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	10	2020/03676/PA  Land North of St Mary's Row and South of Woodbridge Road Moseley Birmingham B13  Construction of new railway station including 2 platforms, the formation of forecourt with vehicle drop-off and associated highways access arrangements, installation of steps and lifts and other associated works.
Approve – Subject to 106 Legal Agreement	11	2019/08953/PA  Former Selly Oak Hospital Raddlebarn Road Selly Oak Birmingham B29 6JD  Conversion of K Block, Nursing School and Well House into 38 apartments and erection of block of 8 new apartments with associated access, parking, landscaping and ancillary works.
Approve – Conditions	12	2020/03828/PA  Former Midhire & UTC premises York Road Hall Green Birmingham B28 8LN  Reserved Matters application seeking permission for appearance, layout, scale and landscaping of 87 dwellings and discharge of conditions 4, 5, 6, 10, 11, 12, 13, 14, 16, 17, 18, 23 and 24 following Outline approval 2018/09040/PA

Committee Date:	24/09/2020	Application Number:	2020/03676/PA
Accepted:	18/05/2020	Application Type:	Full Planning
Target Date:	25/09/2020		
Ward:	Moseley		

## Land North of St Mary's Row and South of Woodbridge Road, Moseley, Birmingham, B13

Construction of new railway station including 2 platforms, the formation of forecourt with vehicle drop-off and associated highways access arrangements, installation of steps and lifts and other associated works.

### Recommendation

**Approve subject to Conditions**

#### 1. Proposal

- 1.1. Planning permission is sought for the construction of a new train station on the Camp Hill line on the site of the former station. Proposals include a pedestrian access from St Marys Row and platforms are provided on both sides of track which can be accessed via steps or lifts. The platforms can accommodate 6 car trains with a service provided every 30 minutes. No ticket office is proposed but machines will be provided. Cycle storage for 52 bicycles is provided within the forecourt with a circular vehicular drop-off also incorporated into the scheme. A traffic light controlled access was initially proposed at the site entrance however after further modelling and the undertaking of a safety audit this has been replaced by a roundel, which is similar in appearance to a roundabout.

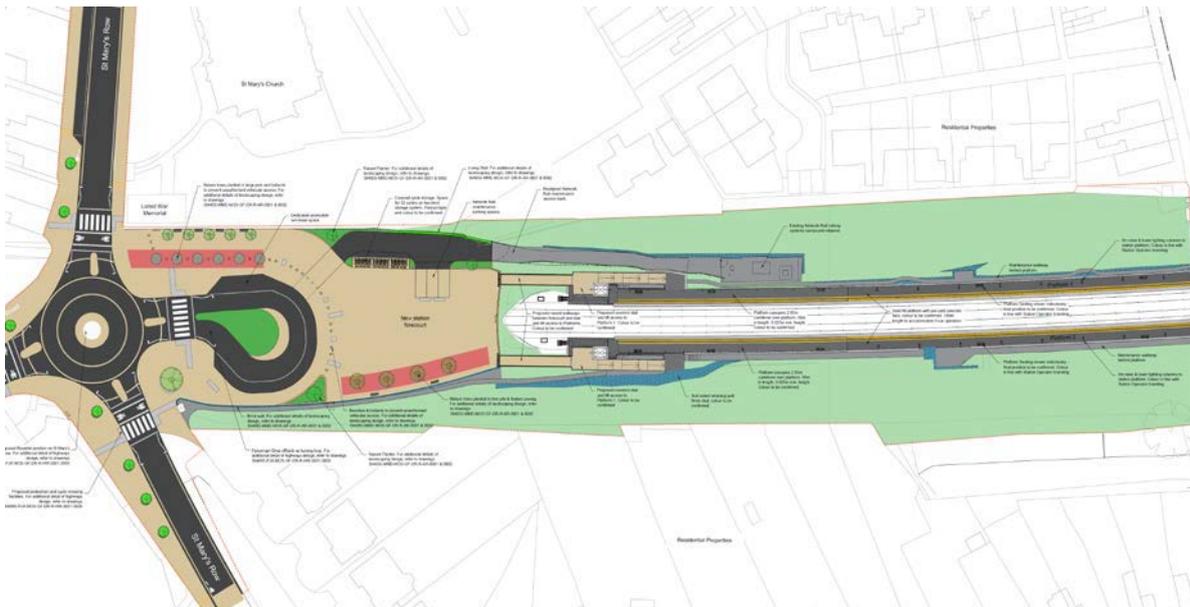


Image 1: General site layout

- 1.2. The application is supported by a Planning Statement, Design and Access Statement, Tree Survey, Preliminary Ecological Appraisal, Bat Survey, Badger Survey, Heritage Statement, Noise Report, Air Quality Assessment, Contaminated Land Report and Transport Assessment.
- 1.3. Site area: 1.6ha.
- 1.4. [Link to Documents](#)
2. Site & Surroundings
  - 2.1. The site consists of the existing railway line and associated embankments and an area of hardstanding that has a vehicular access onto St Marys Row. The area of hardstanding has lay vacant for a number of years with its most recent use being for the storage of building materials during the construction of the mixed use development opposite the application site. The site is bound by Woodbridge Road to the north, St Marys Row to the south, St Marys Church and the War Memorial (both Grade II listed) to the west and residential properties to the east. The site is located within Moseley Local Centre where there are a range of commercial uses. The site also falls within the Moseley Conservation Area.
3. Planning History
  - 3.1. None relevant
4. Consultation/PP Responses
  - 4.1. Regulatory Services – No objections subject to conditions regarding the submission of a contaminated land remediation scheme, verification report, unexpected contamination, limit noise levels from plant and machinery, limit noise levels from PA system, submission of lighting scheme and construction management plan.
  - 4.2. Transportation Development – No objections subject to conditions requiring submission of a construction management plan and a management plan for the operation of a drop-off/pick up area, completion of S278 works, monitoring to determine if TRO's are required and the provision of secure and sheltered cycle storage.
  - 4.3. West Midlands Police – No objection subject to provision of CCTV.
  - 4.4. LLFA – concerns over the rate of surface water discharge onto the railway track.
  - 4.5. Severn Trent Water – No objection subject to condition for scheme of foul and surface water drainage.
  - 4.6. Fire Service – No objection
  - 4.7. Site notice posted, local MP, Councillors, Residents' Associations and the occupiers of nearby properties notified of the application. 102 responses have been received. 97 of the letters support the new station highlighting:
    - Improved transport links with City Centre;
    - Cycle storage at station will reduce number of cars;
    - Will make positive contribution to locality and deliver economic benefits;
    - Drop off area essential;

- Traffic lights most effective at new junction;
- Will ease traffic congestion and pollution locally;
- Space provided for community events;
- Ecological enhancements provided;
- Visual improvements over current situation; and
- Reduce reliance on car based travel.

4.8. 78 of the 97 supporting responses also raised the following matters:

- Traffic light junction is not supported;
- Roundel design will help traffic flow, reduce congestion, improve air quality and is aesthetically pleasing;
- Access from Woodbridge Road is needed;
- Scheme should be designed so that Woodbridge Road access can easily be added at a later stage;
- Bus stop needed outside site;
- Excessive tree loss;
- Harm to natural environment;
- Clarification required over the extent of tree removals;
- Residents parking permits and parking restrictions needed on surrounding streets;
- Feature building needed;
- Increased noise from PA system;
- Lifts need to be located closer to station entrance;
- Development fails to create sense of place;
- Disruption during construction phase;
- Concerns over site management;
- Lots of planting needed around the station;
- Concerns over on street parking;
- Cycle lane needed up to station;
- Justification needed for drop-off area;
- Increased highway safety concerns;
- Residents will be blocked in;
- Undue impact on adjacent properties;
- Insufficient detail has been provided;
- Cyclists should have greater priority over cars;
- A park and ride facility is needed along the camphill line;
- Better disabled access needed;
- More energy efficient measures should be incorporated;
- Increased crime and anti-social behaviour;
- Station should be called 'Moseley Village'; and
- Camphill line should terminate at Moor Street not New Street;

4.9. 5 letters of objection were received stating:

- Noise and disruption during construction;
- Noise pollution from trains and PA system;
- Harmful impact on property prices;
- Risks of land subsidence; and
- Severe impacts on residents parking;

4.10. 2 responses have been received from the Moseley Society stating:

- Re-opening of station is welcomed;
- Should be called 'Moseley Village Station'

- The roundel junction option is much preferred;
- Disappointing that there is no pedestrian access from Woodbridge Road;
- Station should be secured at night when trains aren't running;
- Station lights should only be on during hours of operation;
- Station forecourt is well-designed;
- Landscape management needs careful management;
- Forecourt should be used for community events;
- Benches should be covered by CCTV to prevent anti-social behaviour;
- Clarification required over the extent of tree removal proposed;
- Vehicular drop-off will need to be managed;
- Efforts need to be made to make it easier to get bikes and scooters down stairs and onto trains;
- Concerns over litter and waste collection; and
- Concerns over noise from PA system;

4.11. A letter of support has been received by the Moseley Regeneration Group raising the following matters:

- Re-opening of station is much needed;
- Support for potential community space;
- Roundel junction supported;
- Need for vehicular drop-off queried;
- Drop-off area needs to be well managed;
- Bus and train timetables need to be co-ordinated;
- Tree loss is excessive;
- PA system not needed;
- Efforts should be made to use sustainable energy sources; and
- Concerns over station management

4.12. A letter of support has been received by the Moseley Forum. They have highlighted the following matters:

- Support re-opening of new station;
- Agree that roundel junction is the best option;
- Materials should be agreed via condition;
- Zebra crossings could be better located;
- Woodbridge Road access is needed;
- Station needs to be well managed;
- CCTV is required;
- Concerns over tree loss; and
- Noise from public announcement system; and
- pollution during construction phase

4.13. 2 letters of support has been received by Councillor Jenkins stating:

- Full support for much needed proposal;
- Supports roundel junction option as it will reduce traffic speed, keep traffic moving and is more aesthetically pleasing than the traffic light junction option;
- Queries the need for drop-off/pick up area;
- Concerns over increased congestion near site entrance;
- Concerns over noise arising from PA system, an alternative solution should be found;
- solar power should be incorporated into the station;
- Utilities need to be provided to enable community events to take place; and
- As many trees as possible should be retained;

- 4.14. A letter of support has been received from the Birmingham Civic Society stating:
- The impact on the nearby listed buildings will be minimal;
  - The creation of a forecourt which could be used for events is welcomed;
  - Landscape proposals are rather plain and there is a risk of anti-social behaviour;
  - The design is low in ambition and fails to create a sense of place; and
  - development is vital for sustainable transport in South Birmingham
- 4.15. A response has been received from Moor Green Residents Association stating:
- Station is much needed;
  - Would prefer roundel design for junction rather than the traffic lights originally proposed;
  - The proposed East bound bus stop by the gate to St Mary's church is not needed. The one at the traffic lights in the village should remain;
  - The bus stop going East just after the junction with Church Road should have a pull in to help improve traffic flow;
  - There should be a drop off on the station forecourt but strictly no parking;
  - Support for the inclusion of a cycle lane up to the station;
  - Cycle storage required; and
  - Space should be left for lifts at the Woodbridge Road end once funding becomes available.

## 5. Policy Context

- 5.1. The following local policies are applicable:
- Birmingham Unitary Development Plan 2005 (Saved Policies)
  - Birmingham Development Plan (2017)
  - Car Parking Standards SPG
  - Moseley SPD
  - Moseley Village Action Plan
- 5.2. The following national policy is applicable:
- NPPF – National Planning Policy Framework (2019)

## 6. Planning Considerations

### 6.1. Principle

6.2. The NPPF defines the three dimensions of sustainable development as being economic, environmental and social. The NPPF and appeal decisions have established that there must be very good reasons to resist development if it otherwise constitutes sustainable development. The NPPF highlights the need to identify opportunities from existing transport infrastructure and promote walking, cycling and the use of public transport. Great emphasis is placed on encouraging sustainable travel and minimising car use.

6.3. Policy TP41 of the BDP addresses travel by bus/coach, rail and metro. The policy specifically proposes the reopening of the Camp Hill line to passenger services and identifies that a station should be located at Moseley. The aspiration for a station in Moseley is also supported within the Moseley SPD and Moseley Village Action Plan.

6.4. Based on the requirements of Policy BDP41 the principle of a new station in Moseley is supported however detailed consideration of a variety of planning matters is required.

- 6.5. Character Impact
- 6.6. Policy PG3 of the BDP explains that “All new development will be expected to demonstrate high design quality, contributing to a strong sense of place.” It goes on to explain that new development should: reinforce or create a positive sense of place and local distinctiveness; create safe environments that design out crime and make provision for people with disabilities; provide attractive environments that encourage people to move around by cycling and walking; ensure that private external spaces, streets and public spaces are attractive, functional, inclusive and able to be managed for the long term; take opportunities to make sustainable design integral to development; and make best use of existing buildings and efficient use of land.
- 6.7. Policy TP12 seeks to protect heritage assets and their settings. In accordance with the NPPF it will be necessary to determine whether the proposals have any impact on any heritage assets.
- 6.8. As part of the development no building is proposed however significant levels of supporting infrastructure are required to facilitate the new station. The most prominent being the introduction of lifts, the hard and soft landscaping required for the pedestrian and vehicular access and the new roundel junction. The platforms and steps down to the platforms would be hidden from view within the embankments of the railway.
- 6.9. There are a number of designated heritage assets within close proximity to the site. These include the Church of St. Mary and the listed War Memorial, 108-118 (evens) Church Road, 47 Woodbridge Road and the former Fighting Cocks public house (all Grade II listed). The site also falls within Moseley Conservation Area.
- 6.10. The new station will be visible within the context of the Conservation Area and introduces a number of changes which will impact on the character and appearance of the area. The Conservation Officer notes that there are positive heritage benefits of this scheme which include the reinstatement of the historic railway station and line and retention of the tunnel and wall. All of which are considered to offer an enhancement to the significance of this part of the Conservation Area. The Conservation Officer acknowledges that apart from tree coverage the existing site makes no real contribution to the character and appearance of the Conservation Area and there are number of elements of the new design and materiality which could represent a positive change and further enhancement.
- 6.11. The Heritage Statement has identified a small negative impact on the significance of the Conservation Area from the introduction of modern elements such as signage and lighting alongside a small positive impact through restoring the station and better revealing the significance of the historic railway line, station and tunnel. Although any negative impact would result in a degree of harm the Conservation Officer considers that the positive benefits mentioned could successfully balance any perceived harm of the scheme to the character and appearance of the Conservation Area.
- 6.12. The new station will be located adjacent to the grade II listed church and war memorial. Although mostly screened by trees, the Conservation Officer considers the current site does not contribute positively to the setting of the church. The proposal to open up this area to form an entrance to the station and create a

forecourt with associated paraphernalia however will have an obvious impact on the setting of these heritage assets.

- 6.13. The Heritage Statement has identified that the introduction of modern elements into the setting of the church and war memorial will have a minor to negligible negative impact on the significance of these heritage assets, which in NPPF terms this equates to less than substantial harm. In order to mitigate for any harm the degree of potential impact is therefore reliant on the design of the new elements, materials and colour palette. The Conservation Officer believes the landscaping elements and proposed materials of a light paving stone and blue brick are an acceptable response and an improvement to the existing setting. The Conservation Officer also considers that the retention of vegetation screening from trees and proposed green wall are positive elements of the scheme and the degree of harm to the significance of the setting of these assets can be successfully balanced through these improvements. It is therefore considered that the through the use of conditions appropriate materials and finishes can be secured that result in no harm to the setting of the listed church and war memorial.
- 6.14. There will be some inter-visibility between 108-118 Church Road, 47 Woodbridge Road and the Fighting Cocks pub and the scheme. Most notably from the rear gardens of the properties and tower of the pub. The station will be largely hidden within the cutting and by established vegetation although it is acknowledged that in winter months this screening will be reduced. The Conservation Officer believes there would be some visual impact of the forecourt element of the scheme, however due to distance and vegetation screening this is considered to be reasonably minor.
- 6.15. The Heritage Statement has identified that the visual impact of the scheme will alter the setting of the group of listed houses resulting in a small negative impact on significance and no impact on the setting of the listed pub resulting in less than substantial harm. The Conservation Officer agrees with this assessment.
- 6.16. All of these impacts equate to less than substantial harm in NPPF terms. As harm has been identified it is necessary to weigh this harm against the public benefits of the scheme.
- 6.17. Restoring former elements and use to the Camp Hill railway line and the tunnel will enhance the significance of this historic site offering a heritage (and therefore a public) benefit to the area. The proposal results in the redevelopment of a long term vacant site as well as greatly enhancing public transport options for local residents. It is considered that these public benefits combined comfortably outweigh the less than substantial harm that has been identified. It is important to add that the Conservation Officer raises no objection to the scheme.
- 6.18. The main viewpoints into the site are from St Marys Row. Currently this area consists of hardstanding with palisade fencing located to the front of the site with poorly maintained trees and hedgerow around the periphery of the site. The proposal creates a large forecourt area with a vehicular drop off facility. The amount of built form has been kept to a minimum and consists of just lifts and associated infrastructure which include lighting, bollards, benches and cycle storage. The quality of the materials proposed will be key to the overall appearance of the scheme alongside appropriate soft landscaping. All of these matters can be secured by condition.



Image 2: Station Forecourt with view towards platforms

- 6.19. In summary it is considered that the overall design of the proposed scheme would be acceptable and in keeping with the character of the local area.
- 6.20. Transportation
- 6.21. Policy TP38 of the BDP requires that development proposals support and promote sustainable travel.
- 6.22. The provision of a new station in Moseley increases the choice of travel modes available to local residents and has the potential to reduce the number of journeys via cars.
- 6.23. The proposal includes a vehicular drop off with access from St Mary's Row. The applicant accepted that works were required to St Marys Row to facilitate the station access. The two preferred options were creating a signalised junction and introducing a roundel (similar to a roundabout). After detailed modelling and the undertaking of a road safety audit it was considered that the roundel proposal performed best in terms of traffic flow and reducing the risk of accidents.



Image 3: Proposed junction arrangements

- 6.24. Understandably some concerns have been raised regarding increased parking and traffic on surrounding residential streets. Suggested solutions have included the introduction of parking permits for residents. The provision of a drop-off facility located off St Mary's Row will minimise the impact on traffic flow. The site is in a highly sustainable location in centre of Moseley meaning that there is excellent access to the site on foot, by bike and also via public transport. To encourage cycling the scheme includes 52 cycle storage spaces which is considered to provide a good level of provision.
- 6.25. At this stage it is considered premature to introduce parking permits as the exact impacts of the new station are not known. The Transportation Officer has suggested a condition whereby the impact of the station is monitored over a 6 month period to determine whether any traffic regulation orders are required. This same condition has been imposed on the planning approvals at both Kings Heath and Hazelwell Stations.
- 6.26. A number of respondents have requested that there should be a second pedestrian access to the site from Woodbridge Road. This was considered at pre-application stage. Whilst it is acknowledged that a second pedestrian access would further improve accessibility it is simply not financially viable for the applicant to pursue this option at the current time. Importantly there is nothing within the current scheme that precludes the introduction of an access from Woodbridge Road at any point in the future.
- 6.27. The Transportation Officer is fully supportive of the scheme and raises no objection subject to conditions requiring completion of S278 works, a construction management plan, management plan for the drop-off/pick up area and secure and sheltered cycle storage.
- 6.28. In summary there are no reasons to resist the proposal on transportation grounds.

- 6.29. Ecology
- 6.30. The Council has a duty to consider the impact of any proposal on protected species. A Preliminary Ecological Appraisal, Badger Survey and Bat Survey were undertaken by the applicant. An active badger sett has been identified on site with a secondary annex sett that is utilised by the same group of badgers. To minimise the impact on badgers the applicant is proposing an artificial sett within the railway embankment north of the application site.
- 6.31. The bat surveys undertaken identified that bats forage along the railway corridor although no roosts were identified in trees which are to be removed as part of the development. The Council's Ecologist raises no objection to the scheme subject to a scheme of ecological enhancements and a badger protection plan. Subject to the imposition of these conditions it is considered that there will be no adverse impact on ecology.
- 6.32. Landscape and Trees
- 6.33. There are a number of trees within and adjacent the site, all of which fall within the Conservation Area and one tree group is designated as TPO 1011. The tree survey identifies 6 tree groups (1 category B, 5 category C) and 5 individual trees (4 category B and 1 category C) within the application site.
- 6.34. The tree protection plan indicates the removal of the groups on the embankment which are necessary to enable construction of the platforms. Amended plans have submitted through the application process to retain the majority of G7 and the entirety of G5. Their retention is welcomed by the Tree Officer as these groups are located either side of the forecourt and therefore changes to the boundary views would be minimised. The forecourt area is level hard standing and while the level of detail of works around the positions of the new walls to match the existing church wall is incomplete at present, the impression of the impact is that it will also be minimal and achievable. The portion of G7 facing the St Mary's Road frontage is removed. These trees are of only moderate/low quality and mostly ivy covered. The proposed new landscape planting provides adequate mitigation and improvement. This includes 2 new rows of trees in the forecourt area. Subject to the provision of an Arboricultural Method Statement and Tree Protection Plan, the Tree Officer raises no objection to the scheme.
- 6.35. The scheme is therefore acceptable from a trees and landscaping perspective.
- 6.36. Pollution
- 6.37. The application has been supported by a land contamination report, air quality assessment and a noise report. In light of the commercial location within a District Centre and positioning adjacent to a busy road the proposal is not considered to impact noticeably on ambient noise levels. However, Regulatory Services have requested a condition to limit noise levels from the PA system. This condition has duly been attached to prevent undue disturbance for local residents.
- 6.38. Specific concerns have been raised over noise and disturbance during the construction phase. A condition has been recommended to require the submission of a construction management plan prior to commencement. It is acknowledged that there may be some disturbance during the construction phase however this is only temporary in nature.

- 6.39. The air quality assessment predicts no negative impact on air quality locally and potentially if a modal shift away from car based travel occurs air quality could improve. Issues of contamination can be dealt with via condition.
- 6.40. Drainage
- 6.41. The applicant has submitted a Drainage and Flood Risk Assessment in support of the application. Concerns have been raised by the Lead Local Flood Authority (LLFA) over the intention to discharge surface water onto the track. However the applicant has indicated that the only other alternative would be to pump water up to the forecourt level which is not a practical solution. The applicant has been working closely with Network Rail who have not objected to the discharge of surface water onto the track. The applicant has confirmed that the proposed discharge rate of 5l/s from each platform is the minimum flow rate recommended by the Environment Agency without increasing the risk of blockage. The location of the platform discharge is to be determined with a survey of the track drainage as part of the detailed design to determine the outfall location and to make any necessary agreements on the discharge. It is considered that these matters can be satisfactorily addressed via condition.
- 6.42. Other Matters
- 6.43. Concerns have been raised over the management of the station and the risks of anti-social behaviour. West Midlands Trains would manage and maintain the platform areas and have advised that they expect the station would remain unlocked overnight which is common at stations across the region. Lights can be set to turn off an hour after the last train and an hour before the first one. The lighting system includes sensors so they turn back on if someone comes onto the station platform. This approach has been successful at other stations as criminal behaviour is most common in unlit locations. West Midlands Trains have found that having locked gates invites additional vandalism of the gates and creates a more interesting location for anti-social behaviour to occur as those involved are less likely to be disturbed. Conditions have been attached to secure lighting details and a scheme of CCTV. Importantly West Midlands Police raise no objection to the scheme.
- 6.44. Concerns have been raised over the risk of subsidence. There is no history of subsidence in the area and no evidence to suggest that this would be an issue when the platforms are constructed.
- 6.45. Concerns have been raised over the impact on property prices. This is not considered to be a material planning consideration.
- 6.46. There has been a response requesting that the station be named 'Moseley Village Station'. This is not a decision for local planning authority and not relevant to the determination of the planning application.

## 7. Conclusion

- 7.1. The proposed development would be in accordance with, and would meet policy objectives and criteria set out in, the BDP and the NPPF. The re-introduction of passenger trains to the Camp Hill line and the opening of the station would greatly enhance public transport options providing a real alternative to the car. The proposal is acceptable in character, amenity, ecology and landscape terms. The proposal would constitute sustainable development and it is recommended that planning permission is granted.

8. Recommendation

8.1. Approval subject to conditions

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- 1 Requires the scheme to be in accordance with the listed approved plans
  - 2 Implement within 3 years (Full)
  - 3 Requires the submission of sample materials
  - 4 Requires the submission of hard and/or soft landscape details
  - 5 Requires the submission of hard surfacing materials
  - 6 Requires the submission of boundary treatment details
  - 7 Requires the submission of a landscape management plan
  - 8 Requires the prior submission of a construction method statement/management plan
  - 9 Requires the prior submission of a legally protected species and habitat protection plan
  - 10 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
  - 11 Arboricultural Method Statement - Submission Required
  - 12 Requires the prior submission of a contamination remediation scheme
  - 13 Requires the submission of a contaminated land verification report
  - 14 Requires the submission of unexpected contamination details if found
  - 15 Limits the noise levels for Plant and Machinery
  - 16 Requires the submission of a CCTV scheme
  - 17 Requires the prior submission of a drainage scheme
  - 18 Requires the prior submission of a sustainable drainage scheme
  - 19 Requires the submission of a lighting scheme
  - 20 Requires the submission of cycle storage details
  - 21 Requires the submission and completion of works for the S278/TRO Agreement
  - 22 Requires the undertaking of parking monitoring, submission of Traffic Regulation Order Options and undertaking of agreed measures.
  - 23 Limits the maximum noise levels from PA system
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24 Requires the prior submission of level details

25 Submission of a management plan for the vehicle drop-off/pick up area

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Case Officer: Andrew Fulford

**Photo(s)**

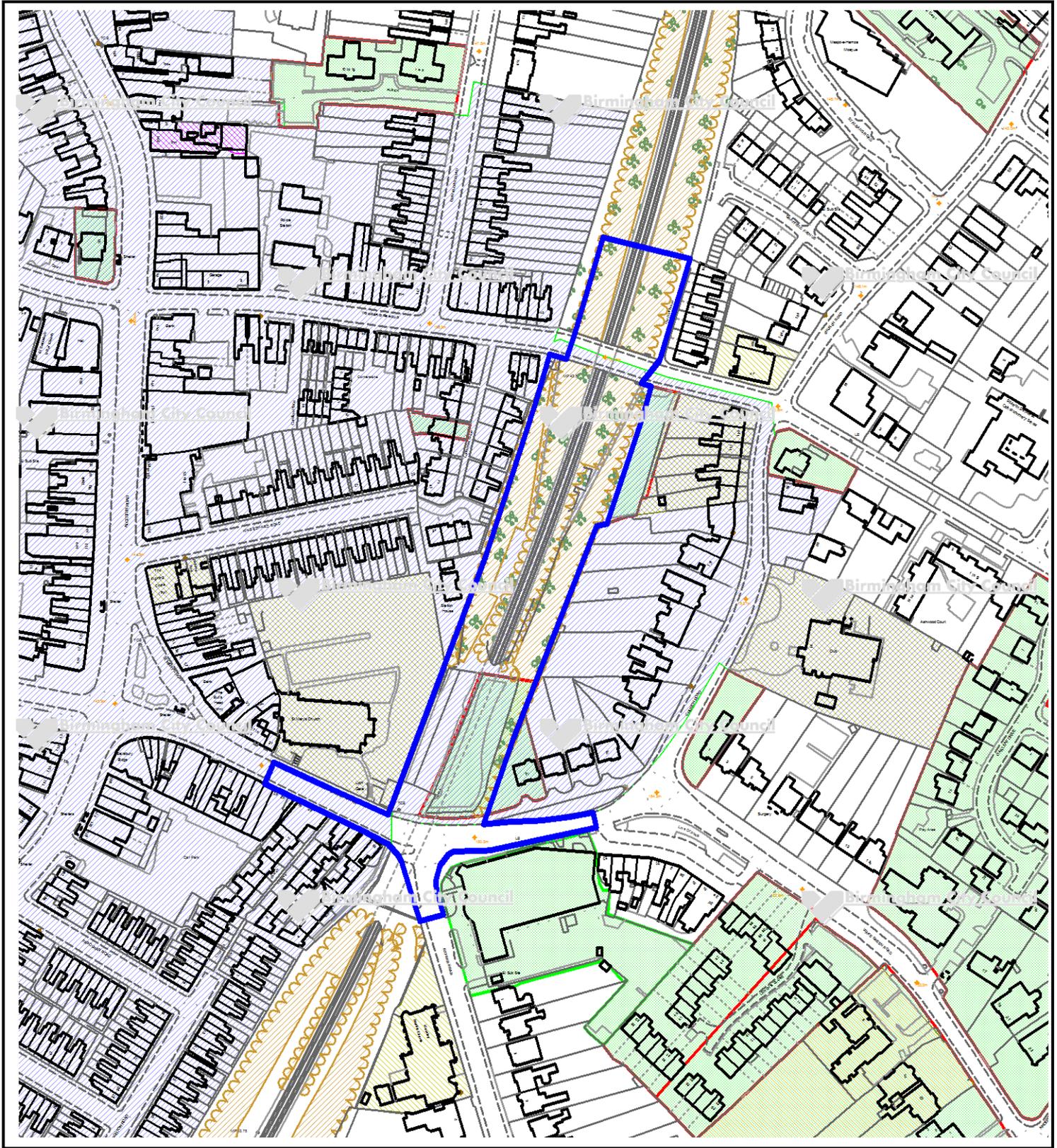


Photo 1: Proposed forecourt area



Photo 2: Location of new roundel junction on St Marys Row

## Location Plan



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Committee Date: 24/09/2020      Application Number: 2019/08953/PA  
Accepted: 09/12/2019      Application Type: Full Planning  
Target Date: 25/09/2020  
Ward: Bournville & Cotteridge

Former Selly Oak Hospital, Raddlebarn Road, Selly Oak, Birmingham, B29 6JD

Conversion of K Block, Nursing School and Well House into 38 apartments and erection of block of 8 new apartments with associated access, parking, landscaping and ancillary works.

Recommendation

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

1. Proposal

- 1.1. This application relates to three Locally Listed Buildings which were part of the former Selly Oak Hospital: K Block, the Nursing School and the Well House. The masterplan for redevelopment of the hospital site approved under outline application 2012/02303/PA intended them to form a small commercial centre serving the new housing with apartments above however this proposal is entirely residential. It should be noted that this is an application for full planning permission and the proposed development is therefore not required to accord with plans approved under the outline application.
- 1.2. All three buildings would be converted to residential use, giving a total of 46 apartments, facilitated by some limited demolition of old extensions to the Nursing School, and construction of two-storey extensions to the west elevation of K Block. In addition, a detached two-storey block of apartments would be erected to the west of the Nursing School. The central area between K Block and the Nursing School would provide car parking spaces and areas to the east and south of the site would be laid out as amenity space.



- 1.3. The new build element would follow traditional proportions but with a more contemporary design of the fenestration.



- 1.4. Breakdown of accommodation:

Building	1 Bed	2 Bed	Total
K Block	9	18	27
Nursing School	5	5	10
Well House		1	1
New Build	3	5	8
<b>Total:</b>	<b>17</b>	<b>29</b>	<b>46</b>

- 1.5. Parking:

- 46 car parking spaces equivalent to 100%, accessed off Arkell Way to the west of the site.
- 46 cycle spaces within several internal stores spread throughout the ground floors of K Block and the Nursing School.

- 1.6. Site area: 0.57ha                      Density: 80dph

- 1.7. Proposed tree removals: G1 (3 x cherry), T10 (holly), T11 (cherry), T12 (cherry) and T15 (sycamore) – all Category C1 or U.

- 1.8. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The site comprises the three red brick Locally Listed Buildings c.1872 forming the Kings Norton Workhouse: the Nursing School is understood to be the entrance building, K Block was the main workhouse and the Well House accommodated the associated well. Although used by the NHS until the hospital closed in 2011, the buildings have since been neglected and are in a poor state of repair. New housing development is located immediately to the north and east of the site. Raddlebarn

Road runs along the southern boundary of the site and the new Arkell Way along the west boundary. A number of other historic buildings have been retained within the wider hospital site and have been converted for residential use.

2.2. The ground slopes down in a northerly direction by approx. 2m. The front of the site is enclosed by an attractive red brick wall with railings, behind which are a number of substantial mature trees which are subject to a Tree Preservation Order (TPO 1618).

2.3. [Site Location](#)

3. Planning History

3.1. 14/10/2013 - 2012/02303/PA - Outline application for demolition and construction of a maximum of 650 dwellings and construction of up to 1000m<sup>2</sup> (maximum) Use Class A1 (Shops); 500m<sup>2</sup> (maximum) Use Class A3 (restaurants and cafes) and Use Class A4 (drinking establishments); 1500m<sup>2</sup> (maximum) Use Class B1(a) (offices)/Use Class A2 (financial & professional services) and Use Class D1 (non-residential institution); together with access, associated public open space, roads, car parking and landscaping – Approved with conditions and legal agreement.

3.2. 30/04/2015 - 2015/00535/PA - Reserved matters submission for consideration of details of appearance, landscaping, layout and scale relating to Phase 1 of outline approval (ref 2012/02303/PA) for 96 new build dwellings (Use Class C3), provision of open space (incorporating cricket pitch and pavilion), associated parking and external works – Approved with conditions.

3.3. 12/06/2015 - 2015/01313/PA - Conversion of former (Woodlands) nurses' home to 15 residential apartments (Use Class C3), with associated external alterations and landscaping works - Approved with conditions (with subsequent amendments/additional units).

3.4. 17/09/2015 - 2015/04617/PA - Reserved matters submission for consideration of details of appearance, landscaping, layout and scale in respect of Phase 2 of outline approval (2012/01232/PA) for 67 new dwellings (Use Class C3) with associated parking and external works – Approved with conditions.

3.5. 12/08/2016 - 2016/04941/PA - Roof extension and internal/external alterations to existing buildings to accommodate 3 additional apartments with associated parking and external works - Approved with conditions.

3.6. 07/09/2016 - 2016/04337/PA - The conversion of West Lodge into 10 apartments (Use Class C3) with associated car parking facilities and landscaping – Approved with conditions and legal agreement (CIL).

3.7. 13/10/2016 - 2016/01232/PA - Reserved Matters submission for consideration of details of appearance, landscaping, layout and scale relating to Phase 3 of outline approval (2012/02303/PA) for 125 no. new build units with associated parking and external works – Approved with conditions.

3.8. 10/02/2017 - 2016/06550/PA - Conversion of water tower into 6 apartments (Use Class C3) with associated car parking facilities and landscaping. Approved with conditions.

- 3.9. 13/02/2017 - 2016/05990/PA - Reserved matters submission for consideration of details of appearance, landscaping, layout and scale relating to Phase 4 of outline approval (2012/02303/PA) for 122 new residential units with associated parking and external works and laying out of public open space. Consideration also of details in respect of conditions 13 and 23 attached to 2012/02303/PA - Approved with conditions.
- 3.10. 27/02/2017. PA No. 2016/06553/PA. Conversion of infirmary entrance building into 11 apartments (Use Class C3) with associated car parking facilities and landscaping - Approved with conditions.
- 3.11. 12/04/2017 - 2016/09242/PA - Reserved Matters submission for consideration of internal roads within Phase 5 of outline approval reference 2012/02303/PA – Approved with conditions.
- 3.12. 13/09/2018 - 2018/01472/PA - Reserved matters application seeking permission for appearance, landscaping, layout and scale of 34 dwellings (Phase 5) following outline approval 2012/02303/PA – Approved with conditions.
- 3.13. 03/01/2019 - 2018/07028/PA - Reserved Matters application seeking permission for appearance, layout, scale and landscaping of 153 dwellings (Phase 5a) following outline approval 2012/02303/PA – Approved with conditions.

#### 4. Consultation/PP Responses

- 4.1. Transportation Development: No objection to amended plans subject to a condition requiring electric vehicle charging points. Proposed development is to be accessed off an access road that will remain private as part of the wider development. Following reduction in the number of units proposed, the level of parking and cycle storage provision has been elevated to an acceptable level.
- 4.2. Regulatory Services: No objection to amended plans subject to conditions requiring:
- contamination remediation scheme and verification report;
  - noise insulation to the Raddlebarn Road frontage;
  - designated low emission vehicle parking spaces; and
  - construction method statement/management plan.
- 4.3. Leisure Services: Objects to amended plans due to the lack of an off-site Public Open Space contribution of £97,500 to be spent on the provision, improvement and/or biodiversity enhancement of public open space and play and the maintenance thereof at Cotteridge Park within the Bournville and Cotteridge Ward. Proposal would contravene BDP policy TP9 and there is a need to reaffirm the priorities of the City in this current Covid 19 climate in order to re-balance the scales in favour of quality and accessible open space.
- 4.4. Education (School Places): No objection to amended plans. Based on proposed 29 x 2-bedroom apartments a contribution of £274,789.45 would normally be requested towards nursery, primary and secondary education. However, education contributions have already been made based on the wider Selly Oak Hospital redevelopment so the current request would only apply if this is adding more units to that original approval.

- 4.5. Lead Local Flood Authority: Objects to amended scheme because it fails to meet the minimum requirements of BDP policy TP6. The following information remains outstanding:
- The soakaway test report.
  - Cross sectional drawings of the hydro brake to be built and the newly constructed manhole chambers.
  - Consideration should be given to exceedance flows (greater than 1 in 100 year plus climate change rainfall events). Evidence (layout/flow plans, calculations and/or simulation results) should be provided, with all applications, to ensure that the surface water flood risk associated with exceedance events has been mitigated on- and off-site. They will need to provide this in a plan.
- 4.6. Severn Trent Water: No objection to amended plans subject to a condition requiring drainage plans for the disposal of foul and surface water flows.
- 4.7. West Midlands Police: No objection to amended plans subject to a condition requiring CCTV. Recommendations also made concerning access control/video door entry system, gated access control at the three pedestrian entrances into the site, lighting and compliance with Secure By Design standards.
- 4.8. West Midlands Fire Service: No objection.

*Public participation*

- 4.9. Original proposal: site and press notices posted; MP, Councillors, Residents' Associations and the occupiers of nearby properties notified of the application: the following responses received:
- The Victorian Society: Welcomes retention of K Block but objects to the loss of the Nursing School and Well House.
  - 2 x individual letters raising the following objections:
    - loss of buildings with character and history;
    - replacement buildings would be faceless and underwhelming;
    - has the original 650 dwellings approved been exceeded?
    - loss of trees and subsequent effect on wildlife and human health;
    - replacement saplings are not large enough to establish quickly and nest boxes on poles are no substitute for natural habitat;
    - increased load to old sewerage system which is already under pressure;
- 4.10. Amended proposal: site and press notices posted; MP, Councillors, Residents' Associations and the occupiers of nearby properties notified of the application: the following response received:
- The Victorian Society: Proposed retention and reuse of the Nursing School and Well House addresses earlier objections. The Council should encourage the swift commencement of consented works to the historic buildings to prevent further deterioration of their condition and to bring them back into use as part of the extensive redevelopment on the former hospital site.

5. Policy Context

- 5.1. Birmingham Unitary Development Plan 2005 (Saved Policies)

Birmingham Development Plan 2017  
Regeneration Through Conservation SPG 1999  
Places for Living SPG 2001  
Wider Selly Oak SPD 2015  
NPPF  
National Design Guide  
Technical Housing Standards – Nationally Described Space Standard (2015)

## 6. Planning Considerations

### *Background*

- 6.1. This application originally proposed the demolition of the Nursing School and the Well House and replacement with two apartment blocks within the landscaped area to the front of the Nursing School. The proposed blocks had irregular shaped footprints and contemporary elevations and their position was intended to open up views of K Block through the site. Neither the loss of the Locally Listed Buildings (LLBs) nor the design or position of the replacement buildings were considered to be acceptable by officers who have since worked with the applicant over several months to secure this conversion scheme. The proposal continues to make some compromises which are discussed below, but is overall a significant and positive change when compared to the initial plans submitted.

### *Principle*

- 6.2. The use of this site for residential development is acceptable and in accordance with the character of the surrounding area and relevant planning policy. The site is identified in the 2018 SHLAA and is on the brownfield register. It falls within the BDP's GA9 Growth Area - Selly Oak and South Edgbaston, which supports the delivery of over 700 new homes at the former Selly Oak Hospital site (and other smaller sites in the wider area) to create an exemplar sustainable residential environment with associated open space, leisure and community uses. The outline application proposed mixed use of these LLBs and the Wider Selly Oak SPD indicates that some ancillary commercial uses on the hospital site would be welcome, provided any retail was limited to prevent an adverse impact on the viability of nearby shops on Raddlebarn Road, Oak Tree Lane or Bristol Road. However, there is no policy requirement for such a mix of uses and this proposal is not objectionable because it is solely residential.
- 6.3. In terms of the number of dwellings being delivered across the wider hospital site, to date 642 have been approved through a combination of reserved matters applications (597 dwellings) and full planning permission (45 dwellings). If this current application is approved there would be 688 dwellings on the hospital site in total.
- 6.4. Retention and re-use of the Locally Listed Buildings (LLBs) is welcome and supports broad sustainability objectives. The application is supported by a Sustainable Energy and Construction Statement which satisfies the requirements of BDP policy TP3 in respect of sustainable construction. Regarding policy TP4 (Low and zero carbon energy generation) the Statement indicates that, instead of installing renewable energy generating equipment, the development would rely on mains gas for energy and would create a thermal envelope in order to reduce energy consumption. In addition, interface nodes built into the design would enable the retrofitting of such technology if and when it becomes more efficient. Although it would be more typical to see the installation of low or zero carbon energy generating equipment, the limitations presented by the conversion of historic buildings must be acknowledged and according to the Statement, the development would still be

expected to achieve 8% less carbon dioxide emissions beyond that of compliance with current Building Regulations.

*Detailed design – site layout*

- 6.5. The layout of the site would largely remain as existing but with the addition of two-storey extensions to the west end of K Block and a detached two-storey block of apartments to the west of the Nursing School. The central area between the buildings would be given over to car parking allowing retention of the attractive landscaped frontage along Raddlebarn Road. This grassed and treed area would be available to residents as amenity space, along with a semi-private area to the east of the site between K Block and the Well House.
- 6.6. Your Principal City Designer notes that the initial scheme was problematic in several respects including the loss of trees and the dominating effect of the car parking. In response to the amended plans she states,

*“Whilst the space between the retained historic buildings still has more parking than might be desirable, there is a better balance between hard and soft landscape, retaining more trees within the site. In the round, this would create a more acceptable setting overall.”*

- 6.7. I agree with this balanced view: there is a finite space between the retained buildings and car parking is most discreetly placed here where it avoids having an impact on the appearance of the site within the Raddlebarn Road streetscene.
- 6.8. One further area of compromise is in the proximity of the new-build elements of the scheme to the west boundary of the site. The K Block extensions are 2.1m from the boundary and, at its closest point, the detached block would be 0.5m from the boundary, although this would increase to 4.8m as the boundary splays. The K Block extensions are a means of dealing with the very poor condition of its existing west elevation and of gaining a small amount of internal space to better facilitate the layout of habitable rooms within the former hospital accommodation. This is a reasonable justification and there would still be space for some planting as well as a boundary wall and perimeter pathway which would all help to soften its impact in the streetscene. The detached block would undoubtedly be very close to the back of the Arkell Way footpath but the block has been considerably reduced through discussion with the applicant and is considered to be acceptable in other respects (as detailed below). The landscaping scheme demonstrates that the stepped nature of the footprint would allow for some reasonable planting and a boundary wall to soften its visual effect on the streetscene and any dominating impact on pedestrians and road users.

*Detailed design - elevations*

- 6.9. LLBs: The proposed alterations and restoration works arising from the re-use of these buildings are welcome and the Conservation Officer has been closely involved in their refinement during this application process. He is now satisfied that the reinstatement of historic features and the means of dealing with areas currently in particularly poor condition would be sensitive and sympathetic to the original appearance of the buildings. He has recommended a number of conditions regarding phasing, building recording, a full repair strategy, architectural details, materials and mortar which are attached.
- 6.10. Detached block: The new-build element around the Nursing School has gradually been reduced in scale through negotiations, formerly having a more significant footprint to the west of the Nursing School and extending across most of the north

(rear) elevation. It is now more appropriately positioned as a detached block just to the west of the Nursing School. It would be subservient in terms of scale and mass and the elevations, whilst employing a largely traditional approach, would have a contemporary feel due to the fenestration design.

*Impact on heritage assets*

6.11. Para. 197 of the NPPF states,

*“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application ... a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”*

6.12. The historic buildings on this site are locally significant because of their original use as the Kings Norton Workhouse. They have suffered from an assortment of unsympathetic additions and internal fit-outs while under NHS ownership and latterly from neglect, and from significant encroachment of new development into their setting. Consequently, the sensitive conversion now proposed is welcome and would complement the retention and conversion of other historic buildings on the former hospital site and provide visual references to the important local history of this site.

6.13. The extensions proposed to K Block are minor and the new-build element adjacent to the Nursing School would be detached, thereby allowing the extent of the original Nursing School building to be clearly identified within the site. None of this work would, in my view, harm or undermine the significance of this collection of historic buildings or their connection to each other or those elsewhere on the wider site. Subject to a number of conditions noted above (para. 6.9) your Principal Conservation Officer has no objection to the scheme.

*Impact on trees, landscaping and ecology*

6.14. The site benefits from a number of attractive mature trees which make a significant and positive impact on its appearance in the Raddlebarn Road streetscene. All of these important trees would be retained although one, a protected Lime (TPO 1618), would be located within a tree pit in the parking area. 7 trees would be removed but these would be Category C1 or U and replacements are proposed. Your Principal Arboriculturist has raised no objection to these losses and, while he cannot be certain the Lime would survive the resurfacing proposed around it, he has not raised a formal objection; it is considered worth attempting to retain the tree and if that is not possible in the long term, because of its protected status a replacement could be secured elsewhere on the site.

6.15. Your Landscape Officer has noted the proximity of the extension and new-build elements of the scheme to the site boundary and the tightness of the parking layout, both of which leave limited space for planting beds. The applicant has responded by providing a more detailed planting strategy which includes more hedging. Given that the site is now surrounded by high density residential development, the additional planting areas proposed would help to enhance the setting of the historic buildings. A number of conditions are attached to ensure the external area is suitably landscaped.

6.16. Your Principal Ecologist has reviewed the revised Ecological Appraisal submitted with the amended plans and notes that bat surveys completed in summer 2019 demonstrate that the Nursing School supports a day roost used by low numbers of

common pipistrelle bats, and that the trees along Raddlebarn Road and between the three buildings provide valuable foraging habitat for the bats using this roost site.

- 6.17. Where the presence of a European Protected Species, such as bats, is confirmed, the Local Planning Authority must consider the three tests in Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) before determining planning applications that may affect them:
- Test 1: the derogation is in the interests of preserving public health or public safety or other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.
  - Test 2: there is no satisfactory alternative.
  - Test 3: the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
- 6.18. In my view, the proposed conversion of the buildings would meet the requirements of Test 1: the buildings are of local historic and social significance and their retention and conversion to a new use is necessary to ensure their long-term sustainability. Furthermore, the only alternative would be their demolition, which was originally proposed but was considered to be unacceptable, and therefore I consider Test 2 is also satisfied. However, your Committee must conclude for itself on these two tests.
- 6.19. In respect of Test 3, your Principal Ecologist has advised,
- “... mitigation and compensation for loss of roosts of low conservation status (such as day roosts of common/widespread bat species) can be flexible and need not be like-for-like. The indicative mitigation measures proposed in the Ecological Appraisal report reflect the type of measures that would need to be implemented in relation to the amended proposals, and which could be readily accommodated, such as appropriately timed and supervised building works, and installation of new roosting habitat.*
- I remain satisfied that the proposed development would not have a detrimental effect on the favourable conservation status of a European Protected Species. Therefore, the third test in Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) would be met. If the planning application is considered acceptable, conditions would need to be attached to secure further details and implementation of the required mitigation and compensation.”*
- 6.20. Her recommended conditions requiring updated bat surveys of all three buildings to be completed, and for works to the Nursing School to be controlled by an approved method statements for bats are attached.
- 6.21. In respect of other ecological matters, the site’s buildings and trees provide habitat opportunities for nesting birds and conversion of the three buildings would reduce these opportunities, therefore, the proposals should provide replacement habitat opportunities in the form of new nest boxes. These can be secured through the attached condition, along with the ecologically beneficial planting referred to in the proposed landscaping scheme and suitable external lighting designed to minimise disturbance to bats.
- Impact on residential amenity*
- 6.22. Existing residents: New dwellings are in the process of being constructed to the north and east of the application site. Although windows within the proposed

development would, in the event of approval, light habitable rooms, no new windows are proposed which would result in overlooking. New dwellings (and associated gardens) to the north would be at least 10m from the rear elevation of K Block. To the east, new development is particularly close to K Block and there would be a distance of 5.6m to the rear boundary of new gardens and a further 9m to their rear elevations. However, there would only be three first floor bathroom windows in this elevation and a condition is attached requiring obscure glazing. The development would, therefore, comply with the Places for Living numerical guidelines in respect of residential properties around it.

- 6.23. Proposed apartment floorspace: Although not yet adopted locally, the Government's Technical Housing Standards (THS) provide a useful guide in the assessment of internal living space. Internal floorspace per flat ranges from 42.4sqm to 81.7sqm. Some do not meet the THS for the number of bedspaces suggested, but all would exceed the size guideline for a one-bed one-person apartment (39sqm) and 28 of the 46 flats proposed would meet exceed the standard for a two-bed three-person apartment (61sqm). Similarly, some of the bedrooms fall slightly short of the THS guidelines but, overall, there is a good variety in the size of apartments and the retention of some original features, particularly some of the large windows, would add to the quality of the space and it is recognised that with a conversion some flexibility is usually required. On the new-build element, all of the ground floor flats would have their own private entrances, which is very positive in terms of providing more activity and security on the site.
- 6.24. Amenity space: According to the Places for Living numerical guidelines, a development of 46 flats should have 1,380sqm of amenity space (30sqm per flat). Taking all of the land on site except the building footprints and the car parking area, there would be 2,112sqm available for residents to enjoy. The quality of the space would vary and not all would be desirable in lieu of a private garden, however, there would be a reasonably sized semi-private area between the Well House and K Block which would be useable, and the proposed and retained landscaping and boundary walls/railings would give the grounds a pleasant and secure feel.
- 6.25. Conditions requiring a contaminated land remediation scheme and verification report are attached as recommended by Regulatory Services. I have not, however, attached the condition requiring sound-reducing glazing and ventilation to windows and doors on the Raddlebarn Road frontage, given that much of the building line here is at least 10m back from the road with the boundary wall and mature trees in between. Furthermore, given the historic character of the buildings, it is important that fenestration details are sympathetic to the design rather than being guided by acoustic requirements in this instance. Glazing required through Building Regulations would be adequate.
- Impact on parking and highway safety*
- 6.26. The proposal would provide the 100% car parking provision which was recommended by Transportation Development colleagues given the nature of the development and its location. Cycle storage would be spread throughout the site and would be integral to the buildings and would therefore be both convenient for residents and secure. A condition is attached requiring electric vehicle charging points to be agreed and installed prior to occupation of the development.
- Other matters*
- 6.27. Financial obligations: The site is liable for CIL (£311,835.34) which includes a contribution towards the provision of school places. In addition, it meets the threshold for contributions towards the provision of affordable housing (15+

dwellings) and public open space (20+ dwellings). A viability appraisal has been submitted seeking to demonstrate that, while the mandatory CIL could be paid, the development could not make affordable housing or public open space contributions and remain viable. This appraisal has been independently reviewed and discussions have subsequently taken place with the applicant resulting in the offer of 10% affordable housing (comprising 4 x one-bedroom apartments and 1 x two-bedroom apartment to be offered for sale as Low Cost Home Ownership at 80% of Market Value in perpetuity). Although this is some way short of the 35% BDP policy TP31 requires and does not address the public open space requirement, being mindful of the wider public benefits of bringing the LLBs back into use and the availability of public open space nearby within the wider hospital site, this is considered to be a reasonable offer and a S106 agreement is being drafted to secure it.

- 6.28. Drainage: Severn Trent Water has no objection subject to full drainage plans, for which a condition is attached. Additional information requested by the LLFA to address their concerns has been received and forwarded to the LLFA but at the time of the writing their comments are still awaited. Your Committee will be provided with a verbal update on this issue at the meeting.
- 6.29. Security: I note there is no objection from West Midlands Police, subject to a condition requiring CCTV to be installed, which is attached. The car park would not be gated but various other security measures are proposed, for example, secure door entry systems and controlled gated pedestrian access points, however it would be beyond the scope of planning to require these by condition.

## 7. Conclusion

- 7.1. This application would facilitate the re-use of historic buildings of local significance in a sympathetic manner and with a moderate and acceptable degree of new build. Much progress has been made through constructive discussions between your officers and the applicant to retain the historic buildings and refine this proposal. While there are still some compromises to be made in respect of the site layout, the absence of low and zero carbon energy generation, and the lack of a full contribution towards affordable housing or public open space, the public benefits derived from bringing this site into use as apartments and restoring these non-designated heritage assets are considered to outweigh those compromises. When assessed against the aims of BDP as a whole, the development is considered to comply.

## 8. Recommendation

- 8.1. That consideration of application 2019/08953/PA be deferred pending the completion of a Section 106 legal agreement to secure:
- a) The provision of 10% affordable housing (4 x one bedroom apartments & 1 x two bedroom apartment) provided as Low Cost Home Ownership tenure at 80% of Market Value in perpetuity.
  - b) Payment of a £1,500 monitoring and administration fee associated with the legal agreement.
- 8.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by Friday 30<sup>th</sup> October 2020, planning permission be refused for the following reason:

- 8.3. *In the absence of a legal agreement to secure the provision of affordable housing the proposal conflicts with policies TP31 (Affordable Housing) and TP47 (Developer Contributions) of the Birmingham Development Plan 2017 and with the NPPF.*
- 8.4. That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
- 8.5. That in the event of an appropriate legal agreement being completed to the satisfaction of the Local Planning Authority by Friday 30<sup>th</sup> October 2020, planning permission be APPROVED subject to the conditions listed below.

- 
- 1 Requires the scheme to be in accordance with the listed approved plans
  - 2 Requires the prior submission of a contamination remediation scheme
  - 3 Requires the submission of a contaminated land verification report
  - 4 Requires the prior submission of a construction method statement/management plan
  - 5 Requires the prior submission of a drainage scheme
  - 6 Requires the submission of a CCTV scheme
  - 7 Requires the submission of a lighting scheme
  - 8 Requires repair works to be carried out prior to occupation of new-build block
  - 9 Requires submission of a building recording survey and subsequent survey work
  - 10 Requires repair strategy for historic fabric
  - 11 Requires full architectural and specification details
  - 12 Requires submission of material details
  - 13 Requires submission of mortar mix details
  - 14 Requires the submission of hard and/or soft landscape details
  - 15 Requires the submission of hard surfacing materials
  - 16 Requires the prior submission of earthworks details
  - 17 Requires the submission of boundary treatment details
  - 18 Requires the prior submission of an additional bat survey
  - 19 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
  - 20 Requires the prior submission of details of bird/bat boxes
-

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- 21 Requires the implementation of the submitted mitigation/enhancement plan
  - 22 Protected Species (Bats) Method Statement
  - 23 Requires submission of a lighting design strategy for biodiversity
  - 24 Requires the submission of a landscape management plan
  - 25 Requires the prior submission of level details
  - 26 Requires the provision of a vehicle charging point
  - 27 Requires the submission details obscure glazing for specific areas of the approved building
  - 28 Arboricultural Method Statement - Submission Required
  - 29 Requires tree pruning protection
  - 30 Requires the prior submission of a sustainable drainage scheme
  - 31 Requires the submission prior to occupation of the properties of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan
  - 32 Implement within 3 years (Full)
- 

Case Officer: Amy Stevenson

**Photo(s)**



Photo 1: Nursing School, Raddlebarn Road frontage



Photo 2: Junction of Raddlebarn Road and Arkell Way (Nursing School to front and K Block to rear)

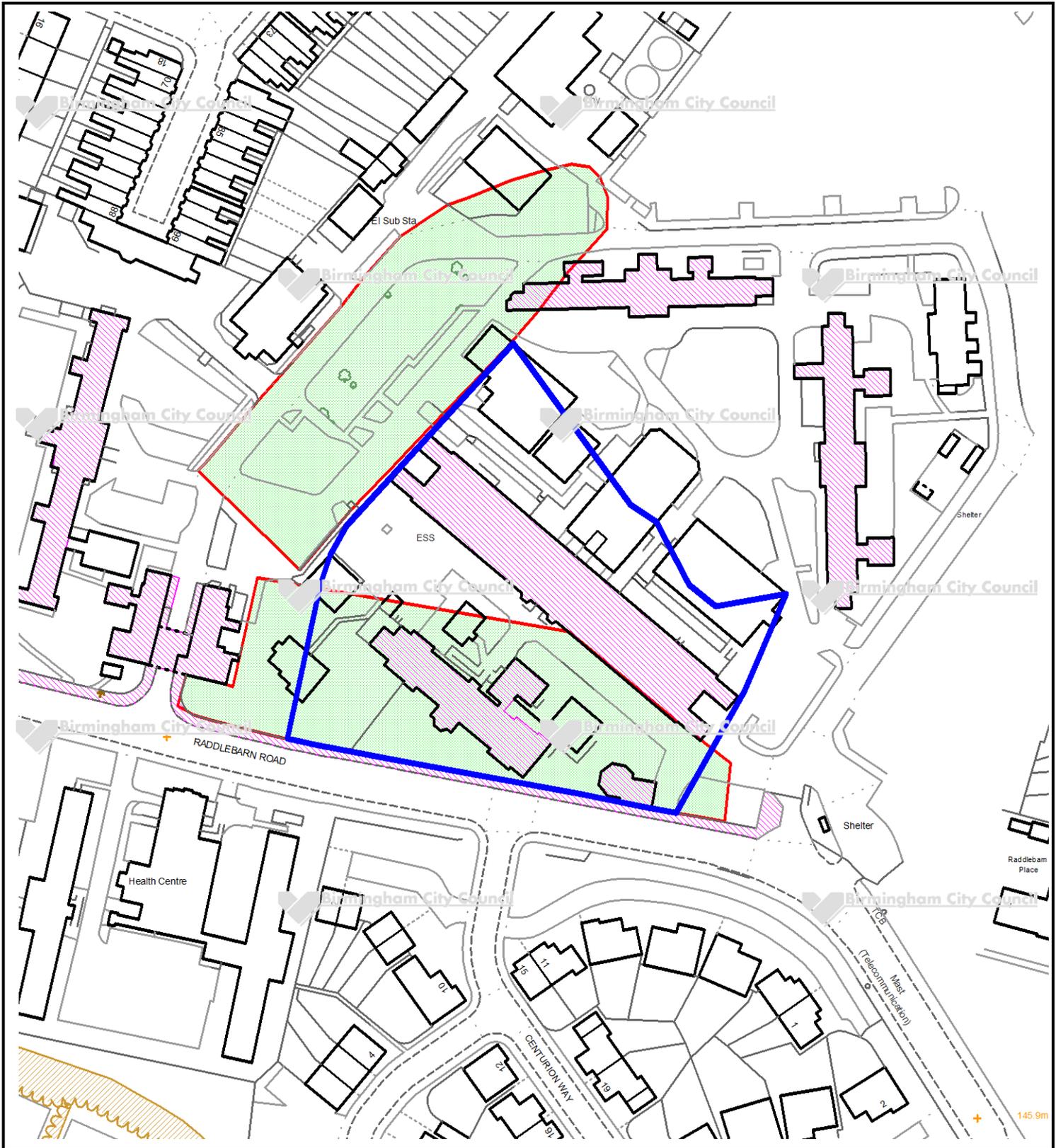


Photo 3: View between the Nursing School and K Block towards protected trees



Photo 4: The Well House

# Location Plan



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Committee Date:	24/09/2020	Application Number:	2020/03828/PA
Accepted:	26/05/2020	Application Type:	Reserved Matters Development
Target Date:	25/09/2020		
Ward:	Hall Green North		

Former Midhire & UTC premises, York Road, Hall Green, Birmingham, B28 8LN

Reserved Matters application seeking permission for appearance, layout, scale and landscaping of 87 dwellings and discharge of conditions 4, 5, 6, 10, 11, 12, 13, 14, 16, 17, 18, 23 and 24 following Outline approval 2018/09040/PA

Recommendation

**Approve subject to Conditions**

1. Proposal

- 1.1. The application seeks reserved matters consent for the appearance, layout, scale and landscaping for 87 dwellings following the outline consent granted under reference 2018/03828/PA. The scheme includes an area of public open space which incorporates a children's play area.
- 1.2. The scheme would provide a mix of detached, semi-detached and terraced dwellings which vary in size as follows:
  - 28 x 2 bed dwellings;
  - 51 x 3 bed dwellings; and
  - 8 x 4 bed dwellings
- 1.3. All of the dwellings would be affordable with a mix of 66 affordable rent and 21 shared ownership properties.
- 1.4. Vehicular access would be provided by modifying the existing access onto York Road into a priority junction, and an additional pedestrian and cycle access would be provided onto Cateswell Road in replacement of a gated secondary access currently located there. The application proposes 163 parking spaces which would constitute an average of 141% provision overall.
- 1.5. The area of public open space measures approximately 3650sqm in size and is located in the north eastern corner of the site in close proximity to the railway line. A local area of play has been incorporated which includes a climbing frame, balance beam, swings, slide and log walk. Two stainless steel benches are also proposed.



Image 1: Proposed site layout

- 1.6. Permission is also sought to discharge a number of conditions attached to outline planning approval 2018/03828/PA. The relevant conditions are No's 4 (contaminated land verification report) 5 (contamination remediation scheme), 6 (glazing and ventilation strategy), 10 (scheme of ecological enhancements), 11 (landscaping), condition 12 (boundary treatment details), condition 13 (landscape management plan), condition 16 (materials), 17 (levels), 18 (earthworks), 23 (Tree Survey and Arboricultural Implication Assessment) and 24 (Arboricultural Method Statement and Tree Protection Plan).
- 1.7. The following documents have been provided in support of the application – Design and Access Statement, Arboricultural Impact Assessment, Noise Report, Landscape and Habitat Enhancement and Maintenance Plan and Remediation Strategy.
- 1.8. Site area is 2.6 hectares and density would be 35 dwellings per hectare.
- 1.9. [Link to Documents](#)
2. [Site & Surroundings](#)

- 2.1. The site is located at the junction of Cateswell Road and York Road and has an area of 2.6 ha. The site is located adjacent to a railway line to the east (part of the Snow Hill line to Stratford upon Avon) with the rear gardens of residential properties fronting Cateswell Road to the west. Car parking serving Hall Green Railway Station is located to the south. The surrounding area is predominantly residential in character with industrial and commercial elements – the former Hall Green Greyhound Stadium is to the east of the railway line and is currently being built out for residential development.
- 2.2. The site was formerly the location of Rolls Royce (1.63 ha) which designed, tested and manufactured machined aircraft components, and the location of Midhire Van Hire (0.97ha).
- 2.3. The previous buildings on the site have been demolished and the site cleared under prior approval application 2017/07267/PA. The site has been subsequently fenced and secured by the applicant.
- 2.4. [Site Location Plan](#)
3. [Planning History](#)
  - 3.1. 2020/04158/PA – Application to determine details for condition numbers 7 (sustainable drainage scheme), 8 (sustainable drainage assessment), 9 (drainage scheme) and 15 (construction management plan) attached to approval 2018/09040/PA – under consideration
  - 3.2. 25/10/19 - 2018/03828/PA - Outline application for up to 87 dwellings with all matters reserved except access. Approved.
  - 3.3. 06/06/18 - 2018/03573/PA - Application to determine the details of condition number 1 (contamination remediation scheme) attached to planning approval 2018/00924/PA. Approved.
  - 3.4. 26/04/18 – 2018/00924/PA – Engineering works to remove ground obstructions and contamination. Approved subject to conditions.
  - 3.5. 19/12/17 - 2017/10432/PA - Outline application for up to 87 dwellings with all matters reserved except access. Withdrawn.
  - 3.6. 09/01/18 - 2017/10080/PA - Application to determine the details of condition 1 (Traffic Management Plan) attached to planning approval 2017/07267/PA. Approved.
  - 3.7. 22/09/17 - 2017/07267/PA - Demolition of existing buildings on the site. Prior approval required and approved with conditions.
  - 3.8. 09/06/11 - 2011/01704/PA - Retention of 13 portacabins and containers. Approved subject to conditions.
  - 3.9. Prior to the above applications the site's history includes a number of applications in relation to previous engineering and industrial operations, ancillary development, and signage etc. which range over several decades.
4. [Consultation/PP Responses](#)

4.1. Public Participation

4.2. Residents, Resident Associations, Councillors consulted and the local MP were consulted and press and site notices were posted.

4.3. 5 letters of objection received raising the following matters :-

- Increased traffic;
- Railway boundaries need to be maintained;
- Play area is too close to railway;
- Trains will be busier with potentially more delays;
- Increased noise and air pollution;
- Significant changes in levels across site not addressed;
- Removal of trees;
- Allotments should have been retained;
- Retained trees could be damaged during construction;
- New tree planting is needed;
- Density of development is too high;
- Harmful impact on local wildlife;
- Increased dust;
- Increased flooding has occurred in neighbouring gardens since demolition works; and
- Harmful amenity impact on nearby properties

4.4. Consultation responses

4.5. Regulatory Services – No objection

4.6. Network Rail – No objection subject to conditions requiring development to enter into Basic Asset Protection Agreement with Network Rail and the removal of permitted development of properties adjacent to the railway.

4.7. Housing Services – Supportive of the housing mix proposed

4.8. LLFA – No objection

4.9. Leisure Services – Supportive of detailed play area proposed

4.10. Environment Agency – no objection

4.11. West Midlands Police – no objections

4.12. Transportation – No objections.

4.13. Severn Trent – no objections

5. Policy Context

5.1. National Planning Policy Framework (2019), National Planning Policy Guidance (2014).

5.2. Birmingham Development Plan (2017); Birmingham UDP- saved policies (2005). Car Parking Guidelines SPD, Places for Living SPG, Places for All SPG, Lighting Places SPG, Loss of Industrial Land to Alternative Uses SPD, Public Open Space in New Residential Development SPD, Affordable Housing SPG, Nature Conservation

Strategy for Birmingham SPG and Sustainable Management of Urban Rivers and Floodplains SPD.

6. Planning Considerations

6.1. Principle of development

6.2. The site was previously in industrial use however all buildings were demolished a couple of years ago. The loss of industrial land was accepted at outline stage. The granting of outline application 2018/03828/PA confirmed that the principle of residential development was acceptable and the access points were agreed. It is now important to consider the reserved matters of scale, layout, appearance and landscaping.

6.3. Layout, scale and appearance

6.4. Paragraph 117 of the NPPF states “Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions”.

6.5. Paragraph 122 of the NPPF states “Planning policies and decisions should support development that makes efficient use of land, taking into account: .....  
e) the importance of securing well-designed, attractive and healthy places”.

6.6. Paragraph 127 of the NPPF states “Planning policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience”.

6.7. Paragraph 130 of the NPPF states “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning

documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used)".

- 6.8. Policy PG3 of the BDP seeks to create a positive sense of place with designs that respond to site conditions, local context, creates safe environments, provides attractive environments, make sustainable design integral, and supports the creation of sustainable neighbourhoods. Furthermore Policy 3.14 of the UDP (Saved Policies) states that a high standard of design is essential to the continued improvement of Birmingham as a desirable place to live, work and visit. It also requires developers to consider the site in context and states that to avoid problems of piecemeal and incremental development, comprehensive master plans should be prepared. Paragraph 124 of the NPPF states, "The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."
- 6.9. The layout proposed is similar to what was presented indicatively at outline stage. The layout forms a sensible and viable hierarchy integrating into its local existing context, resulting in a good relationship with the properties fronting on to York Road with buildings proposed forming a similar building line and active frontages to the existing dwellings on to York Road. Corner properties have been sensibly located which has avoided flank walls and ensured active frontages. The Urban Designer also considers the proposed road and access has been designed to respond to the needs of the development and creates a legible network forming safe shared streets and vehicular junctions, and the residential housing has been designed so that it is neatly enclosing the site and ensuring all streets are legible and overlooked with an active frontage. The POS is strategically located where by the use and overlooking as a surveillance measure is encouraged. Parked vehicle provisions do not dominate the street scene, and spaces in front of properties are not aligned as such to be a focus in front of properties.
- 6.10. The open space and play area is located to the north of the site adjacent to the railway where it is more readily accessible to the wider residential area. Concerns have been raised over the proximity of the railway however fencing is in place to prevent public access. The pedestrian/cycle link is provided at an existing gated accessway into the site along Cateswell Road, to provide added permeability.
- 6.11. All dwellings across the site are two storeys in height with properties being a mix of terraced, semi-detached and detached. This scale and mix of house types fully respects the character of surrounding residential streets.
- 6.12. The City Design Officer considers that the fenestration is simple, contemporary and varied but also provides a palette which unifies the character.
- 6.13. The main facing materials for the dwellings are red brick with 'soft green' weatherboard introduced into some of the house type elevations to enhance the contrast within the street scene and add further interest. Grey slate roof tiles are used across the scheme, giving variation to the roofscape, with white fascias and

black rain water goods. All windows are to be grey UPVC with a simple fenestration that has variation which helps bring a more contemporary design.



Image 2: Proposed Street Scene

- 6.14. In summary it is considered that the proposed layout, scale and appearance adequately addresses the urban design imperatives set out in the NPPF and BDP Policies PG3 and TP27.
- 6.15. Housing Mix
- 6.16. BDP Policy TP30 states that proposals for new housing should deliver a range of dwellings to meet local needs and support the creation of mixed, balanced and sustainable neighbourhoods. It also identifies that new housing should be provided at a target density responding to the site, its context and housing need.
- 6.17. The redevelopment of the site would deliver additional housing on a brownfield site. The City's housing evidence base indicates that there is a need for larger properties but this is with reference to Birmingham's strategic housing area as a whole. The proposed density at 35 dwellings per hectare is not high but reflects the character of the immediate locality and is wholly housing-led without any flats. The scheme provides a mix of 2, 3 and 4 bed roomed units which provides a good mix of property types overall.
- 6.18. Residential Amenity
- 6.19. The Places for Living SPG sets out a number of numerical standards which help to ensure that acceptable amenity standards are provided for the occupiers of new dwellings and retained for the occupiers of adjacent properties.
- 6.20. Residential development is located to the west of the application site with the rear gardens of No's 25 – 87 Cateswell Road (odds) having rear gardens that back onto the site.
- 6.21. Places for Living requires a separation distance of 21m to be retained between facing windows in two storey properties. There are some minor shortfalls effecting No.'s 81-87 Cateswell Road. The greatest shortfall is a separation distance of 18.3m between the rear elevation of plot 13 and rear elevation of No. 87. This is due to the unusually short rear garden of No.87. However, it is important to remember that previously a large 2 storey industrial building covered this part of the

site and was built right up to the rear boundary of properties along Cateswell Road. This created a rather oppressive environment for the occupiers. In this regard the proposal still represents a significant improvement.

- 6.22. Places for Living requires a separation distance of 5m per storey to prevent overlooking of private gardens. The 10m separation distance is not met in relation to No.'s 45 – 53 Cateswell Road. The greatest shortfall is a distance of 7.5m between the rear boundary of No. 49 and the rear elevation of plot 33. However, it is important to note that this property has a large outbuilding at the rear of the garden meaning that the 10m distance to areas of usable garden is achieved. Furthermore a good level of screening is provided by existing trees to prevent overlooking.
- 6.23. There is also a shortfall in the separation distance between the rear elevation of plot 29 and the side boundary shared with No. 63. A distance of 6.5m is retained from the nearest first floor window of plot 29 and the shared boundary however this window serves a bathroom and would therefore be obscurely glazed. The other first floor window to this property retains a distance of 10.3m to the shared boundary and therefore an acceptable distance is retained to prevent overlooking.
- 6.24. As set out within the Places for Living SPG 2 bedroom houses require 52sqm of private amenity and a minimum 70sqm is needed for larger family homes. Across the site all dwellings either meet or exceed this standard.
- 6.25. The Nationally Described Space Standards (NDSS) are not yet adopted in Birmingham but they do provide a good yardstick against which to judge proposals, to ensure that the accommodation is of sufficient space to provide a comfortable living environment for the intended occupiers. Three of the four house types exceed the relevant size standard. The 2 bedroom properties fall 0.4sqm short of the required 70sqm. This shortfall is considered to be inconsequential. The bedrooms across all property types meet the relevant standards for both single and double bedrooms.
- 6.26. In summary it is considered that the scheme has no undue impact on the occupiers of adjacent properties and creates an acceptable living environment for the proposed occupiers.
- 6.27. Transportation matters
- 6.28. Policy TP38 of the BDP requires that development proposals support and promote sustainable travel and TP44 requires new development to support the delivery of a sustainable transport network.
- 6.29. At outline stage it was agreed that the site would have a single vehicular access from York Road with a further pedestrian/cycle entrance from Cateswell Road. No changes are proposed in this regard. Each unit has been provided with a minimum of one parking space with a total of 163 spaces provided for the 87 properties, which amounts to an overall provision of 141%. This is considered to be a good level of provision in what is a sustainable location with Hall Green train station a short walk from the site.
- 6.30. The Transportation Officer raises no objection to the scheme subject to the discharge of the conditions on the outline approval. A separate discharge of condition application has been submitted in relation to the construction management plan.

- 6.31. Concerns have been raised over the impact on the capacity of trains at Hall Green station and the potential for increase in delays. There is no evidence to suggest that a housing development of this size will impact on the effectiveness of services running from Hall Green station.
- 6.32. In light of the above no transport related conditions need to be added to any approval. Transportation are content with the proposed development which is therefore considered to accord with Policy TP44 of the BDP.
- 6.33. Ecology, Trees and Landscaping
- 6.34. Policy TP8 of the BDP states that “development which directly or indirectly causes harm to...species which are legally protected, in decline or rare within Birmingham or which are identified as national or local priorities will only be permitted if it has been clearly demonstrated that; there is a strategic need that outweighs the need to safeguard, the damage is minimised and mitigation put in place, or where appropriate compensation is secured”. This is also reinforced at paragraph 118 of the NPPF.
- 6.35. The majority of the site is covered in hard standing with some trees located around the periphery of the site. The submitted tree survey considered 11 individual trees, 8 tree groups and 1 hedge that are within the influence of the application site. It was initially proposed to remove 6m of hedgerow and parts of tree groups G5 and G7 and the entirety of group G6. These are all category C specimens apart from G6 which is category B. However, following comments from residents efforts have been made to retain parts of G6 in the south west corner of the site which means greater retention of category B trees on the site. Conditions were attached to the outline approval requiring the submission of an arboricultural method statement and impact assessment. Both have been submitted with this reserved matters application and have been reviewed by the Tree Officer. He is satisfied with the level of tree retention and is also confident that the scheme can be implemented without any undue impact on the retained trees.
- 6.36. The scheme includes the submission of detailed planting plans which show a mix of shrubs, hedges and trees to be planted across the site which are under consideration by the Landscape Officer. A total of 33 trees would be planted ensuring a good mix of native species. A large area of open space is provided on the north western part of the site which greatly increases the level of green space across the site. A landscape and habitat management plan and lighting scheme have been submitted. The Council’s Ecologist raises no objection to the submissions and consequently condition 10 of the outline permission can be discharged.
- 6.37. The proposals comply with BDP Policy TP8 and the proposal is therefore considered acceptable in terms of tree and ecological impact.
- 6.38. Compliance with Planning Obligations
- 6.39. Policies 8.50-8.54, of the UDP (Saved Policies) relates to the use of Planning Obligations and states that the Council will take all appropriate opportunities to negotiate planning obligations and will determine the type, scale and mix based on several factors including Policy, local commentary and any specific local needs.as does. Policy TP47 of the BDP also relates to developer contributions and provision to make a development acceptable in planning terms, mitigate its impact, and

provide for physical, social and green infrastructure to meet the needs associated with the development. Furthermore Paragraph 56 of the NPPF states that Planning Obligations should be sought when they meet the following tests;

- Necessary to make the development acceptable in planning terms
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

6.40. A S106 agreement is attached to the outline approval which secured 35% affordable housing 0.49 hectares of on-site POS with a 1,225sqm junior play area.

6.41. The scheme proposed delivers a 100% affordable housing scheme with a total of 66 affordable rent and 21 shared ownership properties. This provision and mix is fully supported by the Housing Officer.

6.42. Detailed play area proposals have been submitted which show an array of equipment that facilitate climbing, spinning, sliding and imaginative play. Leisure Services and are content with the quality and range of equipment proposed. The size of the play area and wider open space meets the requirements of the S106 agreement.

#### 6.43. Impact on Rail Network

6.44. Network Rail initially placed a holding objection on the application. However they are now satisfied that the development will not have an undue to the impact on the adjacent railway providing that the applicant enters into a Basic Asset Protection Agreement with Network Rail prior to commencement. Further conditions are proposed to minimise any future impact on the railway line. These conditions remove permitted development rights for extensions and boundary treatments for properties adjoining the railway. Any such alterations would therefore require planning permission where Network Rail would be a statutory consultee and they could assess any impact on a case by case basis.

#### 6.45. Other Matters

6.46. Concerns have been raised regarding surface water flooding. Drainage conditions were attached to the outline consent and there is a discharge of condition application (2020/04158/PA) that is under consideration which would confirm all drainage details for the scheme. The LLFA have raised no objection to the scheme.

6.47. One objection has raised concerns over noise and air pollution. Any noise would be temporary during the construction phase of the development. No concerns have been raised regarding by Regulatory Services in relation to noise or air pollution.

6.48. Concerns have been raised over the loss of an allotment. There is no allotment on site currently and it is not thought to have existed for a number of years. It is understood that the previous landowner used to let out land in the south west corner of the site for adjoining residents to use. The area has since become overgrown. With the site in private ownership there would no realistic prospect of such a use beginning again whether or not planning permission is granted.

### 7. Conclusion

7.1. The proposal would contribute to housing delivery and raises no concerns in relation to highway safety, ecology, residential amenity for existing neighbours or future occupiers, drainage or flood risk. A policy-compliant provision of affordable housing

and POS/play space is also provided. The proposal constitutes sustainable development and is therefore in accordance with the aims and objectives of both local and national planning policy and should be approved.

8. Recommendation

8.1. That approval is given to the reserved matters of appearance, landscaping, layout and scale as they relate to outline planning permission 2018/09040/PA, covered by reserved matters application 2020/03828/PA, subject to the conditions set out below.

8.2. That approval is given to the details submitted pursuant to the following conditions of outline planning permission 2018/03828/PA:

- Condition 4 – contaminated land verification report
- Condition 5 – contamination remediation scheme
- Condition 6 – glazing and ventilation strategy
- Condition 10 – scheme of ecological enhancements
- Condition 11 – landscaping
- Condition 12 – boundary treatment details
- Condition 13 – landscape management plan
- Condition 16 – materials
- Condition 17 – levels
- Condition 18 – earthworks
- Condition 23 – Tree Survey and Arboricultural Implication Assessment
- Condition 24 – Arboricultural Method Statement and Tree Protection Plan

- 
- 1 Requires the scheme to be in accordance with the listed approved plans
  - 2 Completion of a Basic Asset Protection Agreement (BAPA)
  - 3 Removes PD rights for extensions
  - 4 Removes PD rights for boundary treatments adjacent to the railway
- 

Case Officer: Andrew Fulford

**Photo(s)**

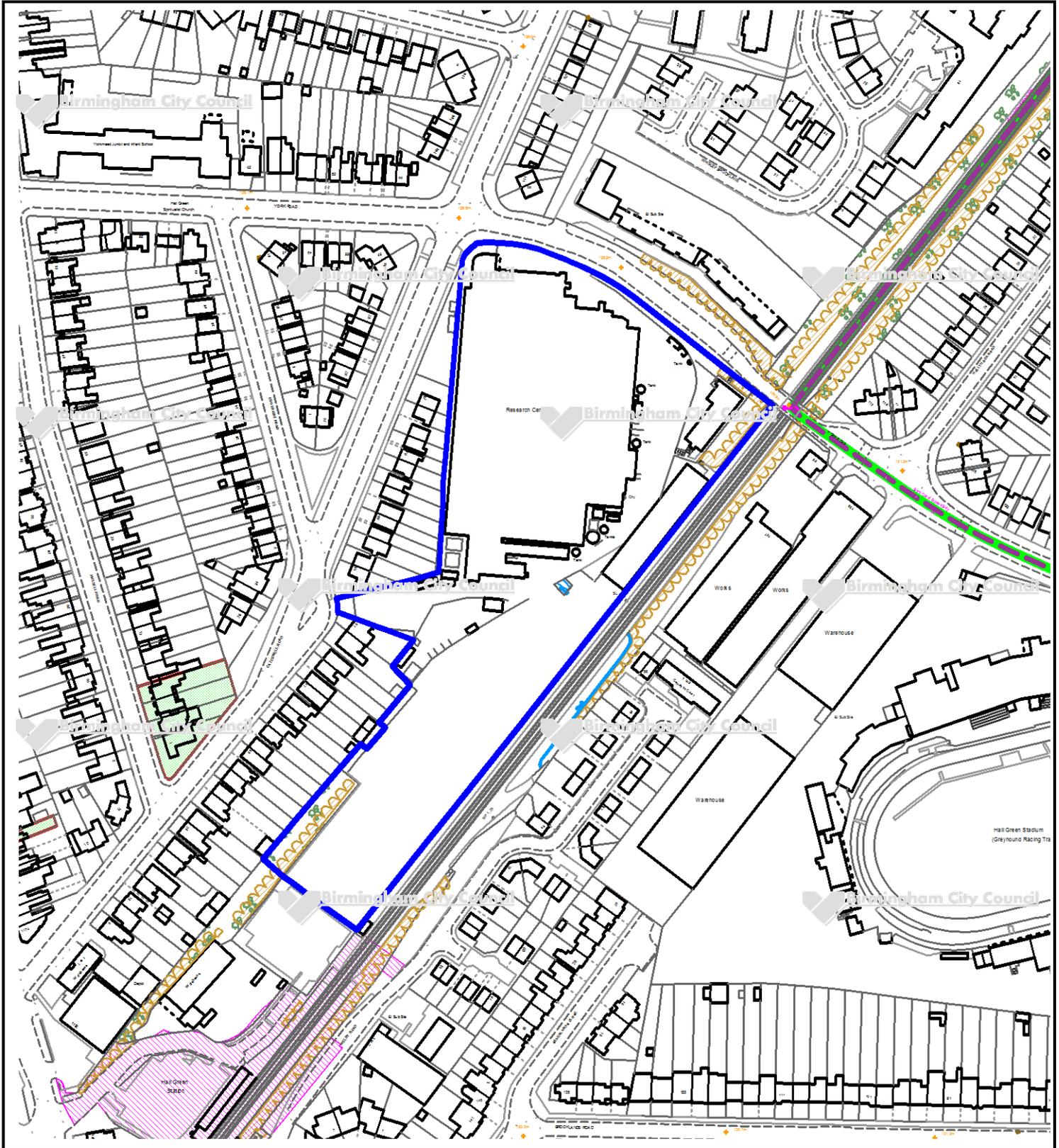


View from Hall Green Station overflow car park looking northwards across the site



View from Railway bridge looking southwards across the site

# Location Plan



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# Birmingham City Council

## Planning Committee

24 September 2020

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve - Conditions	13	2020/04544/PA  Site of 123 and 127 (part) Hagley Road Edgbaston Birmingham B16 8LD  Reserved Matters Approval for the residential phase of the New Garden Square development in respect to: access, appearance, landscaping, layout and scale following Outline planning consent ref: 2019/08815/PA; comprising of up to 400 no. apartments, within 3 no. blocks, alongside their associated car parking and landscaping works
Approve - Conditions	14	2020/04822/PA  127 Green Lane Handsworth Birmingham B21 0DH  Retrospective application for the change of use from residential dwelling (Use Class C3) to children's care home (Use Class C2)
Prior Approval Required - Approve - Conditions	15	2020/06719/PA  Units 10-11 522 Birchfield Road Perry Barr Birmingham B20 3JE  Application for Prior Notification for the proposed demolition of former retail units and advertising hoarding

Section 191/192 Permission  
Permission not Required

16

2020/04588/PA

27 Camplin Crescent  
Handsworth Wood  
Birmingham  
B20 1LS

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

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Committee Date:	24/09/2020	Application Number:	2020/04544/PA
Accepted:	19/06/2020	Application Type:	Reserved Matters Development
Target Date:	25/09/2020		
Ward:	Ladywood		

Site of 123 and 127 (part) Hagley Road, Edgbaston, Birmingham, B16 8LD

Reserved Matters Approval for the residential phase of the New Garden Square development in respect to: access, appearance, landscaping, layout and scale following Outline planning consent ref: 2019/08815/PA; comprising of up to 400 no. apartments, within 3 no. blocks, alongside their associated car parking and landscaping works

Recommendation

**Approve subject to Conditions**

1. Proposal

1.1. On the 28<sup>th</sup> of November, 2017, Outline Planning Consent was granted for the:

*“Outline planning application (all matters reserved) for site clearance and demolition of all structures and buildings (save for listed buildings and directly attached extensions) and commercial-led mixed use redevelopment providing up to 75,500 sqm (GIA) of Office/Research & development space (Use Class B1a and B1b), up to 2,400 sqm (GIA) of retail (Use Class A1), Professional and Financial Services (Use Class A2), Restaurants and Cafes (Use Class A3), Drinking Establishments (Use Class A4), a hotel of up to 100 bedrooms (Use Class C1), up to 400 residential apartment units (Use Class C3), up to 900 new car parking spaces through the creation of a new multi-storey car park and other car parking spaces, alterations to the site access arrangements for Hagley Road and Duchess Road and strategic landscaping”.*



(Image 1: former Outline approved Masterplan).

- 1.2. The outline planning consent included a series of parameter plans, alongside an illustrative site wide masterplan. The purpose of these plans was to guide subsequent reserved matters applications and to set development parameters for the various elements of the approval. The original application was also accompanied by an Environmental Statement and given the scale and complexity of the proposed redevelopment of the site, the applicants sought to develop “New Garden Square” in a number of phases, working in tandem with a strategy for the phased demolition of existing buildings across the site. Planning conditions attached to the above consent had therefore been worded to allow for details to be submitted and approved on a phase by phase basis (and thus, a building by building basis). A total of 41no. conditions were attached to the above consent.
- 1.3. This application was followed by a further consent, which sought to vary condition numbers 2 and 6 of the above approved outline planning consent. Condition 2 related to the approved plans, while condition 6 related to the approved environmental statement; application reference: 2017/00663/PA. Through varying these conditions, the applicants gained consent to increase the building parameters for the 3no. previously approved residential blocks, sited to the west of the application site. The increased parameters allowed for the 3no. blocks to have a greater number of storeys than previously approved. The overall height of these blocks would however remain within the previously approved overall site wide parameter plans. These residential blocks are referred to as: F1, F2 and F3.



(Image 2 – New Garden Square CGI ).

- 1.4. The current application now seeks reserved matters approval for these aforementioned residential blocks, which form part of the residential phase of the “New Garden Square” development, in respect to: access, appearance, landscaping, layout and scale. This phase of the development would comprise 392no. apartments, within 3no. blocks: F1, F2 and F3, alongside their respective associated car parking and landscaping works and would be sited to the far west of the wider “New Garden Square” site. The proposed apartments would be erected with a mixture of one, two and three bedrooms and range from 1-bed, 1 person dwellings to 3-bed, 5 person dwellings. The three individual towers would have a height of 11, 14 and 10 storeys respectively. The overall mixture of apartments would be 54.5% one bedroom apartments, 43% two bedroom apartments and 2.5% 3 bedroom apartments. From the 54.5% of the one bed apartments only 57% would be 1-bed, 1-person apartments, with the remainder being 1-bed, 2-person apartments. Overall, 31% of apartments would be 1-bed, 1-person units, with 69%

being suitable for 2-persons plus. All of these would be in compliance with or in excess of the Nationally prescribed space standards, with the one bedroom apartments, all being 10% in excess of these standards.

- 1.5. In terms of car parking, 44no. basement level car parking spaces have been provided, forming 11% car parking for the development. Of these 44no. spaces, 10% of these are earmarked as disabled access spaces and a further 10% of these have been fitted with EV charging points. A 50% provision of on-site secure cycle storage has also been provided across the site. With 56no. cycle storage spaces provided across single and double stacked lockable racks within the basement, with a further 180no. within the courtyard areas. The basement level would run underneath all 3no. of the blocks and this level would be interconnected between the three, with access directly off Duchess Road, sited to the site's north. Each block would further have servicing areas at the main ground floor level, accessible via a pedestrianised boulevard which will run to the east of the development.
- 1.6. In terms of the blocks themselves, the ground floors of blocks 1 and 2, sited to the south of the site and centrally, include flexible amenity areas for residents, with active frontages. Block 3, sited to the site's north, has apartments at ground floor level, alongside guest rooms. The proposed private amenity areas within blocks 1 and 2 will include a communal gym, storage rooms, kitchen and dining areas, work from home spaces, alongside areas to socialise and a cinema room. Frontages to these spaces would be facing onto Hagley Road to the site's south and to the pedestrian areas to the blocks east and west, creating active, animated frontages. The upper levels would then have a range of floor plate layouts consisting of the various apartment types. All roofs contain ancillary plant equipment and block 1 is predominantly green roofed. Photovoltaic panels are provided to the roofs of Blocks F2 and F3, which will help with energy generation on site.
- 1.7. Landscaping is then provided around the blocks; this is within the form of private courtyards, between the blocks and the Plough and Harrow to the far west of the site and would be for the sole use of residents. A pedestrianised boulevard would then be provided to the site's east, running in a linear fashion between Duchess Road to the site's north and Hagley Road to the site's south. Block F3 would further feature private gardens and terraces for ground floor residents. Around the wider residential phase of the development various other forms of landscaping, boundary treatments and planting are also proposed to the site's frontages along Duchess Road, Hagley Road and Beaufort Road. Several mature trees within the site, which are existing would also be retained, with many more trees now proposed to be planted across the site, alongside other landscaping works.



(Image 3 – landscape proposals).

- 1.8. Block F1 – this fronts onto Hagley Road to the south of the site, and has active frontages to its southern front facing elevation, onto Hagley Road and east facing side elevation, onto the central boulevard and central square, which is part of an earlier phase of the New Garden Square Development. This building would feature the most ground floor social amenity space for residents and would also house the staff office, post room, amongst other communal spaces.
- 1.9. Block F2 – this is the central block and would have an active frontage to its eastern elevation, fronting the central square and boulevard and would have communal facilities, such as a bike storage and repair points, working from home spaces, amongst others at ground floor level, opening out onto the buildings eastern and western elevations. Active frontages would also be created towards the central private amenity area, to its west.
- 1.10. Block F3 – is the northern most block fronting onto Duchess Road and Beaufort Road, this has apartments at ground floor level, with private courtyards and garden spaces to its front north facing and rear south facing elevations. This block has 3no. guest rooms which can be rented out to visitors of the residents staying within the blocks.

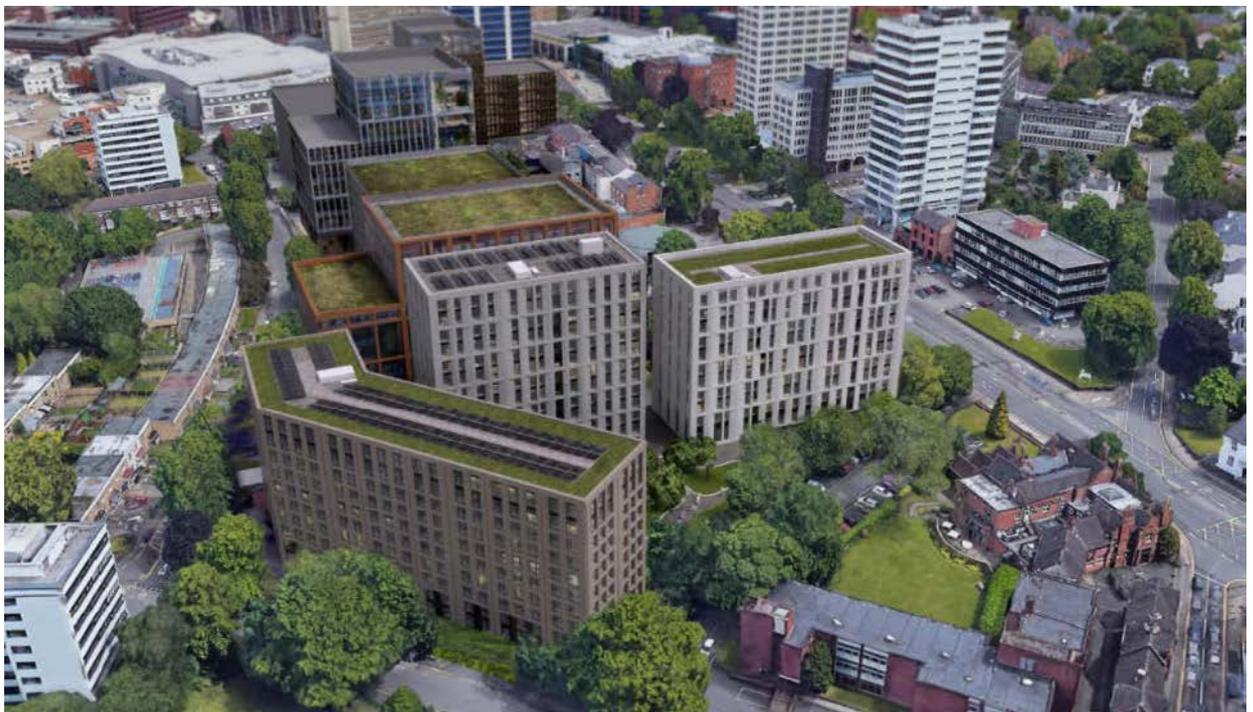


*(Image 4: indicative elevation of Block F1 fronting Hagley Road).*

- 1.11. The blocks have been designed by taking the Georgian character of the surrounding Calthorpe Estate into account. The base levels of all 3 blocks are two storeys high, with the first floor being residential and the ground floor being the main entrance point; this approach is characteristic of neighbouring Georgian buildings which have

greater proportioned ground floor levels. The body of the buildings is then repeated with floor plates, where window reveals have been raised to motion within the façade. Stone banding has also been used to frame the various floor plates and to further break up the different levels of the buildings. The upper most level, on all three buildings is then reduced to single storey level; this is again reflective of the neighbouring Georgian Listed Buildings, where a reduction in height of the façade occurs.

- 1.12. Blocks F1 and F2 have similar materials through the use of an engineered stone façade in a light stone for F1 and slightly darker tone for F2. Chamfers have then been used to add motion within the facades and help elevate these. Stone cladding would be adjoined with aluminium framed windows, stone tapered recesses and brick cladding. With reference to block F3, this will be finished in buff brick, with a light colour, in order to compliment blocks F1 and F2. Brick recesses will further be used to frame the window openings, helping define the various bays. Good sized openings are proposed for the public realm openings, to help animate the building frontages, with high quality landscaping detailed to be erected within the ground of the various blocks, creating a high quality environment.



(Image 5 – CGI showcasing the 3 blocks).

- 1.13. An access road is then proposed as part of the proposed development, to run along the eastern boundary of the site. This would be erected adjacent to the space earmarked for the pedestrianised boulevard. The road, which would be wholly internal would allow access to the site and would have access restricted, in order to prevent through-traffic, both now and in the future. There would also be a temporary access road erected adjacent to this, for the use of the building works and would be used by building workers and contractors. This would later be removed and various conditions to control this are included within the current application.
- 1.14. [Link to Documents](#)
2. [Site & Surroundings](#)

- 2.1. The application site comprises a previously developed commercial estate of 3.84 hectares located adjacent (and outside of) Edgbaston (Five Ways) District Centre to the west of the City Centre. The boundary of Ivy Bush Local Centre is formed by Plough and Harrow Road to the west of the site.
- 2.2. The site is bounded by the A456 Hagley Road to the south, Duchess Road and Beaufort Road the north and west; and Francis road to the east.
- 2.3. The site comprises a series of buildings which include 93-95, 97-107, 109, 11, 115-117, 119, 123, 125, & 127 Hagley Road, and 1, 2 and 3 Duchess Place (Edgbaston House). The existing buildings on the site range in height from two/three storey up to 18 storeys, (Edgbaston House). The site contains several Grade II listed buildings along the frontage to Hagley Road, although the current proposals would see no changes to these.
- 2.4. The site includes various areas of hardstanding, which are predominantly used for car parking associated with the various buildings on the site. Overall, the site currently provides for up to 893 car parking spaces. The site contains mature trees that were once planted as part of the residential plots and were incorporated into the wider layout of the site. There is an existing TPO on part of the site adjacent to Duchess Road in the vicinity of Edgbaston House.
- 2.5. The site is surrounded by a mix of uses. There are two and three storey residential dwellings to the north of the site in Duchess Road along with a pay and display car park, which has since been demolished. The eastern boundary of the site is formed by Cobalt Square and the rears of listed two storey commercial properties on Francis Road. The site also adjoins the Grade II listed Plough and Harrow Hotel to the west. St Georges Church of England Primary School and Kendrick House are situated to the west in Beaufort Road, beyond which is Chamberlain Gardens park. On the southern side of Hagley Road, and opposite the site are a number of substantial commercial office buildings including 54 Hagley Road and Lyndon House.
- 2.6. The site is also located within the setting of other built heritage assets, including Grade II\* listed Oratory and Edgbaston Conservation Area, the nearest part of which is situated to the south west of the site on the opposite side of Hagley Road.
- 2.7. Hagley Road forms part of the Strategic Highway Network as defined in the BDP, and forms part of the network of public transport routes into and out of the City Centre with existing bus stops fronting the site. A potential new bus rapid transit service (SPRINT) would operate from the City Centre, along Hagley Road to Quinton. The extension of Midland Metro Line One would take the metro service from Centenary Square and then onto Five Ways/Hagley Road, with the anticipated metro terminus opposite the application site in front of 54 Hagley Road.

### 3. Planning History

- 3.1. 2016/08603/PA - Application for prior notification of proposed demolition of Edgbaston House and adjacent multi-storey car park – Prior Approval not required – 14/10/2016.
- 3.2. 2017/00663/PA - Outline planning application (all matters reserved) for site clearance and demolition of all structures and buildings (save for listed buildings and directly attached extensions) and commercial-led mixed use redevelopment providing up to 57,500sqm (GIA) of Office/Research & Development space (Use

Class B1a and B1b), up to 2,400sqm (GIA) of retail (Use Class A1), Professional and Financial Services (Use Class A2), Restaurants and Cafes (Use Class A3), Drinking Establishments (Use Class A4), a hotel of up to 100 bedrooms (Use Class C1), up to 400 new residential apartments units (Use Class C3), up to 900 new car parking spaces through the creation of a new multi-storey car park and other car parking areas, alterations to the site access arrangements for Hagley Road and Duchess Road and strategic landscaping – approved with conditions – 14/09/2017.

- 3.3. 2018/10194/PA - Reserved Matters application seeking approval of access, appearance, layout and scale pursuant to outline planning permission 2017/00663/PA in relation to Building 1 for an 8-storey office building with a ground floor retail unit (Use Classes A1-A4) and an under-croft/basement car park – approved with conditions – 14/03/2019.
- 3.4. 2019/02810/PA - Reserved Matters application seeking approval for Landscaping, pursuant to outline planning permission 2017/00663/PA in relation to Building 1 for an 8-storey office building with a ground floor retail unit (Use Classes A1-A4) and an under croft/basement car park – 16/08/2019.
- 3.5. 2019/08815/PA - Variation of Condition Nos. 2 (list of approved plans) and 6 (list of approved documents) attached to planning approval 2017/00663/PA to allow for alterations to the building parameters – 29/05/2020.

#### 4. Consultation/PP Responses

- 4.1. Transportation Development – raise no objections and recommend conditions in relation to visibility splays for pedestrian and vehicular access points, travel plans, secure and covered cycle storage and for all works to be carried out at the applicant's expense, with the necessary approval.
- 4.2. Birmingham Airport Group: No objections.
- 4.3. LLFA – No response received.
- 4.4. West Midlands Police – raise no objection to the development proposals, subject to the addition of conditions in relation to: CCTV, lighting, the management and maintenance of trees and shrubbery, boundary treatments and access control systems. WMP have also issued guidance in relation to suicide prevention from tall buildings and secure by design, which has been passed onto the applicant.
- 4.5. Regulatory Services - raise no objection to the development proposals.
- 4.6. Transport for West Midlands – no response received.
- 4.7. Historic England – raise no objection to the development proposals.
- 4.8. Sport England – raise no objection to the development proposals.
- 4.9. Natural England – raise no objections to the development proposals.
- 4.10. Network Rail – raise no objections to the development proposals.
- 4.11. Employment Access Team – no further comments as conditions attached to original Outline consent.

- 4.12. Finance and property management – requested funds to go towards nursery, primary and secondary school places within the area.
- 4.13. Highways England - raise no objections to the development proposals.
- 4.14. Press and site notices erected. MP, Ladywood and Edgbaston ward members, residents associations and neighbouring occupiers/residents notified, of the proposals. The following responses have been received:
- 4.15. Birmingham Civic Society made the following comments:
- Application is not supported by a Heritage Statement;
  - Proposed apartments overshadow the adjacent Listed Buildings;
  - The design of the apartments has been over emphasised with reference to the historic adjacent buildings;
  - Limited justification for the proposed apartments;
  - Landscape plan introduces too many new materials to the site;
  - Too many one bed apartments; and
  - No details of courtyard landscaping.
- 4.16. A single resident made comments in respect to the proposed apartments having sufficient car parking.

## 5. Policy Context

- 5.1. BDP, adopted UDP (saved policies), Big City Plan, Places for All SPD, Places for Living SPD, High Places SPG, Shopping and Local Centres SPD, Affordable Housing SPG, Public Open Space and New Residential Development SPD, Car Parking Guidelines SPD, Archaeology Strategy : Building the future, protecting the past, Conservation Strategy : Regeneration through Conservation, Nature Conservation Strategy for Birmingham, Lighting Places SPD, Car Park Design Guide, NPPF, National Planning Policy Guidance.

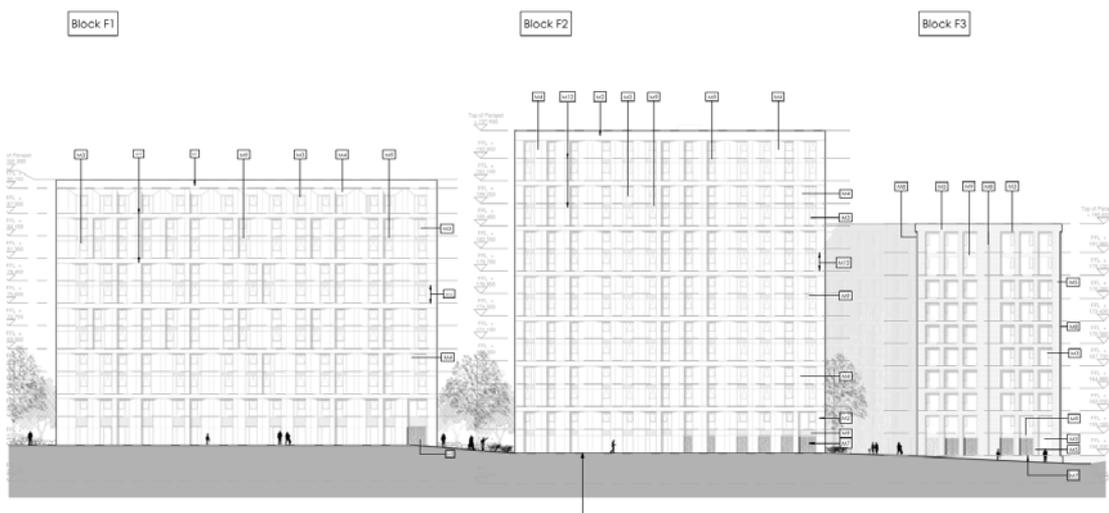
## 6. Planning Considerations

- 6.1. The principle of a residential-led redevelopment, for this strategically important site, has been established first within the initial outline planning permission (2017/00663/PA), which has since been amended (2019/08815/PA) to allow for changes to the building heights associated with the residential phase of the development. The current reserved matters application relates to access, appearance, landscaping, layout and scale, pursuant to this latest approval and as such, the development proposals in principle are considered acceptable; subject to the reserved matters being compliant with the wider areas of the development plan.

Scale:

- 6.2. The scale of the 3no. residential apartment blocks, consisting of 392no. dwellings proposed as part of this reserved matters application remain within the height parameters, approved under the former outline planning consent on site, reference: 2019/08815/PA. This allowed the apartment blocks to reach a height of 11 (F1), 14 (F2) and 10 (F3) storeys respectively. These building heights are therefore compliant with these maximum height parameters relating to the residential phase of the development, alongside the wider site wide maximum height parameters.

- 6.3. Although this former consent, granted outline consent only, detailed plans showcasing the height parameters of future buildings were submitted, which the current proposals are further in accordance with. It should be noted that Council has earlier granted reserved matters consent for the first commercial building on the “New Garden Square” site, under reference: 2018/10194/PA, NGS1. This forms part of Phase 1 of the “New Garden Square” development and would front onto Duchess Road, to the site’s north, at a height of 8no. storeys. Phase 2 of the scheme, being the residential element of the scheme, is now under consideration, under the current application. As such, it is considered that the location of the proposed blocks within their respective context would be acceptable and would be in keeping with the rhythm and character of development within the surrounding area and as such the development proposals are considered acceptable in this regard.



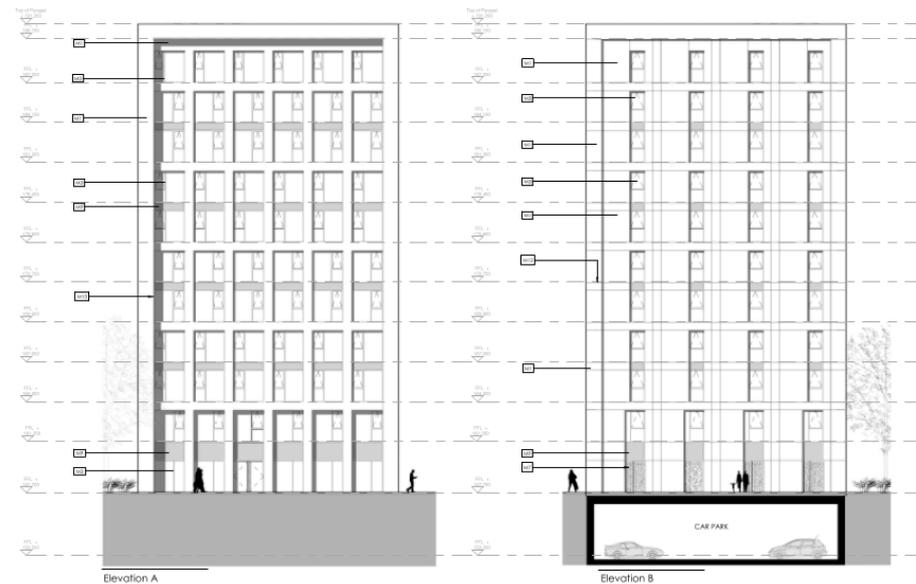
*(Image 6 – views showcasing scale of development – looking eastwards into site).*

Appearance:

- 6.4. The current proposals would see 3no. blocks erected within two distinctive styles, differing through the use of two distinctive finishes. Both styles would however use a light pallet of materials, as set out above, with first being a light coloured stone cladding, for blocks F1 and F2; and the second being a light colour buff brick finish for the largest block, F3. All three buildings would utilise flat roofs and have two storey, double heighted base levels, in keeping with the neighbouring Georgian buildings, which have ground floors, with a double storey appearance. The floors above would be of a consistent size, with the use of banding and other stone and brick work detailing to separate the floor levels. The upper most floors, on all blocks would again have a single storey smaller appearance, in line with neighbouring buildings.
- 6.5. As such, the light finishes of the buildings, alongside the use of varied window shapes and sizes, alongside the use of deep reveals allows the development to have a varied and interesting visual form, creating a high quality development. The rhythm and visual interest created by the tapered elements around windows, recesses and joints are further considered to add detail within the large elevations of the blocks, creating interest and rhythm. The 3no. blocks would feature large aluminium finished window frames. The window frames would have a standardised formation, throughout the elevations, with deep reveal depths and brickwork detailing, allowing for interest within the elevations, creating a high quality finish. The

blocks would be largely glazed at ground floor level and have a double height appearance at their base, creating large and visually interesting access points.

- 6.6. With reference to F1, this block would have the most prominence facing onto Hagley Road, to the south of the site. This would feature a large active frontage to its south facing elevation, opening out directly onto Hagley Road. The block would feature an active frontage along its entire eastern elevation also, at ground floor level, to create activity, along this large elevation, with a series of openings proposed at ground floor level. This approach would then be carried through to block F2, which too would feature active frontages to its eastern and western elevations. A small passageway would be created between blocks F1 and F2, this would allow access into the communal garden via a gated entrance. The passageway would be overlooked by apartments and ground floor openings to the internal communal areas. The same would be the case within the passageway created between blocks F2 and F3.



(Image 7 – front south facing elevation of Block F1).

- 6.7. The two designs thereby remain very different, but through the use of light colours remain very similar and carry a consistent design approach through the development. The scale and number of units would remain in line with the previous outline approval on site and given the variations within the three blocks, it is considered that the proposals would not harm the character or design of the wider site to the detriment of visual amenity. City design officers have further reviewed the proposals in great detail and support the applicants desire to further diversify the built form within the site and add three visually rich and interesting apartment blocks. City design officers have however recommended the use of various conditions, in relation to: building materials, landscaping details, boundary treatment details, as well as those for the building façade detailing. Some of these conditions, such as those relating to landscaping and sample materials were already attached to the former outline consent and as such have not been duplicated. The various other conditions however have been incorporated within this recommendation and are detailed below.
- 6.8. It is thereby considered given the size of the site, and the various changes in materials, alongside the diversity in apartment types, alongside the introduction of large swathes of landscaping, that the proposed development would retain a high level of architectural design and as such the proposals are considered acceptable in this regard.

#### Access and Layout:

- 6.9. The street pattern of the 3no. residential blocks reflects the details submitted within the recent S73 planning application and the former reserved matters approval on site. This would see the creation of a strong perimeter along the site's north, with good levels of natural surveillance and security to the public realm, including new areas of private open space, in the form of private terraces and gardens for the ground floor apartments, sited within Block F3, which achieves good urban design principles. F3 would be sited along the site's northern boundary, fronting onto Duchess Road and Beaufort Road, with a strong landscaping buffer proposed to the north of the building, connecting the site with the wider surrounding area.
- 6.10. To the south of the F3, F2 would be erected. This would be the tallest of the three blocks and would be the only block which would not face onto a main road. This block would instead open out onto a pedestrianised boulevard, which would run centrally through the development, connecting Duchess Road to the site's north, with Hagley Road, to the site's south. This would further have access for refuse vehicles etc. Where F3 would be erected in a rectangular fashion, fronting the northern boundary, F2 would too be erected in a linear fashion and front out onto the site's eastern boundary. To the south of F2, F1 would be erected. This block would have a dual aspect, through opening out both onto the pedestrianised boulevard to the site's east, alongside Hagley Road to the site's southern boundary. Both F1 and F2 would have active frontages to their east and south, in order to animate their frontages and interconnect with the public realms around them.
- 6.11. The main pedestrian access of the development would be through F1, fronting Hagley Road, which would house the main office, front desk and other such in-house operations. The blocks would thereby create an L-shape form of development running through the site and fronting out onto its northern boundary, with Duchess Road and Beaufort Road. Vehicular access to the site would be from the north, via Duchess Road, with an under-croft basement level car park proposed for the development. This would be interconnected and would run through all 3 of the residential blocks, allowing access to each of these internally, via internal centrally sited stairs and lifts.



(Image 8 – showing vehicular access from the north, via Duchess Rd).

6.12. The 3no. blocks would thereby create a perimeter form of development, safeguarding the western most section of the site, which is earmarked to be used as a private amenity area for forthcoming residents, at around 2000m<sup>2</sup>. This space would be privately access from the 3no.blocks and would have the internal communal spaces, which would be sited to the ground floors of blocks F1 and F2 opening out onto them. Private terraces and gardens, sited to the ground floor of block F3 would also open out onto this space. The entire private amenity area is detailed to feature high quality soft and hard landscaping, through the use of new footways, trees, hedges and other firms of landscaping. Recreational and communal areas for the enjoyment of residents would also be created, with strong perimeter boundary treatments and planting proposed to the site's west. The landscaping provision would continue to the site's southern end, fronting onto Hagley Road, creating a much softer impression for the development, from the public realm.

Landscape:

6.13. The application is supported by a landscape masterplan for the site as a whole. The masterplan details various forms of boundary treatments, private amenity spaces and a central boulevard, which would run to the eastern side site boundary. A generous private amenity space of around 2000sqm is detailed to be provided to the site's west. This would be bound by the various blocks to its east and north and the Plough and Harrow to the west, alongside an open landscaped area to the site's southern frontage. This garden space will be a private area, for the sole use of residents, accessed from gated access points, as well as the respective blocks themselves. This space would also feature a number of private terraces and garden areas for ground floor apartments of the three respective blocks. The landscaping proposals include significant additional tree planting to reinforce the site's boundaries, alongside the central amenity space. A number of existing trees to the Duchess Road frontage have also been retained and these will be protected during the construction works. A green roof is also added to block F1.



(Image 9 – internal private amenity landscaped area).

6.14. The landscape masterplan further sets out various areas for proposed tree planting and soft landscaping provision, alongside areas for ornamental shrub planting, hedges, lawn, grass and wild flowers. These would range from being sited within the site's various boundaries to the central private courtyard space. In terms of hard landscaping and ground cover, the proposals would have a mix of gravel, block, clay

and cobbled paving and a range of retaining walls and seating areas. These will consist of timber seating, litter bins, play areas and earth modelling areas for contrast. Full details of these various forms of soft and hard landscaping works are to be secured by way of condition attached to the original outline consent. These conditions will need to be fully discharged prior the scheme coming forward, allowing the Council full control over these elements, in order to secure their suitability. The Councils landscape officer has further raised no objection to the proposals, subject to these conditions being attached to any subsequent planning consent. However, as these are already attached to the outline approval, there is no need to reattach these to any subsequent approval. Additional conditions relating to landscape maintenance, earth works and the proposed green roof have however been included, as these matters were not covered on the former outline approval.

#### Residential amenity

- 6.15. The application site is bound by Duchess Road/Beaufort Road to its north and Hagley Road to its south. Commercial uses would bind the site to its south, east and west, however there are existing residential developments to the north of the site. There would be separation distances between windowed elevations of the development across Beaufort Road/Duchess Road of circa 20m. Within the context of this new development, these distances are considered acceptable in terms of residential amenity for future occupiers and it is further noted that these remain no different to the previous approvals for outline planning consent on site.
- 6.16. The Council's 'Places for Living' contains standards relating to minimum garden sizes and communal amenity space, and whilst it recognised that such standards can provide a useful guideline in the design process, the main focus should be on achieving the objectives behind the standards. The proposed green measures around 2000sqm. This represents an approximate ratio of 5sqm of outdoor amenity space per dwelling. This falls short of the 30sqm required per dwellings within the SPG of shared amenity space. However, it should be noted that further open landscaped spaces are proposed around the development, within the wider New Garden Square development, equating to 3000sqm plus of open usable amenity space. There are also a number of private gardens and terraces proposed for individual apartments, alongside communal lounges and other such spaces. As such, it is considered that the development would provide an appropriate provision of outdoor amenity space, which would be easily accessible for future residents of the development and as such this approach is considered acceptable.
- 6.17. The internal arrangements of the various apartment types provide an acceptable level of amenity to future residents and comply with the Technical Housing Standards – Nationally Described Space Standards, in terms of room and apartment sizes and in most cases, the apartments are actually in excess of these standards, providing larger than average apartment sizes. All of the proposed dwellings would further have a good level of light and outlook and as such, the proposed development is considered acceptable in this regard.

#### Highway safety/Parking

- 6.18. 11% parking provision is proposed for the dwellings on site, a reduction from the 25% as previously set out within the outline approval on site. This has been resultant to the Councils emerging parking guidelines, which require a lower level of parking provision, for dwellings of this style, within this central location. The applicant has further forecasted a lower level of parking demand for the development. As such, taking these matters into account, alongside the central location of the site, along

the Hagley Road corridor, alongside the fact that the METRO is due for completion in the very near future, in close proximity to the application site, it is considered that this level of parking for the application site would be acceptable. In addition it is noted that the site is highly accessible by bus services and other modes of sustainable transport and given that the development would be open to the private rental market, it is noted that such young city dwellers tend not to own their private vehicle.

- 6.19. The proposed parking would be in the form of basement level parking provision. 44no. under-croft spaces would be created, with 10% confirmed as being earmarked for disabled users and a further 10% provided in the form of EV charging points. A 50% cycle storage for the site as a whole has also been provided, through the erection of safe and secure cycle storage racks, throughout the site. The applicant has further explained that most site users would likely secure their bikes within their respective apartments, as opposed to storage racks, however there remains provision on site to increase this from the existing 50%, if this is required in the future. The applicant has confirmed that they would continue to monitor and review this. The lifts within the building would however be sufficiently sized to allow users to transport bikes from their apartments to the ground floor.
- 6.20. Transportation Development has considered the application and raises no objection to the levels of parking on offer; although a slight reduction from the former approval, overall this is still considered to be of a sufficient scale for the scale of the development, alongside its location. They do however recommend a number of conditions. These include, secure and covered cycle storage facilities be provided on site and that Disabled parking spaces and EV charging points be provided in accordance with relevant standards. They also add that any conditions added to the former reserved matters consent on site be added to the current proposals.
- 6.21. In this regard, appropriate conditions for full details of disabled spaces, EV charging spaces and cycle storage are already attached to the Outline Consent, on a phased basis and as such, are not required to be added to any subsequent approval. These conditions will require discharging prior to this phase of the development being built out and as such, provides the Council full control over these areas.

#### Impact on heritage assets

- 6.22. The development proposals would be erected adjacent to neighbouring Listed Buildings, the Plough and Harrow Hotel, sited to the west of the site and No. 119 Hagley Road, a 2 storey commercial Listed Building to its east. I do not deem the proposals to have any greater impact upon the setting of these designated heritage assets, above and beyond that of the former approval on site. The Councils Conservation officer has further raised no objections to the development proposals in this regard. Previously, within the outline consent, it was found that while the development would no doubt, have some upon the setting of these adjacent Listed Buildings. This level of harm was considered to be less than substantial and was considered to be outweighed by the wider public benefits of the scheme which are considered to be material in nature and would bring about much needed regeneration works within this area of the city, resulting in substantial employment opportunities, alongside the delivery of up to 400no. new residential units, for the rental market, within this sustainable location. As such, in accordance with para. 196 of NPPF and the relevant sections of the BDP, the development proposals are considered to be acceptable in this regard.

Other matters:

- 6.23. West Midlands Police have made comments with reference to the application and have recommended the use of various security measures on site, through the addition of planning conditions for: CCTV, lighting, the management and maintenance of trees and shrubbery, boundary treatments and access control systems. The various recommended conditions however have already been addressed via the original outline consent, to which this reserved matters consent relates. The applicant will thereby have to discharge these conditions, prior to the building of this phase if approved, where such details will be secured. WMP have also issued guidance in relation to suicide prevention from tall buildings and secure by design, which have been passed onto the applicant.
- 6.24. The Lead Local Flood Authority, have not made any comments with respect to the proposals. However, as relevant conditions are again attached to the former outline consent, which will require discharging prior to the erection of this phase of the development if approved, it is considered that the proposals be considered acceptable in this regard.
- 6.25. An objection has been raised by the Birmingham Civic Society on various points, as set out within the former sections of this report. However, it should be noted that the current application only seeks reserved matters consent and as such issues relating to the size, scale and form of the development, alongside the impact that development would have on neighbouring heritage assets have all already been assessed and addressed within the former outline consent, where the proposals were found to be acceptable and were supported.
- 6.26. With reference to the buildings design and the proposed materials base, the applicant has again confirmed that the development takes inspiration from its surrounding historical context. This was never to imitate this but rather to set the tone for the development itself. The material choices further do not mimic the site's surroundings, but rather have been chosen as appropriate and high quality finishes for the proposed towers. The Councils Conservation Officer and City Design officers have further reviewed the proposals and have raised no objections in this regard.
- 6.27. The applicant has further explained that the 1-bed, 1-person apartments exceed the nationally described space standards by 15% with other apartment sizes also exceeding these by a good percentage, showing the high quality of the proposals. The applicant has finally also explained that full details of the site's boundary treatments, landscaping, planting and landscape maintenance would be submitted by way of various conditions discharge applications and as such, these have not been submitted as this stage.
- 6.28. The S106 contributions towards Affordable Housing and Public Open Space were already set out and allocated within the outline planning consent. These cannot be amended or redistributed within this reserved matters application.

## 7. Conclusion:

- 7.1. The proposal represents the applicants approach to providing private market rented housing at a higher density within sustainable city centre locations, which is a clear aspiration of the City Council for this site and the wider location, as outlined within the original outline consent. The scheme offers a different kind of product to the City's housing market that would appeal to those looking to embrace this form of city-centre living. The development as a whole has already set a benchmark for the wider site in terms of creating a new and distinctive mixed-use neighbourhood,

containing buildings, public open spaces and public realms of a high design quality, with high levels of amenity for future occupiers and land users, with an appropriate approach towards sustainable forms of transport. The current proposals would add to this offer further and reinforce this approach, through the building of the residential phase of the development.

7.2. This reserved matters application for the residential phase of “New Garden Square” is therefore considered to meet the Council’s wider objectives for this strategically important site; as well as being in accordance with relevant policy and guidance and planning permission should be granted.

8. Recommendation

8.1. Approve with conditions:

- 
- 1 Requires the scheme to be in accordance with the listed approved plans
  - 2 Requires the implementation of the approved soft landscape details
  - 3 Submission of details for temporary access road
  - 4 Submission of details relating to vehicle restrictions on the temporary access road prior to first use
  - 5 Requires the prior submission of earthworks details
  - 6 Requires the submission of building facade/window/door details
  - 7 Requires the submission of a landscape management plan
  - 8 Requires the submission of details of green/brown roofs
- 

Case Officer: Idris Gulfraz

**Photo(s)**

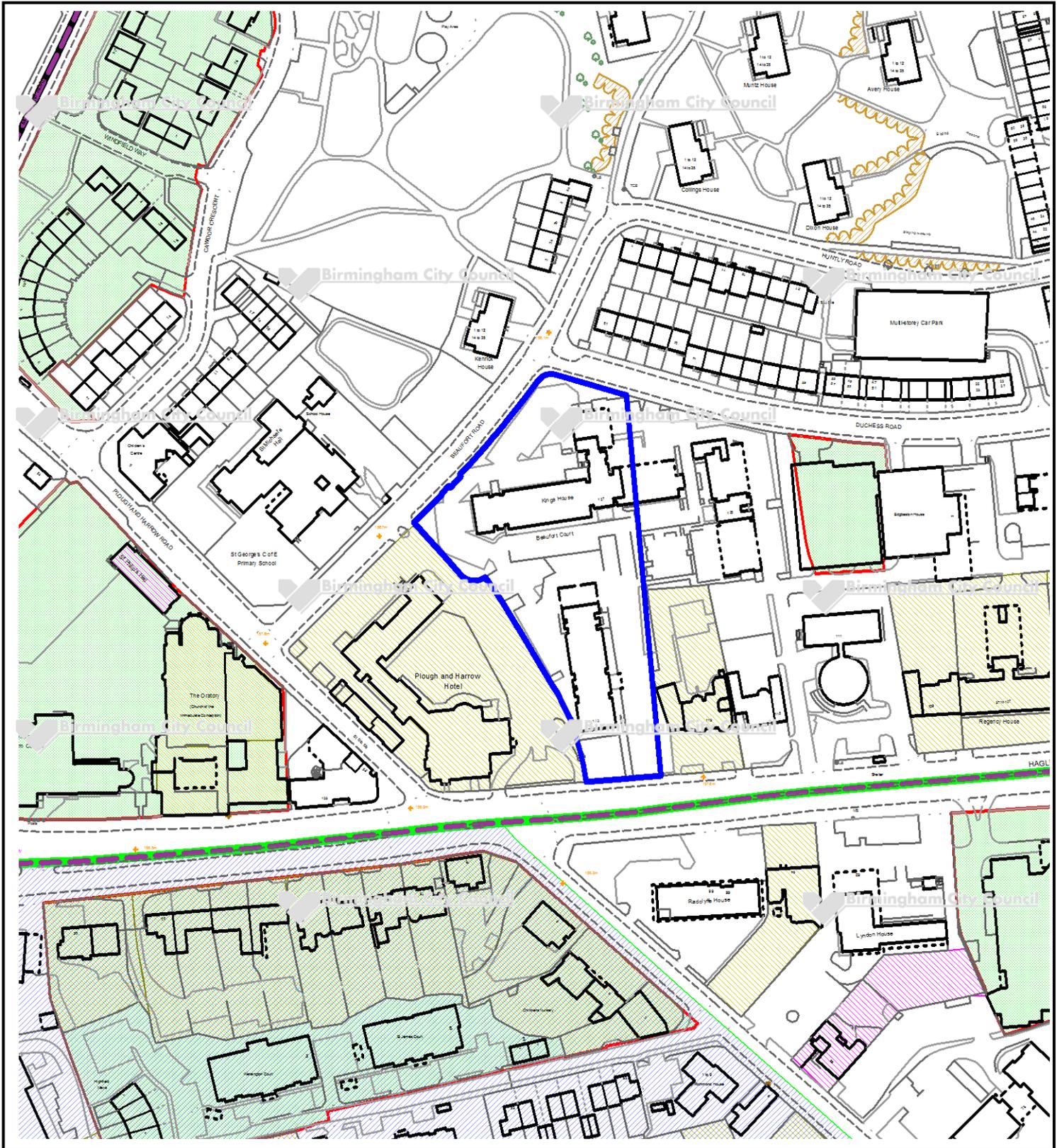


Image 1: Looking south on Duchess Road to existing office blocks on site



Image 2: looking south into application from Duchess Road.

# Location Plan



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Committee Date: 24/09/2020      Application Number: 2020/04822/PA  
Accepted: 10/07/2020      Application Type: Full Planning  
Target Date: 04/09/2020  
Ward: Holyhead

127 Green Lane, Handsworth, Birmingham, B21 0DH

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

Recommendation

**Approve subject to Conditions**

1. Proposal

- 1.1. This is a retrospective application for the change of use of the building from a residential dwelling (Use Class C3) to a children's care home (Use Class C2).
- 1.2. The proposed children's care home would accommodate a maximum number of two children and six members of staff. Staff will be located at the accommodation 24 hours a day and depending on the needs of the children, staff will stay overnight.
- 1.3. The internal layout comprises a reception room (13.6sqm), living room (16.7sqm), kitchen (9.7sqm) and bathroom (5.4sqm) at ground floor level. The first floor would comprise bedroom 1 (12.7sqm) and bedroom 2 (9.9sqm). There are no external or internal alterations proposed to the building.
- 1.4. No off-street car parking spaces are proposed and there would be no alterations to the site's access.
- 1.5. The supporting information states that the children to accommodation the care home are subject to Section 20 or Section 31 of the Children's Act 1990, and will have had difficult experiences during their childhood. Some of the children may have behavioural difficulties.

1.6. [Link to Documents](#)

2. Site & Surroundings

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

2.2. [Site Location.](#)

3. Planning History

- 3.1. No planning history.

#### 4. Consultation/PP Responses

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

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

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

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

4.3. Children's Commissioning – commented that they have been aware of the property operating unlawfully as an unregistered children's home and have received notification from Ofsted. They advise that the provider needs to fully engage with neighbours, police and the Birmingham Children's Trust and will need to undertake a location risk assessment to assess the risks and issues within the neighbourhood that may impact on the care they are offer. Staff would need to be appropriately trained and DBS checked before the Trust considers placing children with the applicant. It has also been pointed that there are eight other children's homes registered with Ofsted within the B20 and B21 areas.

4.4. Regulatory Services – no objections and no conditions recommended.

4.5. Transportation Development – no objections and recommends a condition to restrict the number of children to be accommodated at the premises.

4.6. West Midlands Police – object to the proposal, stating that the site's location would not comply with the safeguarding requirements under the Children's Homes (England) Regulations 2015 s12(2)c.

#### 5. Policy Context

5.1. Relevant Local planning policy:

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

5.2. Relevant National planning policy:

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

## 6. Planning Considerations

### *Policy context:*

- 6.1. The relevant local planning policies that apply to residential care homes, as defined by Use Class C2 (Residential Institutions), are contained within paragraphs 8.28 and 8.29 of the Birmingham Unitary Development Plan (UDP) (Saved Policies) and the Specific Needs Residential Uses SPG.
- 6.2. Paragraph 8.29 of the UDP states that proposals for care homes should not cause demonstrable harm to the residential amenity of occupiers of nearby properties by reason of noise and disturbance nuisance. Residential care homes are normally most appropriately located in large detached properties set in their own grounds. The development of such uses in terraced houses will not be acceptable, unless adjoining occupiers can be safeguarded against loss of amenity due to, for example, undue noise disturbance.
- 6.3. Where a proposal relates to a site in an area which already contains premises in similar use, and/or houses in multiple paying occupation and/or properties converted into self-contained flats, account will be taken of the cumulative effect of such uses upon the residential character and appearance of the area.
- 6.4. Proposals for care homes should not prejudice the safety and free flow of traffic in the adjoining highways and adequate outdoor amenity space (minimum 16sqm of space per resident) should be provided to ensure a satisfactory living environment for residents.

### *Principle of development:*

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

*Impact on residential amenities:*

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

*Highway and pedestrian safety:*

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

*Anti-social behaviour and crime:*

- 6.14. West Midlands Police were consulted and have objected to the proposal, due to the site's location within an area of high crime and anti-social behaviour and therefore being in conflict with the Children's Homes (England) Regulations 2015 s12(2)c. The regulation states that the 'premises used for the purpose of the home are located so that children are effectively safeguarded'. Figures provided by West Midlands Police demonstrate that the proportion of crime in this area is double the average for England and Wales and as such, West Midlands Police cannot support the application.
- 6.15. Crime and the fear of crime is a material planning consideration. However, the 'Specific Needs Residential Uses' SPG is clear that the nature and type of people to

occupy premises is not a material planning consideration. It is also important to stress that the behaviour of tenants/occupiers are not a matter for Planning Authorities but it is recognised that over concentrations can impact upon residential amenity, community cohesion and housing mix as well as residential character. The objection from West Midlands Police refers to crime levels across the whole of Ladywood Constituency and Handsworth. These are large areas, however, there is no specific evidence regarding this particular proposal in this particular location. The objection makes reference to the postcode being within an area of multiple deprivation, but overall, there is insufficient evidence to give the matter sufficient weight.

*Other matters:*

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

7. Conclusion

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

8. Recommendation

- 8.1. Approve subject to conditions.

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1 Limit the Number of Children Residing

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

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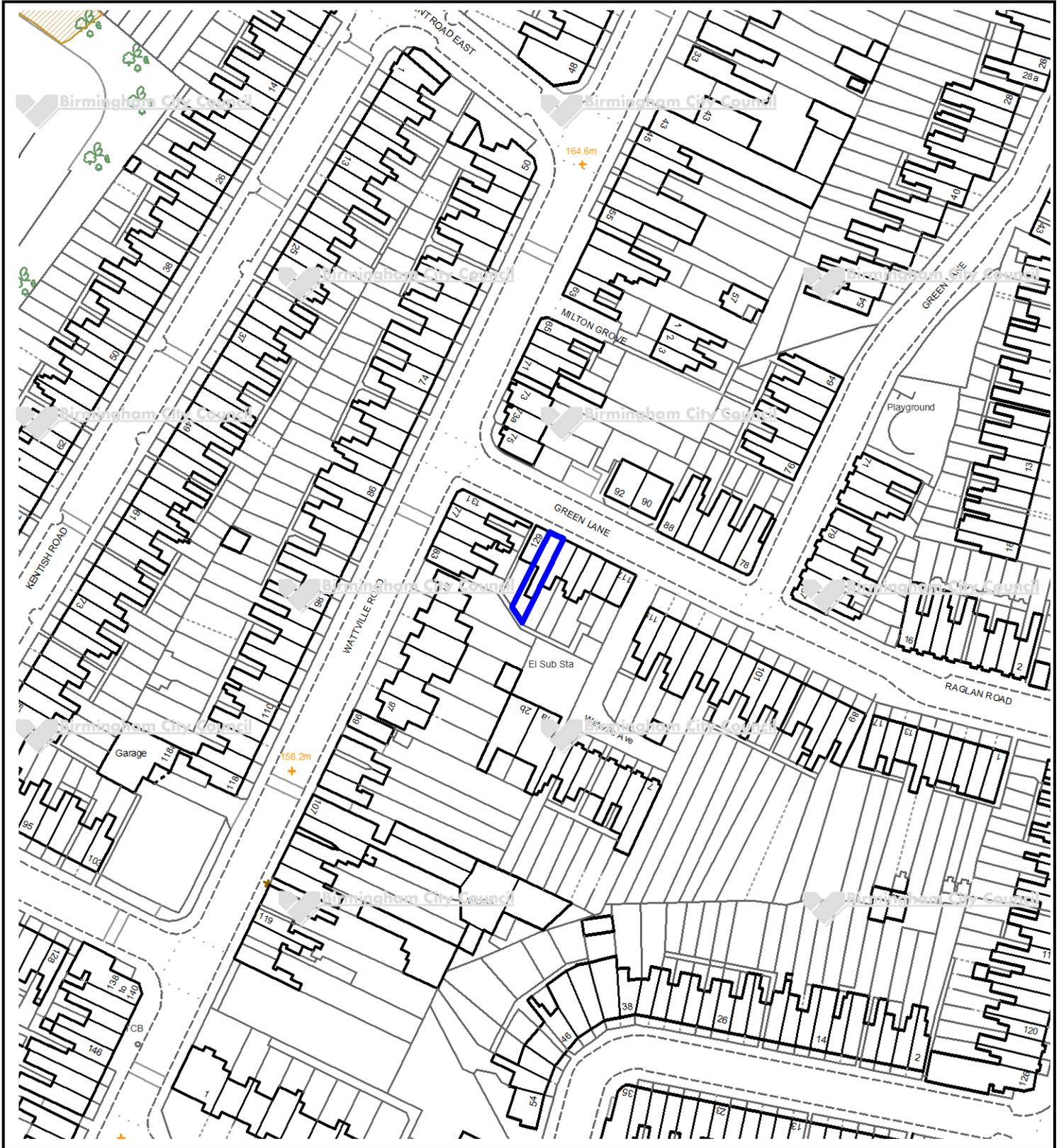
Case Officer: Thomas Morris

**Photo(s)**



Photo 1: Front Elevation

# Location Plan



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Committee Date:	24/09/2020	Application Number:	2020/06719/PA
Accepted:	02/09/2020	Application Type:	Demolition Determination
Target Date:	30/09/2020		
Ward:	Perry Barr		

Units 10-11, 522 Birchfield Road, Perry Barr, Birmingham, B20 3JE

Application for Prior Notification for the proposed demolition of former retail units and advertising hoarding

Recommendation

**Prior Approval Required and to Approve with Conditions**

1. Proposal

- 1.1. This application is made under the provisions of Part 11, Class B of the Town and Country Planning (General Permitted Development) Order 2015 and seeks a determination as to whether prior approval is required for demolition of Units 10-11, 522 Birchfield Road, Barr. The building is a former retail unit and the application also seeks prior approval for the demolition of the adjacent advertising hoarding.
- 1.2. The application for demolition is to enable the redevelopment of Perry Barr rail station as part of the wider regeneration for the Commonwealth Games. The application has been submitted on behalf of West Midlands Combined Authority but the premises are currently owned by Birmingham City Council. A separate application is expected for the proposed new train station.
- 1.3. The current application has been supported by a Demolition Method Statement, Contaminated Land Report, Tree Survey, Ecology Surveys and Waste Management Report.
- 1.4. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site forms part of a block of flat roofed retail units and the existing train station. The site is located within Perry Barr's Local Centre immediately to the south of the One Stop Shopping centre and bus stops. It is on the west of the A34 dual carriageway. There is a mixture of uses in the surrounding area including Perry Barr Methodist Church (Use Class D1), dwelling houses (Use Class C3), storage facility (Use Class B8), retail units (Use Class A1), and takeaway (Use Class A5), in the surrounding area. Beyond the immediate area is the former Birmingham City University campus.

2.2. [Site Location](#)

3. Planning History

- 3.1. The most relevant, recent, planning history is as follows:

- 3.2. 2011/00606/PA – Continuation of use as taxi booking office – refused 01/04/2011.
- 3.3. 2010/05536/PA – change of use from office to retail shop, installation of access ramp to front and alterations to existing roller shutters – approved subject to conditions 24/11/2010.
- 3.4. 2009/06281/PA – change of use from retail shop to taxi booking office – approve temporary 09/02/2010.
- 3.5. 2005/03921/PA – erection of 2 storey and single storey rear extension to extend shop, form offices and new shop front – approved subject to conditions 05/09/2005.
- 3.6. 2003/00933/PA – installation of 55% transparency roller shutters and erection of 2m triple pointed fence – approved subject to conditions 11/07/2003.

#### 4. Consultation/PP Responses

- 4.1. Local councillors were consulted. The prior notification has also been publicised by means of a site notice displayed by the applicant in accordance with the procedure set out in The Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 Part 11 Class B - demolition of buildings B.2(b)(iv).
- 4.2. The site notice does not expire until the 21<sup>st</sup> September. However, due to the restricted time to make a decision on this application the report is presented to members and any correspondence received will be provided as a verbal updated.
- 4.3. Transportation Development – No objections subject to conditions.
- 4.4. Regulatory Services – No objections subject to condition to require the submission of a detailed demolition management plan as the outline demolition method provided by Armac dated 21 August 2020 lacks key details. On the basis that the proposed demolition will only involve lifting slabs and no sub-slab ground intrusion the contaminated land issues can be dealt with when there is an application for redevelopment.
- 4.5. Network Rail – This proposal is directly adjacent/hard against Perry Barr Railway Station/existing operational railway and as such the applicant must take measurements from the NR boundary, submit a Risk Assessment and Method Statement direct to NR, not encroach on NR land, take into account trees and NR land stability. NR Asset Protection Team will need to review the demolition method statement and the applicant will need to enter into a Basic Asset Protection Agreement.

#### 5. Policy Context

- 5.1. The following planning policies are applicable:
  - Birmingham Development Plan (BDP) 2017
  - Birmingham Unitary Development Plan (UDP) 2005 (Saved Policies)
  - National Planning Policy Framework 2019

## 6. Planning Considerations

- 6.1. The main considerations for this prior notification application are the method of demolition and any proposed restoration of the site in accordance with guidance set out in the General Permitted development Order 2015 (as amended) for assessment of demolition applications in Schedule 2, Part 11, Class B.

### *Method of demolition*

- 6.2. The submitted Demolition Method Statement advises that the proposal is to install sold steel hoarding to the front and a side, remove sharps, drug paraphernalia and pigeon droppings, soft strip the internal of the buildings to shell and then dismantle the buildings from the top down. The demolition will use an excavator except for at sensitive locations such as the party wall where hand demolition will be necessary. The demolition includes breaking and lifting the slab, except where it is adjacent to the railway line. All asbestos containing materials and other hazardous containing materials will be properly removed from the site and be properly disposed of.
- 6.3. My Regulatory Services Officer has advised that outline demolition method provided by Armac dated 21 August 2020 lacks key details such as assessing and dealing with hazardous materials, integration with the contaminated land remediation strategy or remediation limitations, the parking of vehicles of site operatives and visitors, loading and unloading of plant and materials, demolition hours, noise control methodologies, the erection and maintenance of security hoarding including decorative displays and facilities for public, viewing, where appropriate, wheel washing facilities, measures to control the emission of dust and dirt during demolition, a scheme for the recycling/disposing of waste resulting from demolition.
- 6.4. With regard to contamination Regulatory Services have advised that, on the basis that the proposed demolition will only involve lifting slabs and no sub-slab ground intrusion, the contaminated land issues can be dealt with when there is an application for redevelopment.
- 6.5. Transportation Development have raised no objections commenting that although the applicant has provided a demolition method statement, this statement does not include the plan showing access arrangement and different areas (e.g. parking, storage, loading/unloading etc). The statement notes *'the demolition site access/egress will be from a newly formed temporary access point off Birchfield Rd junction entering One Stop access road. The entrance is sited 50m from the A4040 junction towards one stop shopping centre'*, however this is not shown on a plan. As per StreetView image, there appears to be a pedestrian crossing in the vicinity of the application site, therefore the plan needs to show the proposed access in relation to this crossing.
- 6.6. Comments received from the Local Engineer and BCC Traffic Management Services (TMS) on similar proposals for demolition on Birchfield Rd, required the traffic management plan prior to commencement of demolition. They would mainly be interested in 'the expeditious movement of traffic and the prevention of congestion and unnecessary delay to traffic (both vehicular and pedestrian) and also safety'. According to the comments from BCC TMS on similar proposals, 'any planning consent granted here does not supplant the requirement for the works promoter to subsequently attain the necessary and timely approvals for the deployment of any requisite traffic management on the network/TTROs or for the erection of a site hoarding'.

- 6.7. Network Rail recommend that the developer must undertake the works with the agreement and supervision of network rail to ensure that the demolitions do not impact the safe operation and integrity of the railway and its boundary. Network Rail also requested for the developer to enter into a basic asset protection agreement with them with no development taking place until agreed with Network Rail, which is separate of the planning system. The agent has provided an email from Network Rail which confirms that they are working closely together on the scheme, NR is actively involved in the methodology and mitigation and that there is a Basic Asset Protection Agreement in place. Additional agreements will be required, but this will be after the planning process.
- 6.8. A condition is recommended to cover the issues raised by Regulatory Services, Transportation Development and Network Rail through the submission of a new Demolition Method Statement/ Management Plan.

*Ecological and arboricultural impact*

- 6.9. A Preliminary Ecological Appraisal (PEA) has been submitted with the current application, the PEA covers the whole of the station redevelopment area, not just the application site for prior notification for demolition. The PEA notes that the railway line is identified as Wolverhampton to Gravelly Hill railway PSI, Perry Hall park is 300m northwest and the River Tame is 280m northwest. The site has the potential for bats and nesting birds.
- 6.10. Overall the PEA considers that the proposed demolition will not have an impact on the PSI as the railway embankments, which are the principle habitat, are to be retained. Vegetation clearance should be done outside of nesting season and in a sensitive manner for hedgehogs, lighting should be designed to minimise impact on the wildlife corridor and the future redevelopment will need to provide mitigation and enhancements.
- 6.11. Further bat survey work was also carried out due to there being trees within the wider site and some features within the fascia and weatherboarding which could offer access for bats. An emergence/ re-entry survey was carried out and site survey done. No bat activity was recorded and there was no evidence of bats. As such the proposed demolition is not considered to result in an adverse impact on any protected species.
- 6.12. My Ecologist has no objection to the demolition of units 10 - 11 on the basis that there will be replacement features put into the new build or nearby and that, as per the recommendation in the submitted ecology report, the work is delivered within 12 months of the date of survey. The replacement features will be considered under the separate application for the new station building and as such a condition on this consent is not required.
- 6.13. The submitted Arboricultural Report also covers the whole of the wider redevelopment site. 2 individual trees and 6 groups were recorded of which 1 individual tree and 2 groups (T2, G1 and G7) are protected by TPO 498. The 2 individual trees, one Common Lime and one Sycamore, are both considered to be category B. Of the groups, also made up of Common Limes and Sycamores, four are classed as category B and two are classed as category C.
- 6.14. None of the trees are within the area which forms the current application for prior notification for demolition and as such there is no impact on any of these trees from the current proposal.

7. Conclusion

- 7.1. There is no objection to the proposed demolition in principle, however, it is viewed that more details are required to reduce any harmful impact the development may cause on surrounding areas and highway safety. It is therefore recommended that prior approval be granted subject to the appropriate conditions.

8. Recommendation

- 8.1. Prior approval required and approved subject to conditions.

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1 Requires the prior submission of a demolition method statement/management plan

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Case Officer: Karen Townend

**Photo(s)**

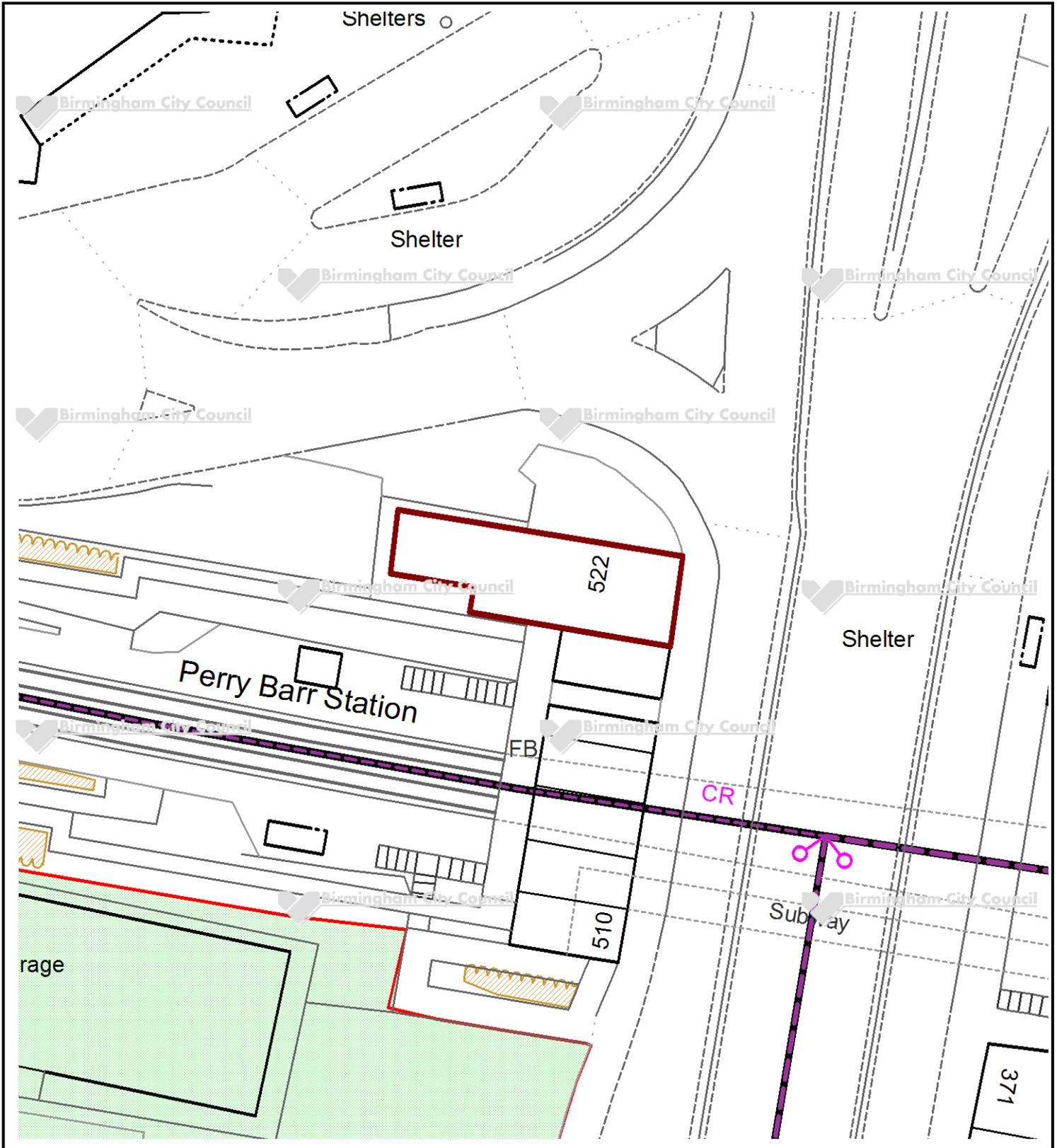


Google streetview of site from A34



Google streetview side elevation

# Location Plan



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Committee Date:	24/09/2020	Application Number:	2020/04588/PA
Accepted:	22/06/2020	Application Type:	Proposed Lawful Use/Development
Target Date:	24/09/2020		
Ward:	Handsworth Wood		

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

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

Recommendation

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

1. Proposal

- 1.1. This application has been submitted for a Certificate of Lawfulness for the proposed change of use from a residential dwelling (Use Class C3) to a children's care home (Use Class C2) for up to three children/young people with up to two full-time resident carers. However, whilst the applicant acknowledges that the proposed use would fall under Use Class C2, they consider that there is no 'material' difference between the existing and proposed use, hence planning permission is not required.
- 1.2. The application includes no internal or external alterations to the building or wider application site. The existing layout of the ground floor comprises a lounge, sitting room, kitchen and WC. The existing layout of the first floor comprises four bedrooms (two en-suites) and a bathroom.
- 1.3. The supporting information states that the proposed care home would accommodate up to three children/young people, with two full-time resident carers working on a rota basis and sleeping overnight. Staff will operate on a rota of 48 hours on and 48 hours off. A manager will be on site during weekdays from 09:00 to 17:00. It is anticipated that during the day the children/young people will attend a DfES registered school, attend mainstream school or receive home schooling.

1.4. [Link to Documents.](#)

2. Site & Surroundings

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

2.2. [Site Location.](#)

3. Planning History

3.1. 2016/03229/PA - Erection of a first floor rear extension – Approved subject to conditions.

3.2. 2013/06084/PA - Erection of single and two storey rear extension – Refused.

#### 4. Consultation/PP Responses

4.1. Whilst no public consultation is required for this application, 22no. letters of objection were received, raising the following concerns:

- Potential for anti-social behaviour, crime and substance abuse;
- Impact on local community, families, children and elderly people;
- Impact on residential character of the area;
- Concerns regarding the company making the application;
- Noise and disturbance issues;
- Traffic, parking and highways safety issues;
- Concerns regarding the nature of the occupants and behavioural issues;
- Lack of public consultation;
- Devaluation of house prices, and;
- Litter and rubbish dumping.

#### 5. Policy Context

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

#### 6. Planning Considerations

6.1. The main issues for consideration in determining this application are firstly; whether the proposed use is actually C3 (b) or C2 and secondly; whether this change constitutes a 'material change of use'.

6.2. There is no permitted change of use from C3 Use Class (Dwellinghouse) to C2 Use Class (Residential Institution) under the Town and Country Planning (England) Order 2015 (as amended). However, the applicant states that the proposed children's care home (Use Class C2) for up to three children/young persons cared for by two full-time resident care staff would not involve a 'material change of use' from a C3 dwellinghouse use, and therefore planning permission is not required for the proposed use.

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

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

- C3(c) allows for groups of people (up to six) living together as a single household.”

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

*Single household:*

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

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

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

6.7. If a children’s home is being run on the basis of factors outlined above and the children are being looked after by a permanent resident of the dwellinghouse, this would constitute a single household. However, the matter is less clear when the care is based on staff members who are not residents and work shift patterns, as is the case within this application.

6.8. Case law since the North Devon Case (2004) has generally followed this principle, with recent appeals indicating a trend of applications for a change of use from C3 to C2 where children’s homes are operated on the basis of staff working shifts. Based on the level care provided to the residents detailed in the information provided, it is considered that the proposed use in this case does not amount to a single household or a conventional residential dwelling and so would fall within Use Class C2 (Residential Institution).

*Material change of use:*

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

*Other matters:*

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

7. Conclusion

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

8. Recommendation

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

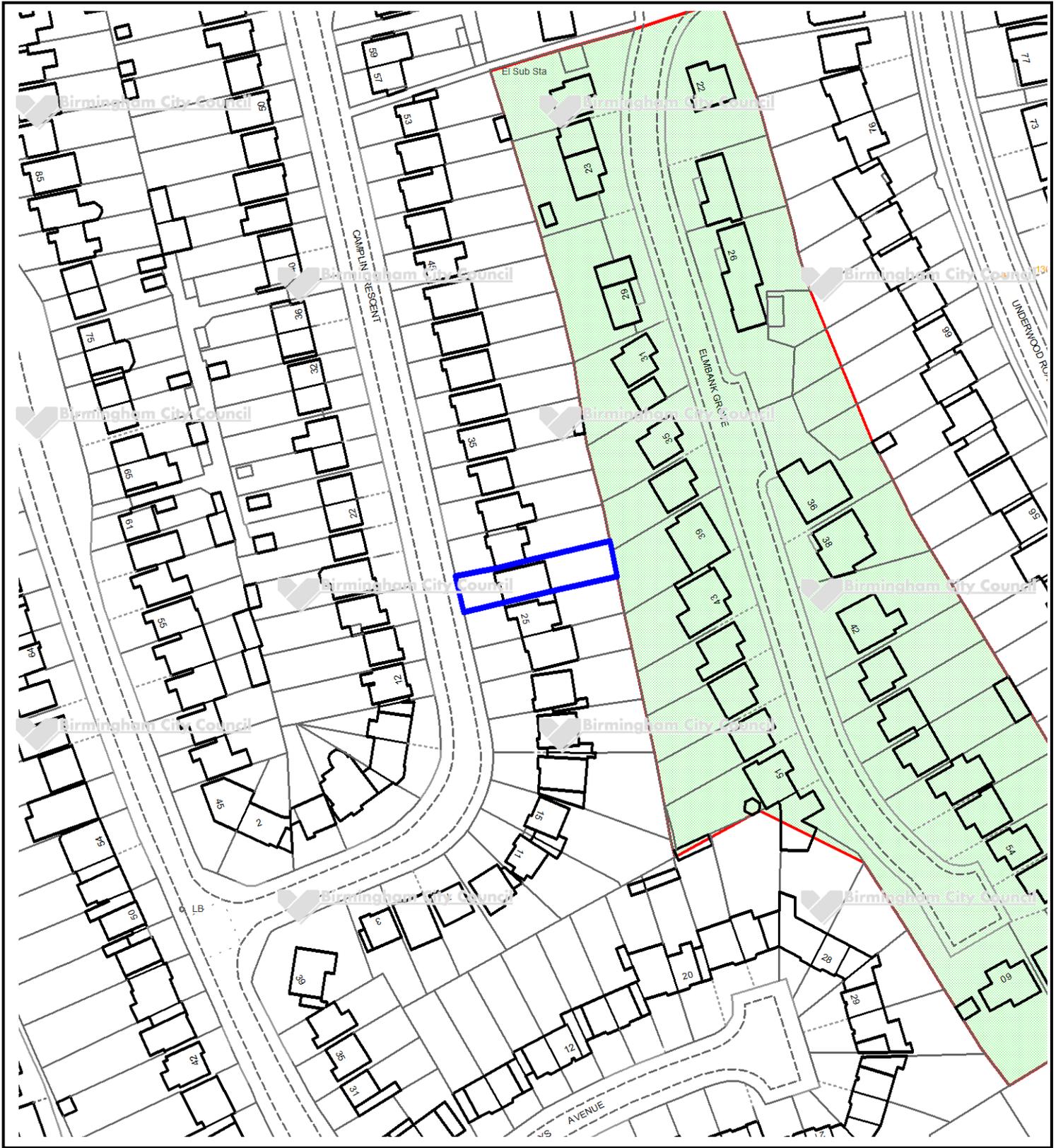
Case Officer: Thomas Morris

**Photo(s)**



Photo 1: Front Elevation

# Location Plan



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